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UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 9

FILED

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U.S. EPA, REGION IX  
REGIONAL HEARING CLERK

In the Matter of:

Pechiney Cast Plate, Inc.

Respondent

Docket No. EPCRA-09-2008-

0024

CONSENT AGREEMENT AND FINAL  
ORDER PURSUANT TO 40 C.F.R.  
§§ 22.13 AND 22.18

I. CONSENT AGREEMENT

1. The Director of the Communities and Ecosystems Division ("Complainant"), United States Environmental Protection Agency ("EPA") EPA Region 9, and Pechiney Cast Plate, Inc. ("Respondent" or "PCPI"), the Parties herein, agree to settle this matter and consent to the entry of this Consent Agreement and Final Order Pursuant to 40 C.F.R. §§ 22.13 and 22.18 ("CAFO"), which simultaneously commences and concludes this matter in accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b).
2. This is a civil administrative proceeding initiated pursuant to Section 325(c) of Title III of the Superfund Amendments and Reauthorization Act, 42 U.S.C. § 11001 et seq., also known as the Emergency Planning and Community Right-to-Know Act of 1986 ("EPCRA"), for violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and the regulations promulgated to implement Section 313 at 40 C.F.R. Part 372.
3. Complainant has been duly delegated the authority to file this action and sign a consent agreement settling this action. Respondent is a Delaware corporation with a facility formerly located at 3200 Fruitland Avenue in Vernon,

1 California. Operations at the facility terminated in January  
2 2006, and the facility was demolished. Respondent continues  
3 to exist as a subsidiary of Pechiney Rolled Products, which  
4 itself is a subsidiary of Alcan, Inc. Alcan is a subsidiary  
5 of Rio Tinto Plc.

6 4. Pursuant to Sections 313 and 328 of EPCRA, 42 U.S.C. §§ 11023  
7 and 11048, EPA promulgated the Toxic Chemical Release  
8 Reporting: Community Right-to-Know Rule at 40 C.F.R. Part  
9 372.

10 5. Section 313(a) of EPCRA, as implemented by 40 C.F.R. §  
11 372.30, provides that an owner or operator of a facility that  
12 meets the criteria set forth in EPCRA Section 313(b) and 40  
13 C.F.R. § 372.22, is required to submit annually to the  
14 Administrator of EPA and to the State in which the facility  
15 is located, no later than July 1st of each year, a toxic  
16 chemical release inventory reporting form (hereinafter "Form  
17 R") for each toxic chemical listed under 40 C.F.R. § 372.65  
18 that was manufactured, processed or otherwise used at the  
19 facility during the preceding calendar year in quantities  
20 exceeding the thresholds established under EPCRA Section  
21 313(f) and 40 C.F.R. §§ 372.25, 372.27 and 372.28.

22 6. Section 313(b) of EPCRA and 40 C.F.R. § 372.22 provide that  
23 the requirements of Section 313(a) and 40 C.F.R. § 372.30  
24 apply to an owner and operator of a facility that has 10 or  
25 more full-time employees; that is in a Standard Industrial  
26 Classification (SIC) (as in effect on January 1, 1987) major  
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1 group or industry code listed in § 372.23(a), for which the  
2 corresponding North American Industry Classification System  
3 (NAICS) (as in effect on January 1, 2007, for reporting year  
4 2008 and thereafter) subsector and industry codes are listed  
5 in 40 C.F.R. §§ 372.23(b) and (c); and that manufactures,  
6 processes, or otherwise uses one or more toxic chemicals  
7 listed under Section 313(c) of EPCRA and 40 C.F.R. § 372.65  
8 in quantities in excess of the applicable thresholds  
9 established under EPCRA Section 313(f) and 40 C.F.R. §§  
10 372.25, 372.27 and 372.28.

11 7. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c) and 40 C.F.R.  
12 Part 19 authorize EPA to assess a penalty of up to \$27,500  
13 for each violation of Section 313 of EPCRA that occurred on  
14 or after January 30, 1997, but before March 15, 2004, and up  
15 to \$32,500 for each violation of Section 313 of EPCRA that  
16 occurred on or after March 15, 2004.

17 8. Respondent is a "person," as that term is defined by Section  
18 329(7) of EPCRA.

19 9. At all times relevant to this CAFO, Respondent was the owner  
20 and operator of a "facility," as that term is defined by  
21 Section 329(4) of EPCRA and 40 C.F.R. § 372.3, located at  
22 3200 Fruitland Avenue, Vernon, California 90058 ("Facility");  
23 the Facility had 10 or more "full-time employees," as that  
24 term is defined at 40 C.F.R. § 372.3; and the Facility was  
25 classified in Standard Industrial Classification Code 3365 -  
26 Aluminum Foundries.

- 1 10. During calendar year 2005, Respondent processed approximately  
2 68,378 pounds of copper, a chemical listed under 40 C.F.R.  
3 § 372.65.
- 4 11. The quantity of copper that Respondent processed at the  
5 Facility during calendar year 2005 exceeds the established  
6 threshold of 25,000 pounds set forth at 40 C.F.R. §  
7 372.25(a).
- 8 12. Respondent failed to submit a Form R for copper processed at  
9 the Facility to the EPA Administrator and to the State of  
10 California on or before July 1, 2006 for calendar year 2005.
- 11 13. Respondent's failure to submit a Form R on or before July 1  
12 of 2006 for copper processed at the Facility during the  
13 preceding calendar year constitutes a violation of Section  
14 313 of EPCRA and 40 C.F.R. § 372.30.
- 15 14. The EPA Enforcement Response Policy for EPCRA Section 313  
16 dated August 10, 1992, as amended by 40 C.F.R. Part 19,  
17 provides for a penalty of thirteen thousand, four hundred  
18 dollars (\$13,400) for this violation.
- 19 15. In executing this CAFO, Respondent certifies that (1) it has  
20 now fully completed and submitted to EPA all of the required  
21 Form Rs in compliance with Section 313 of EPCRA and the  
22 regulations promulgated to implement Section 313; and (2) it  
23 has complied with all other EPCRA requirements at all  
24 facilities under its control.
- 25 16. In accordance with 40 C.F.R. § 22.18(b)(2) and for the  
26 purpose of this proceeding, Respondent (i) admits that EPA  
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1 has jurisdiction over the subject matter of this CAFO and  
2 over Respondent; (ii) admits the violations and facts alleged  
3 in this CAFO; (iii) consents to the terms of this CAFO; (iv)  
4 waives any right to contest the allegations in this CAFO; and  
5 (v) waives the right to appeal the proposed final order  
6 contained in this CAFO.

7 17. The terms of this CAFO constitute a full settlement of the  
8 civil administrative matter filed under the docket number  
9 above.

10 18. EPA's final policy statement on Incentives for Self-Policing:  
11 Discovery, Disclosure, Correction and Prevention of  
12 Violations, 65 Fed. Reg. 19617 (April 11, 2000) ("Audit  
13 Policy") has several important goals, including encouraging  
14 greater compliance with the laws and regulations which  
15 protect human health and the environment and reducing  
16 transaction costs associated with violations of the laws EPA  
17 is charged with administering. If certain specified criteria  
18 are met, reductions in gravity-based penalties of up to 100%  
19 are available under the Audit Policy. These criteria are (1)  
20 discovery of the violation(s) through an environmental audit  
21 or a compliance management system; (2) voluntary disclosure;  
22 (3) prompt disclosure; (4) discovery and disclosure  
23 independent of government or third party plaintiff; (5)  
24 correction and remediation; (6) prevention of recurrence; (7)  
25 no repeat violations; (8) exclusion of the policy's  
26 applicability to certain types of violations, including those  
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1 resulting in serious actual harm to the environment and those  
2 that may have presented an imminent and substantial  
3 endangerment to the public health or the environment; and (9)  
4 cooperation.

5 19. Complainant has determined that Respondent has satisfied all  
6 of the criteria under the Audit Policy and thus qualifies for  
7 the elimination of civil penalties in this matter.

8 Accordingly, the civil penalty assessed in this matter is  
9 zero (\$0) dollars.

10 20. Complainant's finding that Respondent has satisfied the  
11 criteria of the Audit Policy is based upon documentation that  
12 Respondent has provided to establish that it satisfies these  
13 criteria. Complainant and Respondent agree that, should any  
14 material fact upon which Complainant relied in making its  
15 finding subsequently prove to be other than as represented by  
16 Respondent, this CAFO may be voided in whole or in part.

17 21. Nothing in this CAFO modifies, affects, exempts or relieves  
18 Respondent's duty to comply with all applicable provisions of  
19 EPCRA and other federal, state or local laws and permits. In  
20 accordance with 40 C.F.R. § 22.18(c), this CAFO only resolves  
21 Respondent's liability for federal civil penalties for the  
22 violations and facts specifically alleged in this CAFO.

23 Nothing in this CAFO is intended to or shall be construed to  
24 resolve (i) any civil liability for violations of any  
25 provision of any federal, state, or local law, statute,  
26 regulation, rule, ordinance, or permit not specifically  
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1 alleged in this CAFO; or (ii) any criminal liability. EPA  
2 specifically reserves any and all authorities, rights, and  
3 remedies available to it (including, but not limited to,  
4 injunctive or other equitable relief or criminal sanctions)  
5 to address any violation of this CAFO or any violation not  
6 specifically alleged in this CAFO.

7 22. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b),  
8 this CAFO shall be effective on the date that the final order  
9 contained in this CAFO, having been approved and issued by  
10 either the Regional Judicial Officer or Regional  
11 Administrator, is filed.

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1 23. The provisions of this CAFO shall be binding upon Respondent,  
2 its agents, successors or assigns. Respondent's obligations  
3 under this Consent Agreement, if any, shall end when  
4 Respondent has performed all of the terms of the Consent  
5 Agreement in accordance with the Final Order. Complainant  
6 and Respondent consent to the entry of the CAFO without  
7 further notice.  
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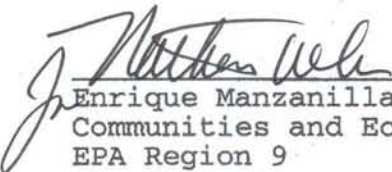
9 FOR RESPONDENT:

10 September 8, 2008  
11 Date

12   
13 Greg Sutherland  
14 General Manager  
15 Pechiney Cast Plate, Inc.

16 FOR COMPLAINANT:


17 9/25/08  
18 Date

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20 Enrique Manzanilla, Director  
21 Communities and Ecosystems Division  
22 EPA Region 9  
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IT IS HEREBY ORDERED that this Consent Agreement and Final Order Pursuant to 40 C.F.R. §§ 22.13 and 22.18 (Docket No. EPCRA-09-2008-0024) be entered.

  
STEVEN L. JAWGIEL  
Regional Judicial Officer  
U.S. Environmental Protection  
Agency, Region 9

CERTIFICATE OF SERVICE

I certify that the original fully executed Consent Agreement and Final Order ("CAFO"),  
Docket Number EPCRA-09-2008-<sup>00 24</sup>, was filed this day with the Regional Hearing Clerk, U.S.  
EPA, Region IX, 75 Hawthorne Street, San Francisco, California, 94105, and that a true and  
correct copy of the CAFO was sent to Respondent at the following address:

Mr. Greg Sutherland  
General Manager  
Pechiney Cast Plate, Inc.  
3200 Fruitland Avenue  
Vernon, CA 90058

Certified Mail No: 7007 3020 0000 9807 1071



Danielle Carr  
Regional Hearing Clerk  
Region IX, EPA  
Office of Regional Counsel

SEP 30 2008

Date