

1 to the Regional Administrator of EPA, Region IX, and pursuant to EPA Regional Order Number
2 R1260.14B, dated May 19, 2005, the Regional Administrator re-delegated that authority to
3 Complainant.

4 B. STATUTORY AND REGULATORY BASIS

5 3. Pursuant to Sections 313 and 328 of EPCRA, 42 U.S.C. §§ 11023 and 11048, EPA
6 promulgated regulations on February 16, 1988 (53 Fed. Reg. 4525), setting forth requirements for
7 the submission of information relating to the release of toxic chemicals under EPCRA Section
8 313. These regulations, as amended, are presently codified at 40 C.F.R. Part 372.

9 4. Sections 313(a) and (b) of EPCRA, 42 U.S.C. §§ 11023(a) and (b), and 40 C.F.R.
10 §§ 372.22 and 372.30, provide that the owner or operator of a facility must submit to EPA and
11 the State in which the facility is located a chemical release form published under Section 313(g)
12 of EPCRA for each toxic chemical listed under Section 313(c) of EPCRA and 40 C.F.R.
13 § 372.65 that it manufactured, processed or otherwise used if: (i) the facility has ten or more full-
14 time employees; (ii) the facility is in North American Industry Classification System Code
15 332322; and (iii) the facility manufactured, processed or otherwise used during the calendar year
16 the listed toxic chemical in excess of the threshold quantity established under Section 313(f) of
17 EPCRA and 40 C.F.R. § 372.25.

18 5. Pursuant to Section 313(g) of EPCRA, 42 U.S.C. § 11023(g), EPA published a
19 uniform Toxic Chemical Release Inventory Form (hereinafter referred to as a "Form R") for
20 facilities that are subject to the reporting requirements of Section 313. Sections 313(a) and (b) of
21 EPCRA, 42 U.S.C. §§ 11023(a) and (b), and 40 C.F.R. § 372.30(d), provide that each Form R for
22 activities involving a toxic chemical that occurred during a calendar year must be submitted on or
23 before July 1 of the next year.

24 C. ALLEGED VIOLATIONS

25 6. Respondent is a corporation and therefore fits within the definition of a "person," as
26 provided in Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

27 7. At all times relevant to this matter, Respondent owned and operated a facility (the
28 "Facility") in the business of lead fabricating, located at 33 South University Street in

1 Healdsburg, California, that fits within the definition of a “facility,” as provided in Section
2 329(4) of EPCRA, 42 U.S.C. § 11049(4).

3 8. At all times relevant to this matter, the Facility had 10 or more “full-time employees,”
4 as that term is defined at 40 C.F.R. § 372.3.

5 9. At all times relevant to this matter, the Facility was in North American Industry
6 Classification System Code 332322.

7 10. During the calendar year 2003, Respondent “processed,” as that term is defined in 40
8 C.F.R. § 372.3, approximately 3,082,439 pounds of lead, a toxic chemical listed under 40 C.F.R.
9 § 372.65. This quantity exceeded the 100 pound threshold for reporting “processing” of that
10 chemical established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R.
11 § 372.28.

12 11. During the calendar year 2004, Respondent “processed,” as that term is defined in 40
13 C.F.R. § 372.3, approximately 3,144,974 pounds of lead, a toxic chemical listed under 40 C.F.R.
14 § 372.65. This quantity exceeded the 100 pound threshold for reporting “processing” of that
15 chemical established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R.
16 § 372.28.

17 12. During the calendar year 2005, Respondent “processed,” as that term is defined in 40
18 C.F.R. § 372.3, approximately 2,836,412 pounds of lead, a toxic chemical listed under 40 C.F.R.
19 § 372.65. This quantity exceeded the 100 pound threshold for reporting “processing” of that
20 chemical established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R.
21 § 372.28.

22 13. During the calendar year 2006, Respondent “processed,” as that term is defined in 40
23 C.F.R. § 372.3, approximately 2,482,471 pounds of lead, a toxic chemical listed under 40 C.F.R.
24 § 372.65. This quantity exceeded the 100 pound threshold for reporting “processing” of that
25 chemical established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R.
26 § 372.28.

27 14. Respondent was required to submit a Form R for lead to EPA and the State of
28 California for calendar year 2003 on or before July 1, 2004.

1 Paragraph 21, by the deadline specified in that Paragraph, then Respondent shall also pay a
2 stipulated penalty to EPA. The amount of the stipulated penalty will be TWENTY-TWO
3 THOUSAND, SEVEN HUNDRED, AND TEN DOLLARS (\$22,710), and will be immediately
4 due and payable on the day following the deadline specified in Paragraph 21, together with the
5 initially assessed civil administrative penalty of FIFTY-TWO THOUSAND, NINE HUNDRED,
6 AND NINETY DOLLARS (\$52,990), resulting in a total penalty due of SEVENTY-FIVE
7 THOUSAND AND SEVEN HUNDRED DOLLARS (\$75,700). Failure to pay the civil
8 administrative penalty specified in Paragraph 21 by the deadline specified in that Paragraph may
9 also lead to any or all of the following actions:

10 (1) EPA may refer the debt to a credit reporting agency, a collection
11 agency, or to the Department of Justice for filing of a collection action in the appropriate United
12 States District Court. 40 C.F.R. §§ 13.13, 13.14 and 13.33. The validity, amount, and
13 appropriateness of the assessed penalty or of this CAFO is not subject to review in any such
14 collection proceeding.

15 (2) The U.S. Government may collect the debt by administrative offset
16 (i.e., the withholding of money payable by the United States to, or held by the United States for, a
17 person to satisfy the debt the person owes the U.S. Government), which includes, but is not
18 limited to, referral to the Internal Revenue Service for offset against income tax refunds. 40
19 C.F.R. §§ 13(C) and 13(H).

20 (3) Pursuant to 40 C.F.R. § 13.17, EPA may either: (i) suspend or revoke
21 Respondent's licenses or other privileges, or (ii) suspend or disqualify Respondent from doing
22 business with EPA or engaging in programs EPA sponsors or funds.

23 (4) Pursuant to 31 U.S.C. § 3701 *et seq.* and 40 C.F.R. Part 13, the U.S.
24 Government may assess interest, administrative handling charges, and nonpayment penalties
25 against the outstanding amount that Respondent owes to EPA for Respondent's failure to pay the
26 civil administrative penalty specified in Paragraph 21 by the deadline specified in that Paragraph.

27 (a) Interest. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R.
28 §13.11(a)(1), any unpaid portion of the assessed penalty shall bear interest at the rate established

1 according to 26 U.S.C. § 6621(a)(2) from the effective date of this CAFO, provided, however,
2 that no interest shall be payable on any portion of the assessed penalty that is paid within thirty
3 (30) days of the effective date of this CAFO.

4 (b) Administrative Handling Charges. Pursuant to 31 U.S.C.
5 Section 3717(e)(1) and 40 C.F.R. § 13.11(b), Respondent shall pay a monthly handling charge,
6 based on either actual or average cost incurred (including both direct and indirect costs), for
7 every month in which any portion of the assessed penalty is more than thirty (30) days past due.

8 (c) Nonpayment Penalties. Pursuant to 31 U.S.C. § 3717(e)(2)
9 and 40 C.F.R. § 13.11(c), a monthly penalty charge, not to exceed six percent (6%) annually,
10 may be assessed on all debts more than ninety (90) days delinquent.

11 F. CERTIFICATION OF COMPLIANCE

12 24. In executing this CAFO, Respondent certifies that (1) it has now fully completed and
13 submitted to EPA all of the required Toxic Chemical Release Inventory Forms in compliance
14 with Section 313 of EPCRA, 42 U.S.C. § 11023, and the regulations promulgated thereunder;
15 and (2) it has complied with all other EPCRA requirements at all facilities under its control.

16 G. RETENTION OF RIGHTS

17 25. In accordance with 40 C.F.R. § 22.18(c), this CAFO only resolves Respondent's
18 liabilities for federal civil penalties for the violations and facts specifically alleged in Section I.C
19 of this CAFO. Nothing in this CAFO is intended to or shall be construed to resolve: (i) any civil
20 liability for violations of any provision of any federal, state, or local law, statute, regulation, rule,
21 ordinance, or permit not specifically alleged in Section I.C of this CAFO; or (ii) any criminal
22 liability. EPA specifically reserves any and all authorities, rights, and remedies available to it
23 (including, but not limited to, injunctive or other equitable relief or criminal sanctions) to address
24 any violation of this CAFO or any violation not specifically alleged in Section I.C of this CAFO.

25 26. This CAFO does not exempt, relieve, modify, or affect in any way Respondent's
26 duties to comply with all applicable federal, state, and local laws, regulations, rules, ordinances,
27 and permits.

1 H. ATTORNEYS' FEES AND COSTS

2 27. Each party shall bear its own attorneys' fees, costs, and disbursements incurred in
3 this proceeding.

4 I. EFFECTIVE DATE

5 28. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CAFO shall be
6 effective on the date that the Final Order contained in this CAFO, having been approved and
7 issued by either the Regional Judicial Officer or Regional Administrator, is filed.


8 J. BINDING EFFECT

9 29. The undersigned representative of Complainant and the undersigned representative of
10 Respondent each certifies that he or she is fully authorized to enter into the terms and conditions
11 of this CAFO and to bind the party he or she represents to this CAFO.

12 30. The provisions of this CAFO shall apply to and be binding upon Respondent and its
13 officers, directors, employees, agents, trustees, servants, authorized representatives, successors,
14 and assigns.

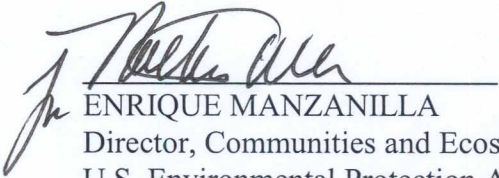
15
16 FOR RESPONDENT SANTA ROSA LEAD PRODUCTS, INC.:

17
18 7/3/08
19 DATE

18 
19 MICHAEL J. DRURY
20 President
21 Santa Rosa Lead Products, Inc.
22 33 South University Street
23 Healdsburg, CA 95448-4021

23 FOR COMPLAINANT EPA:

24
25 7/30/08
26 DATE

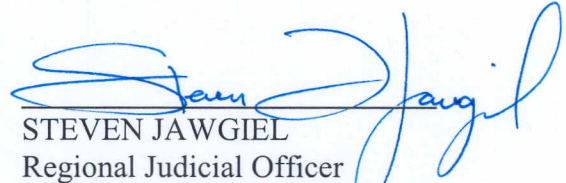
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26 ENRIQUE MANZANILLA
27 Director, Communities and Ecosystems Division
28 U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, California 94105

1 II. FINAL ORDER

2 EPA and Santa Rosa Lead Products, Inc. having entered into the foregoing Consent
3 Agreement,

4 IT IS HEREBY ORDERED that this CAFO (Docket No. EPCRA-09-2008-⁰⁰⁰⁶____) be
5 entered, and Respondent shall pay a civil administrative penalty in the amount of FIFTY-TWO
6 THOUSAND, NINE HUNDRED, AND NINETY DOLLARS (\$52,990), and comply with the
7 terms and conditions set forth in the Consent Agreement.
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11
12 07/31/08
13 DATE

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15 STEVEN JAWGIEL
16 Regional Judicial Officer
17 U.S. Environmental Protection Agency, Region IX
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CERTIFICATE OF SERVICE

I certify that the original and one copy of the fully executed Consent Agreement and Final Order Pursuant to 40 C.F.R Sections 22.13 and 22.18 (Docket No. EPCRA-9-2008-⁰⁰⁰⁶) against Santa Rosa Lead Products, 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 same was sent to Respondent at the following address:

Mr. Michael J. Drury
President
Santa Rosa Lead Products, Inc.
33 South University Street
Healdsburg, CA 95448-4021

Certified Mail No. 7007 3020 0000 9806 7838



Danielle Carr
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region IX

Date

