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UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 9

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U.S. EPA, REGION IX  
REGIONAL HEARING CLERK

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In the Matter of: )

Precision Castparts )  
Corp., )

Respondent )  
\_\_\_\_\_ )

) Docket No. EPCRA-09-2012- 0008

) 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") Region 9, and Precision Castparts Corp. ("Respondent" or "Precision") agree to settle this matter and consent to the filing 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 an Oregon corporation that owns, operates, and/or controls facilities located in Paramount and Oxnard, California.

4. Pursuant to Sections 313 and 328 of EPCRA, 42 U.S.C. §§ 11023 and 11048, EPA promulgated the Toxic Chemical Release Reporting: Community Right-to-Know Rule at 40 C.F.R. Part 372.
5. Section 313(a) of EPCRA, as implemented by 40 C.F.R. § 372.30, provides that an owner or operator of a facility that meets the criteria set forth in EPCRA Section 313(b) and 40 C.F.R. § 372.22, is required to submit annually to the Administrator of EPA and to the State in which the facility is located, no later than July 1st of each year, a toxic chemical release inventory reporting form (hereinafter "Form R") for each toxic chemical listed under 40 C.F.R. § 372.65 that was manufactured, processed or otherwise used at the facility during the preceding calendar year in quantities exceeding the thresholds established under EPCRA Section 313(f) and 40 C.F.R. §§ 372.25, 375.27, and 372.28.
6. Section 313(b) of EPCRA and 40 C.F.R. § 372.22 provide that the requirements of Section 313(a) and 40 C.F.R. § 372.30 apply to an owner and operator of a facility that has 10 or more full-time employees; that is in a Standard Industrial

Classification ("SIC") major group codes 10 (except 1011, 1081, and 1094), 12 (except 1241), 20 through 39; industry codes 4911, 4931, or 4939 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce), or 4953 (limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. §6921 et seq.), or 5169, 5171, or 7389 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis); and that manufactures, processes, or otherwise uses one or more toxic chemicals listed under Section 313(c) of EPCRA and 40 C.F.R. § 372.65 in quantities in excess of the applicable thresholds established under EPCRA Section 313(f) and 40 C.F.R. §§ 372.25, 372.27, and 372.28.

7. Section 313(g) (1) (B) of EPCRA provides that the Form R shall include an appropriate certification regarding the accuracy and completeness of the Form R.
8. Forty C.F.R. § 372.45(a) provides that a person who owns or operates a facility or establishment that is in SIC codes 20 through 30 that manufactures or processes a toxic chemical listed in 40 C.F.R. § 372.65 and sells or otherwise distributes a mixture or trade name product containing the toxic chemical to a facility covered under 40 C.F.R. § 372.22 or a person who in turn may sell or otherwise distribute the

mixture or trade name product to a covered facility shall notify each person to whom the mixture or trade name product is sold or otherwise distributed in accordance with 40 C.F.R. § 372.45(b).

9. Forty C.F.R. § 372.45(b) provides that the supplier notification shall be in writing and include a statement that the mixture or trade name product contains a toxic chemical subject to EPCRA Section 313 reporting requirements, the name of each toxic chemical and associated Chemical Abstracts Service registry ("CAS") number (if applicable), and the percent by weight of each toxic chemical in the mixture or trade name product.
10. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c) and 40 C.F.R. Part 19 authorize EPA to assess a penalty of up to \$32,500 for each violation of Section 313 of EPCRA that occurred on or after March 15, 2004 through January 12, 2009 and up to \$37,500 for each violation of Section 313 of EPCRA that occurred after January 12, 2009.
11. Respondent is a "person," as that term is defined by Section 329(7) of EPCRA.
12. On September 30, 2009, Respondent became the owner and operator of Arcturus Manufacturing Corporation ("Arcturus Facility") located at 6001 Arcturus Avenue, Oxnard, CA and Carlton Forge Works ("Carlton Facility") located at 7743 E.

Adams Street, Paramount, CA ("Carlton Facility")

(collectively referred to as "the Facilities").

13. At all times relevant to this CAFO, the Facilities were each a "facility," as that term is defined by Section 329(4) of EPCRA and 40 C.F.R. § 372.3; each had 10 or more "full-time employees," as that term is defined at 40 C.F.R. § 372.3; and each was classified in SIC Code 3462.
14. The Carlton Facility processed chromium, cobalt, copper, manganese and nickel, toxic chemicals listed 40 C.F.R. § 372.65, in quantities that exceeded the 25,000 pound threshold specified in 40 C.F.R. § 372.25 for calendar years 2007 and 2008. The Arcturus Facility processed chromium and nickel, toxic chemicals listed 40 C.F.R. § 372.65, in quantities that exceeded the 25,000 pound threshold specified in 40 C.F.R. § 372.25 for calendar year 2008.
15. On December 22, 2009, Precision sent a letter to EPA disclosing violations of EPCRA Section 313 at the Facilities under EPA's Policy on *Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations* (the "Audit Policy"), 65 Federal Register 19618 (April 11, 2000). Specifically, Precision disclosed that the Carlton Facility had underreported the amount of aluminum(fume or dust), chromium, cobalt, copper, manganese and nickel that it had processed during calendar year 2008

and that the Arcturus Facility had failed to file Form Rs for chromium and for nickel that it had processed during calendar year 2008.

16. After this initial disclosure, in order to be able to certify to compliance with all of EPCRA by the Facilities, Precision conducted an environmental audit in which it discovered numerous violations of EPCRA, including EPCRA Section 313, at the Facilities for calendar years 2007, 2008 and 2009. Specifically, Precision disclosed that the Carlton Facility had underreported the amount of chromium, cobalt, copper, manganese and nickel that it processed during calendar year 2007; the Arcturus Facility had underreported the amount of nickel that it processed during calendar year 2008; and both Facilities failed to provide supplier notifications for aluminum (fume or dust), chromium, cobalt, copper, manganese and nickel that they processed during calendar years 2007, 2008 and 2009.
17. For purposes of this CAFO, Precision also seeks application of the Audit Policy to the violations of EPCRA Section 313 for calendar years 2007, 2008 and 2009 that Precision discovered during the subsequent audit.
18. In total, Precision seeks application of the Audit Policy to 49 violations of EPCRA Section 313 that it disclosed, which are listed in Attachment 1: Penalty Calculations for Forty-

nine EPCRA 313 Violations (hereafter "Attachment 1") and hereby incorporated by reference into this CAFO.

19. The violations listed in Attachment 1 fall within one of three categories: (1) failure to submit a Form R to the EPA Administrator and the State of California by July 1 for the preceding calendar year in accordance with Section 313(a) of EPCRA and 40 C.F.R. § 372.30; (2) failure to provide a supplier notification in accordance with 40 C.F.R. § 372.45(b); or (3) failure to submit an accurate and complete Form R in accordance with Section 313(g)(1)(B).
20. The EPA Enforcement Response Policy for EPCRA Section 313 dated August 10, 1992 provides for a penalty of five hundred thirty thousand and four hundred dollars (\$530,400) for the violations listed in Attachment 1.
21. In executing this CAFO, Respondent certifies that (1) it has now fully completed and submitted to EPA all of the required Form Rs in compliance with Section 313 of EPCRA and the regulations promulgated to implement Section 313; and (2) it has complied with all other EPCRA requirements at the Facilities.
22. In accordance with 40 C.F.R. § 22.18(b)(2) and for the purpose of this proceeding, Respondent (i) admits that EPA has jurisdiction over the subject matter of this CAFO and over Respondent; (ii) admits the violation and facts alleged

in this CAFO; (iii) consents to the terms of this CAFO; (iv) waives any right to contest the allegations in this CAFO; and (v) waives the right to appeal the proposed final order contained in this CAFO.

23. The terms of this CAFO constitute a full settlement of the civil administrative matter filed under the docket number above.
24. EPA's Audit Policy has several important goals, including encouraging greater compliance with the laws and regulations which protect human health and the environment and reducing transaction costs associated with violations of the laws EPA is charged with administering. If certain specified criteria are met, reductions in gravity-based penalties of up to 100% are available under the Audit Policy. These criteria are (1) discovery of the violation(s) through an environmental audit or due diligence; (2) voluntary disclosure; (3) prompt disclosure; (4) discovery and disclosure independent of government or third party plaintiff; (5) correction and remediation; (6) prevent recurrence; (7) no repeat violations; (8) other violations excluded; and (9) cooperation.
25. Complainant has determined that Respondent has satisfied all of the criteria under the Audit Policy and thus qualifies for the elimination of civil penalties in this matter.

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

26. Complainant's finding that Precision has satisfied the criteria of the Audit Policy is based upon documentation that Precision has provided to establish that it satisfies these criteria. Complainant and Respondent agree that, should any material fact upon which Complainant relied in making its finding subsequently prove to be other than as represented by Precision, this CAFO may be voided in whole or in part.
27. Nothing in this CAFO modifies, affects, exempts or relieves Respondent's duty to comply with all applicable provisions of EPCRA and other federal, state or local laws and permits. In accordance with 40 C.F.R. § 22.18(c), this CAFO only resolves Respondent's liability for federal civil penalties for the violations and facts specifically alleged in this CAFO. Nothing in this CAFO is intended to or shall be construed to resolve (i) any civil liability for violations of any provision of any federal, state, or local law, statute, regulation, rule, ordinance, or permit not specifically alleged in this CAFO; or (ii) any criminal liability. EPA specifically reserves any and all authorities, rights, and remedies available to it (including, but not limited to, injunctive or other equitable relief or criminal sanctions) to address any violation of this CAFO or any violation not specifically alleged in this CAFO.

28. In accordance with 40 C.F.R. §§ 22.18 (b) (3) and 22.31(b), this CAFO shall be effective on the date that the final order contained in this CAFO, having been approved and issued by either the Regional Judicial Officer or Regional Administrator, is filed.
29. The provisions of this CAFO shall be binding upon Respondent, its agents, successors or assigns. Respondent's obligations under this Consent Agreement, if any, shall end when Respondent has performed all of the terms of the Consent Agreement in accordance with the Final Order. Complainant and Respondent consent to the entry of the CAFO without further notice.

FOR COMPLAINANT:

9/19/2012

Date

Enrique Manzanilla

Enrique Manzanilla, Director  
Communities and Ecosystems Division  
EPA Region 9

FOR RESPONDENT:

09/07/12

Date

Kevin Dahlin

Kevin Dahlin, Vice President  
Arcturus and Carlton Facilities  
Precision Castparts Corp.

## ATTACHMENT 1 - Penalty Calculations for Forty-Nine EPCRA 313 Violations

| Count<br># is: | Facility<br>is:           | Reporting<br>Year is: | Toxic<br>chemical<br>is:   | Alleged<br>violation<br>is:       | Penalty<br>matrix<br>circumstance<br>level<br>is: | Penalty<br>matrix<br>extent<br>level<br>is: | Penalty<br>matrix<br>gravity<br>based<br>penalty<br>is: | Notes |
|----------------|---------------------------|-----------------------|----------------------------|-----------------------------------|---|---|---|-------|
| 1              |                           |                       | Aluminum<br>(fume or dust) | Failure to supply<br>notification | 2   | B   | \$16,764  |       |
| 2              |                           |                       | Chromium                   | Failure to supply<br>notification | 2   | A   | \$25,791  |       |
| 3              |                           |                       | Chromium                   | Significant<br>revision           | 5   | A   | \$6,448   |       |
| 4              |                           |                       | Cobalt                     | Failure to supply<br>notification | 2   | B   | \$16,764  |       |
| 5              |                           |                       | Cobalt                     | Significant<br>revision           | 5   | B   | \$3,869   |       |
| 6              |                           | 2007                  | Copper                     | Failure to supply<br>notification | 2   | B   | \$16,764  |       |
| 7              |                           |                       | Copper                     | Significant<br>revision           | 5   | B   | \$3,869   |       |
| 8              |                           |                       | Manganese                  | Failure to supply<br>notification | 2   | B   | \$16,764  |       |
| 9              | Carlton<br>Forge<br>Works |                       | Manganese                  | Significant<br>revision           | 5   | B   | \$3,869   |       |
| 10             |                           |                       | Nickel                     | Failure to supply<br>notification | 2   | A   | \$25,791  |       |
| 11             | 7743 E<br>Adams<br>St.    |                       | Nickel                     | Significant<br>revision           | 5   | A   | \$6,448   |       |
| 12             |                           |                       | Aluminum<br>(fume or dust) | Failure to supply<br>notification | 2   | B   | \$18,420  |       |
| 13             | Paramount<br>CA           |                       | Chromium                   | Failure to supply<br>notification | 2   | A   | \$28,330  |       |
| 14             | 90723                     |                       | Chromium                   | Significant<br>revision           | 5   | A   | \$7,090   |       |
| 15             |                           |                       | Cobalt                     | Failure to supply<br>notification | 2   | A   | \$28,330  |       |
| 16             |                           |                       | Cobalt                     | Significant<br>revision           | 5   | A   | \$7,090   |       |
| 17             |                           | 2008                  | Copper                     | Failure to supply<br>notification | 2   | B   | \$18,420  |       |
| 18             |                           |                       | Copper                     | Significant<br>revision           | 5   | B   | \$4,250   |       |
| 19             |                           |                       | Manganese                  | Failure to supply<br>notification | 2   | B   | \$18,420  |       |
| 20             |                           |                       | Manganese                  | Significant<br>revision           | 5   | B   | \$4,250   |       |
| 21             |                           |                       | Nickel                     | Failure to supply<br>notification | 2   | A   | \$28,330  |       |
| 22             |                           |                       | Nickel                     | Significant<br>revision           | 5   | A   | \$7,090   |       |

| Count<br># is: | Facility<br>is:  | Reporting<br>Year is: | Toxic<br>chemical<br>is:          | Alleged<br>violation<br>is:       | Penalty<br>matrix<br>circumstance<br>level<br>is: | Penalty<br>matrix<br>extent<br>level<br>is: | Penalty<br>matrix<br>gravity<br>based<br>penalty<br>is: | Notes |
|----------------|------------------|-----------------------|-----------------------------------|-----------------------------------|---|---|---|-------|
| 44             | Arcturus<br>Mfg. | 2009                  | Aluminum<br>(fume or dust)        | Failure to supply<br>notification | 2   | C   | \$4,250   |       |
| 45             | Corp.            |                       | Chromium                          | Failure to supply<br>notification | 2   | C   | \$4,250   |       |
| 46             | 6001<br>Arcturus |                       | Cobalt                            | Failure to supply<br>notification | 2   | C   | \$4,250   |       |
| 47             | Ave.             |                       | Copper                            | Failure to supply<br>notification | 2   | C   | \$4,250   |       |
| 48             | Oxnard<br>CA     |                       | Manganese                         | Failure to supply<br>notification | 2   | C   | \$4,250   |       |
| 49             | 93033            | Nickel                | Failure to supply<br>notification | 2                                 | C   | \$4,250                                     |   |       |
|                |                  |                       |                                   |                                   |   |   | <u>\$530,384</u>  |       |

II. FINAL ORDER

Complainant EPA Region 9 and Respondent Precision Castpart Corporation, having entered into the foregoing Consent Agreement,

IT IS HEREBY ORDERED that this Consent Agreement and Final Order (Docket No. EPCRA-09-2012- 0008 ) be entered.

09/25/12  
Date

  
Steven L. Jawgiel  
Regional Judicial Officer  
U.S. Environmental Protection  
Agency, Region 9

CERTIFICATE OF SERVICE

I certify that the original and one copy of the foregoing Consent Agreement and Final Order Pursuant to 40 C.F.R. §§ 22.13 and 22.18, Docket No. EPCRA-09-2012-0008, was hand delivered to:

The Regional Hearing Clerk  
United States Environmental Protection Agency, Region IX  
75 Hawthorne Street, San Francisco, CA 94105

And that a true and correct copy of the Consent Agreement and Final Order was placed in the United States Mail, certified mail, return receipt requested, addressed to the following address:

Geoffrey Tichenor  
Stoel Rives, LLP  
900 S.W. Fifth Avenue  
Portland, Oregon 97204

Certified Return Receipt No.:

Date: 9/26/2012 By:   
Office of Regional Counsel  
United States Environmental  
Protection Agency, Region 9  
75 Hawthorne Avenue  
San Francisco, California 94105



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street

San Francisco, CA 94105-3901

Certified Mail No. 7010 2780 0000 8389 2157  
Return Receipt Requested

SEP 20 2012

Re: EPCRA-09-2012- 0008

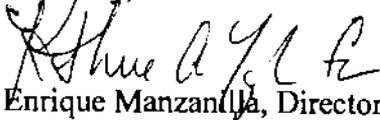
Craig Culaciati  
General Manager, Arcturus & Carlton facilities  
**Precision Castparts Corporation**  
7743 E Adams Street  
Paramount, CA 90723

Dear Mr. Culaciati:

Enclosed please find your copy of the fully executed Consent Agreement and Final Order, pursuant to 40 C.F.R. Sections 22.13 and 22.18, which contains the terms of the settlement reached with the EPA Region IX Toxic Chemical Release Inventory Program. Your completion of all actions enumerated in the Consent Agreement and Final Order will close this case.

If you have any questions, please contact Russ Frazer at (415) 947-4220 or have your attorney contact Daniel Reich at (415) 972-3911.

Sincerely,

  
Enrique Manzanilla, Director  
Communities and Ecosystems Division

cc: Geoffrey B. Tichenor, Esq., Stoel Rives, LLP

Enclosure