UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

Certified Mail No.: 7014 1820 0000 4722 5157
Refer to: Titanium Metals Corp., Henderson, NV

James R. Pieron, President
Titanium Metals Corporation
4832 Richmond Road, Suite 100
Warrensville Heights, OH 44128

SEP 30 2016

Re: Consent Agreement and Final Order, Settlement of CAA §112(r), CERCLA §103 & EPCRA §304 Violations at Titanium Metals Corp. Facility, Henderson, NV

Dear Mr. Pieron:

Please find enclosed fully executed Consent Agreement and Final Order (CA/FO) negotiated between the United States Environmental Protection Agency, Region IX (EPA), and Titanium Metals Corp. concerning its facility located in Henderson, NV.

The CA/FO simultaneously commences and concludes proceedings concerning violations at the facility of: 1) the General Duty Clause and Chemical Accident Prevention provisions under Section 112(r) of the Clean Air Act (CAA); 2) the release notification requirements under Section 304 of the Emergency Planning and Community Right-to-know Act (EPCRA); and 3) the release notification requirements under Section 103 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA).

If you have any questions regarding the applicable CAA, EPCRA or CERCLA requirements concerning the facility, or which concern the proceedings terminated by the enclosed documents, please contact Mr. Jeremy Johnstone of my staff at (415) 972-3499 or at johnstone.jeremy@epa.gov.

Sincerely,

Enrique Manzanilla
Director
Superfund Division

Enclosure:
Consent Agreement and Final Order

cc (via email with enclosure):
Richard Pfarrar, TIMET
Peter Serrurier, Stoel Rives LLP
Richard Brenner, Clark County Fire Dept.
Kelly Thomas, NV Dept. of Env. Quality

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
BEFORE THE ADMINISTRATOR

In the Matter of: Titanium Metals Corporation, Respondent.	Docket Nos. CAA (112r)-09-2016-0004 CERCLA (103)-09-2016-0001 EPCRA (304)-09-2016-0002

CONSENT AGREEMENT AND FINAL ORDER
PURSUANT TO 40 CFR §§ 22.13 and 22.18

A. PRELIMINARY STATEMENT

1. This is an administrative penalty assessment proceeding brought under Section 113(a)(3)(A) and (d) of the Clean Air Act ("CAA"), 42 U.S.C. § 7413(a)(3)(A), (d), Section 325 of the Emergency Planning and Community Right-to-Know Act of 1986 ("EPCRA"), 42 U.S.C. § 11045, Section 109 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9609, and Sections 22.13 and 22.18 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules"), as codified at 40 C.F.R. Part 22.

2. Complainant is the United States Environmental Protection Agency, Region IX (the "EPA"). On the EPA's behalf, Enrique Manzanilla, Director, Region IX Superfund Division, is delegated the authority to settle civil administrative penalty proceedings under Section 113(d) of the CAA, Section 325 of EPCRA, and Section 109 of CERCLA.

3. Respondent is Titanium Metals Corporation ("TIMET"), a corporation doing business in the state of Nevada.

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4. Complainant and Respondent, having agreed that settlement of this action is in the public interest, consent to the entry of this consent agreement ("Consent Agreement" or "Agreement") and the attached final order ("Final Order" or "Order") without adjudication of any issues of law or fact herein, and Respondent agrees to comply with the terms of this Consent Agreement and Final Order.

B. JURISDICTION

5. This Consent Agreement is entered into under Section 113(d) of the CAA, as amended, 42 U.S.C. § 7413(d), Section 109 of CERCLA, 42 U.S.C. § 9609, Section 325 of EPCRA, 42 U.S.C. § 11045, and the Consolidated Rules, 40 C.F.R. Part 22. The alleged violations in this Consent Agreement are pursuant to Section 113(a)(3)(A) of the CAA, Section 103 of CERCLA, and Section 304 of EPCRA.

6. The EPA and the United States Department of Justice jointly determined that this matter, although it involves a penalty assessment above $320,000 and involves alleged violations that occurred more than one year before the initiation of this proceeding, is appropriate for an administrative penalty assessment. 42 U.S.C. § 7413(d); 40 C.F.R. § 19.4, as amended by 81 FR 43091 (July 1, 2016).

7. The Regional Judicial Officer is authorized to ratify this Consent Agreement which memorializes a settlement between Complainant and Respondent. 40 C.F.R. § 22.4(b) and 22.18(b).

8. The issuance of this Consent Agreement and attached Final Order simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).

C. GOVERNING LAW

9. Respondent is a "person" as defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e), Section 329(7) of EPCRA, 42 U.S.C. § 11049(7), and Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

10. Respondent owns and operates a "stationary source" as that term is defined by Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C). Respondent's stationary source is located at 181 North Water Street in the Black Mountain Industrial Park in Henderson, Nevada 89015 ("Facility").

11. Section 112(r) of the CAA, 42 U.S.C. § 7412(r), addresses the prevention of releases of substances listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3). The substances listed in Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), include chlorine and anhydrous ammonia. The purpose of this Section is to prevent the accidental release of these substances and other extremely hazardous substances, and to minimize the consequences of such releases.

12. Pursuant to Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), the owners and operators of stationary sources producing, processing, handling or storing such extremely hazardous substances have a general duty to identify hazards which may result from such releases using appropriate hazard assessment techniques, to design and maintain a safe facility taking such steps as are necessary to prevent releases, and to minimize the consequences of accidental releases which do occur ("General Duty Clause").

13. Pursuant to Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), EPA is authorized to promulgate regulations for accidental release prevention.

14. Pursuant to Sections 112(r)(3) and 112(r)(7) of the CAA, 42 U.S.C. §§ 7412(r)(3) & (r)(7), EPA promulgated rules codified at 40 CFR Part 68, Chemical Accident Prevention Provisions. These regulations are collectively referred to as the "Risk Management Program" and apply to an owner or operator of a stationary source that has a threshold quantity of a regulated substance in a process. Pursuant to Sections 112(r)(3) and 112(r)(5) of the CAA, 42 U.S.C. §§ 7412(r)(3) & (r)(5), the list of regulated substances and threshold levels are codified at 40 CFR § 68.130.

15. Pursuant to Section 112(r)(7)(B)(iii) of the CAA, 42 U.S.C. § 7412(r)(7)(B)(iii), and 40 CFR §§ 68.10 and 68.150, the owner or operator of a stationary source that has a regulated substance in an amount equal to or in excess of the applicable threshold quantity in a "process" as defined in 40 CFR § 68.3, must develop a Risk Management Program accidental release prevention program, and submit and implement a Risk Management Plan to EPA.

16. Titanium tetrachloride is a regulated substance pursuant to Sections 112(r)(2) and (3) of the CAA, 42 U.S.C. §§ 7412(r)(2) & (3), and 40 CFR § 68.3. The threshold quantity for titanium tetrachloride, as listed in 40 CFR § 68.130, Tables 1 and 2, is 2,500 pounds.

17. CERCLA Section 103(a), 42 U.S.C. § 9603(a), requires any person in charge of a facility to immediately notify the National Response Center as soon as the person in charge has knowledge of a release of a Hazardous Substance from such facility in an amount equal to or greater than the Reportable Quantity ("RQ").

18. Section 304 of EPCRA, 42 U.S.C. § 11004, requires the owner or operator of a facility at which a hazardous chemical is produced, used, or stored to notify

immediately the appropriate governmental entities of any release that requires notification under Section 103 of CERCLA and of any release in an amount that meets or exceeds the RQ of an Extremely Hazardous Substance listed under Section 302 of EPCRA, 42 U.S.C. § 11002. The notification must be given to the local emergency planning committee and to the state emergency planning commission for each area and state likely to be affected by the release.

19. The RQ for chlorine, as listed in 40 CFR Part 355, Appendix A, is ten (10) pounds.

D. FACTS

20. Respondent is a "person" under the CAA, EPCRA, and CERCLA.

21. Respondent's Facility is a "stationary source" under the CAA.

22. At all times referred to herein, Respondent was the "owner or operator" of the Facility, as defined in Section 112(a)(9) of the CAA, 42 U.S.C. § 7412(a)(9), and Section 101(20)(A) of CERCLA, 42 U.S.C. § 9601(20)(A).

23. The Facility processes titanium and titanium tetrachloride, uses chlorine, and includes an ammonia refrigeration system.

24. Respondent produces, processes, handles, stores, and uses, and has produced, processed, handled, stored, and used, titanium tetrachloride, chlorine, and anhydrous ammonia at the Facility.

25. Pursuant to 40 C.F.R. § 68.150 Respondent has submitted a Risk Management Plan for its titanium tetrachloride process at the Facility. The initial submittal was made on June 21, 1999, and Pursuant to 40 C.F.R. § 68.190(b)(1), Respondent resubmitted Risk Management Plans on June 21, 2004, June 19, 2009 and March 2, 2015.

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26. Pursuant to 40 C.F.R. § 68.160(7) Respondent's Risk Management Plan registration information indicates that its titanium tetrachloride process at the Facility is characterized as Program level 2, as is defined at 40 C.F.R. § 68.110(c).

27. Pursuant to 40 C.F.R. § 68.36(a), Respondent prepared an Offsite Consequence Analysis ("OCA") in 1999. Respondent updated this OCA on November 19, 2015.

28. On March 9, 2012, the Facility released at least 166 pounds of chlorine.

29. The release of chlorine on March 9, 2012, occurred at the latest at 6:30 a.m., and Respondent reported the release to the National Response Center ("NRC") at 8:26 a.m. that day.

30. The release of chlorine on March 9, 2012, occurred at the latest at 6:30 a.m., and Respondent reported the release to the Nevada Division of Environmental Protection ("NDEP"), which in the State of Nevada serves as the State Emergency Response Commission ("SERC") for the purpose of receiving chemical release notifications, at the earliest at 8:37 a.m. that day.

31. On March 3, 2015, EPA conducted an inspection of the Facility to evaluate compliance with the Risk Management Program requirements of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), the CAA's implementing regulations at 40 CFR Part 68, Sections 304-312 of EPCRA, 42 U.S.C. § 1104-1112 and Section 103 of CERCLA, 42 U.S.C. § 9603.

32. As part of the inspection, EPA requested, and Respondent provided, certain records and documents, including supporting documentation demonstrating compliance with 40 CFR Part 68 at the Facility.

33. The EPA inspectors observed the Facility's operations and reviewed information and documents concerning the Facility, including documents provided by Respondent during and subsequent to the Facility inspection.

34. At the time of EPA's inspection, EPA noted that Respondent had conducted a hazard review in July 2013, subsequent to the March 9, 2012 chlorine release. Among other things, the hazard review recommended evaluating the installation of a chlorine sensor on the Sulphur dioxide scrubber stack and Respondent had failed to document any subsequent evaluation. Respondent installed the chlorine sensor on the Sulphur dioxide scrubber stack on March 24, 2015.

35. At the time of EPA's inspection, EPA noted that Respondent provided EPA a number of internal audit reports, but failed to certify that the Facility had conducted compliance audits at least every three years to verify that the developed procedures and practices were adequate and being followed, consistent with 40 C.F.R. Part 68 Subpart C.

36. At the time of EPA's inspection, EPA noted that the Facility's ammonia refrigeration system pipes and valves lacked labeling, in contravention of the American National Standards Institute and American Society of Mechanical Engineers standard no. A13.1.2007 "Standard for the Identification of Pipes" and the International Institute of Ammonia Refrigeration ("IIAR") Bulletin 114 (2014) "Guidelines for Identification of Ammonia Refrigeration Piping and System Components," which specify requirements for the labeling and other identification of ammonia refrigeration system piping and other componentry. The referenced documents

constitute recognized and generally accepted good engineering practices ("RAGAGEP") in this context.

37. At the time of EPA's inspection, the Facility's ammonia system entry door was not marked to limit entry to only authorized personnel, and the door opened inward instead of outward, in contravention of the American Society of Heating, Refrigerating, and Air-Conditioning Engineers ("ASHRAE") 15-2007, "Safety Standard for Refrigeration Systems," which specifies that access to the refrigerating machinery room shall be restricted to authorized personnel, doors shall be clearly marked or permanent signs shall be posted at each entrance to indicate this restriction, and engine room doors shall open outward.

38. At the time of EPA's inspection, EPA noted that the Facility's ammonia engine room lacked an ammonia sensor, contrary to IIAR 2-2008 ("American National Standard for Equipment, Design, and Installation of Closed-Circuit Ammonia Mechanical Refrigeration Systems"), which again constitutes RAGAGEP for ammonia refrigeration systems with respect to engine room requirements.

39. In subsequent correspondence with Respondent about the Facility, EPA did not receive evidence of either a system-wide annual inspection pursuant to IIAR Bulletin 109 ("IIAR Minimum Safety Criteria for a Safe Ammonia Refrigeration System"), or 5-Year Mechanical Integrity Audit pursuant to IIAR Bulletin 110 ("Start-up, Inspection, and Maintenance of Ammonia Mechanical Refrigerating Systems"), which constitute RAGAGEP for ammonia refrigeration systems with respect to preventive maintenance, inspection, and testing, among other things.

E. ALLEGED VIOLATIONS OF LAW

40. Based on the facts above, EPA alleges that Respondent has violated Section 103 of CERCLA, Section 304 of EPCRA, Sections 112(r)(1) and (7)(E) of the CAA, and the codified rules of 40 C.F.R. Part 68, governing the CAA's Chemical Accident Prevention Provisions, as follows:

Count I

(Failure to Immediately Notify the NRC of a Release of an RQ of Chlorine)

41. Paragraphs 1 through 39, above, are incorporated herein by this reference as if they were set forth here in their entirety.

42. On March 9, 2012, Respondent's facility released a reportable quantity of chlorine, Respondent had actual or constructive knowledge of the chlorine release by 6:30 a.m. at the latest, but Respondent failed to notify the NRC until 8:26 a.m. at the earliest.

43. By failing to immediately notify the NRC as soon as it had knowledge of the release of a reportable quantity of chlorine on March 9, 2012, Respondent violated of Section 103 of CERCLA, 42 U.S.C. § 9603.

Count II

(Failure to Immediately Notify the SERC of a Release of an RQ of Chlorine)

44. Paragraphs 1 through 39, above, are incorporated herein by this reference as if they were set forth here in their entirety.

45. On March 9, 2012, Respondent's facility released a reportable quantity of chlorine, Respondent had actual or constructive knowledge of the chlorine release by 6:30 a.m. at the latest, but Respondent failed to notify NDEP, the SERC, until 8:37 a.m. at the earliest.

46. By failing to immediately notify the SERC as soon as it had knowledge of this release of an RQ of chlorine, Respondent violated Section 304 of EPCRA, 42 U.S.C. § 11004.

Count III

(Failure to Review and Update OCA)

47. Paragraphs 1 through 39, above, are incorporated herein by this reference as if they were set forth here in their entirety.

48. 40 C.F.R. § 68.36(a) requires that owners or operators of regulated processes at stationary sources subject to this regulation review and update the OCA at least once every five years.

49. Respondent submitted a Hazard Assessment including an OCA in 1999. However, Respondent failed to update the OCA until November 19, 2015.

50. By failing to review and update the OCA at least once every five years, Respondent violated 40 C.F.R. § 68.36.

Count IV

(Failure to Timely Resolve Problems Identified in Hazard Review)

51. Paragraphs 1 through 39, above, are incorporated herein by this reference as if they were set forth here in their entirety.

52. 40 C.F.R. § 68.50(c) requires that problems identified in hazard reviews must be resolved in a timely manner.

53. Respondent conducted a hazard review in July 2013, subsequent to the March 9, 2012 chlorine release. Among other things, the hazard review recommended the

installation of a chlorine sensor on the Sulphur dioxide scrubber stack. However, the sensor was not installed until March 24, 2015.

54. By failing either to document why this chlorine sensor was not required, or to install timely the chlorine sensor, Respondent failed to ensure that problems identified in the hazard review were resolved timely, and therefore Respondent violated 40 C.F.R. § 68.50.

Count V

(Failure to Ensure Adequacy of Operating Procedures)

55. Paragraphs 1 through 39, above, are incorporated herein by this reference as if they were set forth here in their entirety.

56. 40 C.F.R. § 68.52(b)(7) requires that operating procedures contain clear instructions or steps to address the consequences of, and steps required to correct or avoid, deviations from established safe operating limits.

57. During the March 9, 2012 chlorine release, several alarms sounded that indicated a significant chlorine release. Respondent's operating procedures did not contain clear instructions to stop or minimize the release.

58. By failing to have clear instructions and procedures to stop or minimize the release, Respondent failed to ensure that its written operating procedures were adequate to address the consequences of, and to delineate the steps required to correct or avoid, deviations from established safe operating limits. Therefore, Respondent violated 40 C.F.R. § 68.52.

Count VI

(Failure to Conduct Compliance Audits)

59. Paragraphs 1 through 39, above, are incorporated herein by this reference as if they were set forth here in their entirety.

60. 40 C.F.R. § 68.58 requires that an owner or operator certify they have evaluated compliance with the 40 C.F.R. Part 68 Subpart C requirements at least every three years to verify that the developed prevention program procedures and practices were adequate and being followed.

61. Respondent had not conducted compliance audits every three years to verify that the developed prevention program procedures and practices were adequate and being followed.

62. By failing to certify that it has evaluated compliance with the provisions of 40 C.F.R. Part 68 Subpart C at least every three years to verify that the prevention program procedures and practices are adequate and being followed, Respondent violated 40 C.F.R. § 68.58.

Count VII

(Failure to Review and Update Timely the Risk Management Plan)

63. Paragraphs 1 through 39, above, are incorporated herein by this reference as if they were set forth here in their entirety.

64. 40 C.F.R. § 68.190 requires that an owner or operator shall review and update a Risk Management Plan at least once every five years.

65. Respondent submitted a revised and updated Risk Management Plan for the Facility with EPA on or about June 19, 2009. Its subsequent resubmittal was due to be made by June 18, 2014; however, Respondent did not submit subsequent revision and update until March 2, 2015.

66. By failing to review and update the Risk Management Plan at least once every five years, Respondent violated 40 C.F.R. § 68.190.

Count VIII

(Failure to Design and Maintain a Safe Facility)

67. Paragraphs 1 through 39, above, are incorporated herein by this reference as if they were set forth here in their entirety.

68. The General Duty Clause, Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), imposes on owners and operators of stationary sources producing, processing, handling or storing extremely hazardous substances, including, pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), anhydrous ammonia, a general duty to identify hazards which may result from such releases using appropriate hazard assessment techniques, to design and maintain a safe facility taking such steps as are necessary to prevent releases, and to minimize the consequences of accidental releases which do occur.

69. Respondent's Facility lacked appropriate labelling on pipes and valves, signage on the entry door to the ammonia refrigeration room, and the entry door opened in the wrong direction. Further, Respondent also failed to replace anhydrous ammonia pressure relief devices when required, and also failed to conduct mechanical integrity audit in accordance with RAGAGEP.

70. By failing to design and maintain a safe facility taking such steps as are necessary to prevent releases, Respondent violated the General Duty Clause of Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1).

F. TERMS OF CONSENT AGREEMENT

71. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:

(a) admits that the EPA has jurisdiction over the subject matter alleged in this Agreement;

(b) neither admits nor denies the alleged violations of law stated above;

(c) consents to the assessment of a civil penalty as stated below;

(d) consents to the issuance of any specified compliance or corrective action order;

(e) consents to the conditions specified in this Agreement;

(f) waives any right to contest the alleged violations of law set forth in Section E of this Consent Agreement; and

(g) waives its rights to appeal the Order accompanying this Agreement.

72. For the purpose of this proceeding, Respondent:

(a) agrees that this Agreement states a claim upon which relief may be granted against Respondent;

(b) acknowledges that this Agreement constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement actions;

(c) waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this Order, including any right of judicial review under Section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1);

(d) consents to personal jurisdiction in any action to enforce this Agreement or Order, or both, in the United States District Court for the District of Nevada; and

(e) waives any rights it may possess at law or in equity to challenge the authority of the EPA to bring a civil action in a United States District Court to compel compliance with the Agreement or Order, or both, and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action.

73. Civil Penalties. Section 113(d) of the CAA, 42 U.S.C. § 7413(d), Section 325 of EPCRA, 42 U.S.C. § 11045, and Section 109 of CERCLA, 42 U.S.C. § 9609, all as adjusted by the Debt Collection Improvement Act of 1996, see 40 CFR Part 19, authorize civil penalties of up to thirty-seven thousand five hundred dollars ($37,500) per day for each day a violation of Section 112(r) of the CAA, Section 304 of EPCRA, or Section 103 of CERCLA occurs on or after January 13, 2009. See Table 1 of 40 CFR § 19.4, as amended by 81 FR 43091 (July 1, 2016).

(a) Based on the facts alleged herein and upon all the factors which the Complainant considers pursuant to the Combined Enforcement Policy for Clean Air Act Sections 112(r)(1), 112(r)(7) and 40 C.F.R. Part 68 ("CEP"), dated June 2012, the Complainant proposes that the Respondent be assessed, and Respondent agrees to pay FOUR HUNDRED AND TWENTY FIVE THOUSAND DOLLARS ($425,000) as the civil penalty for the CAA violations alleged herein. The proposed penalty was calculated in accordance with the CEP.

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(b) Based on the facts alleged herein and upon all the factors which the Complainant considers pursuant to Enforcement Response Policy for Sections 304, 311, and 312 of EPCRA and Section 103 of CERCLA ("ERP"), dated September 30, 1999, including the nature, extent, and gravity of the violations, the respondent's ability to pay, prior history of violations, degree of culpability, and any economic benefit, and such other matters as justice may require, the Complainant proposes that the Respondent be assessed, and Respondent agrees to pay THIRTY SEVEN THOUSAND FIVE HUNDRED ($37,500) as the civil penalty for the EPCRA violations alleged herein, and an additional THIRTY SEVEN THOUSAND FIVE HUNDRED ($37,500) as the civil penalty for the CERCLA violations alleged herein. The proposed penalties were calculated in accordance with the ERP.

74. Payment of Penalties. Respondent agrees to:

(a) pay civil penalties totaling $500,000 ("EPA Penalties") within 30 calendar days of the Effective Date of this Agreement.

(b) pay the EPA Penalties in two separate payments, as follows:

i. For the CAA and EPCRA civil penalties, $462,500 by wire transfer to EPA through the Federal Reserve Bank of New York using the following information:

ABA: 021030004
Account Number: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, NY 10045
Beneficiary: US Environmental Protection Agency
In the Notes field: Indicate this payment is for civil penalties pursuant to the Clean Air Act and the Emergency Planning and Community Right to Know Act and specifically designate the CAA and EPCRA docket numbers on the caption page of this Agreement; and

ii. For the CERCLA civil penalty, $37,500 by wire transfer to EPA through the Federal Reserve Bank of New York using the following information:

ABA: 021030004
Account Number: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, NY 10045
Beneficiary: US Environmental Protection Agency
In the Notes field: Indicate this payment is for a civil penalty under the Comprehensive Environmental Response, Compensation and Liability Act and specifically designate the CERCLA docket number on the caption page of this Agreement.

75. If Respondent fails to timely pay any portion of the penalties assessed under this Agreement, the EPA may:

(a) request the Attorney General to bring a civil action in an appropriate district court to recover: the amount assessed; interest at rates established pursuant to 26 U.S.C. § 6621(a)(2); the United States' enforcement expenses; and a 10 percent quarterly nonpayment penalty, 42 U.S.C. § 7413(d)(5);

(b) refer the debt to a credit reporting agency or a collection agency, 42 U.S.C. § 7413(d)(5), 40 C.F.R. §§ 13.13, 13.14, and 13.33;

(c) collect the debt by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H; and

(d) suspend or revoke Respondent's licenses or other privileges, or (ii) suspend or disqualify Respondent from doing business with the EPA or engaging in programs the EPA sponsors or funds, 40 C.F.R. § 13.17.

76. Conditions. As a condition of settlement, Respondent agrees to the following:

(a) Respondent shall hire an independent third party to conduct an audit of the Facility's chemical safety and accident prevention programs as follows:

i. Assess the Facility's compliance with 40 C.F.R. Part 68 regulated processes, including safety measures and systems, pursuant to 40 C.F.R. § 68.48 through 68.60.

1. This third party audit shall include an evaluation of ways to ensure that the Facility's Risk Management Program is in compliance with 40 CFR Part 68; and

2. Respondent commits to incorporating, and responding to, the findings and recommendations of the most recent audit completed by Nevada Chemical Accident Prevention Program into the compliance audit.

ii. Assess the Facility's compliance with the CAA's Section 112(r)(1) General Duty Clause with respect to the anhydrous ammonia refrigeration process and its use and management of chlorine (to the extent not otherwise considered part of the 40 C.F.R. Part 68 regulated process). Evaluation of compliance with the General Duty Clause shall include, at a minimum, the Facility's compliance and conformance with RAGAGEP applicable to each chemical and/or process.

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iii. Respondent shall have the audit completed within six (6) months of entry of this Consent Agreement and Final Order, and shall implement all recommendations made as part of the audit within 1 year of the audit's completion.

iv. Respondent shall provide Complainant with a copy of the audit report within 30 days of the audit's completion.

v. Respondent shall provide Complainant with a certification of implementation of all recommendations made as part of the audit within 1 year of the audit's completion.

(b) Respondent's Operations Manager for the Facility shall, for a period of at least 3 years following the entry of this Consent Agreement and Final Order, attend and participate in regularly-scheduled meetings of the Henderson Industrial Community Advisory Panel.

(c) Respondent shall have hired, within 90 days of entry of this Consent Agreement and Final Order, a new employee whose primary job will be to assess, manage and ensure compliance with federal and state chemical safety and accident prevention requirements, including the 40 C.F.R. Part 68 Chemical Accident Prevention Programs, Risk Management Programs, OSHA's Process Safety Management provisions of 29 C.F.R. § 1910.119, the State of Nevada Chemical Accident Prevention Program, and the CAA's General Duty Clause. This position will report directly to the Facility Operations Manager and the Global Director of Environment, Health and Safety and the individual will have both responsibility for, and authority over, the Facility's compliance with the federal

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and state chemical safety and accident prevention requirements identified herein and the requirements of this Agreement. Respondent shall employ this individual (or an equivalent successor) for at least three years. Respondent shall provide EPA, for its review and comment, a scope of work and schedule for the first 90, 120 and 360 days of this person's employment. In addition, Respondent shall submit to EPA periodic status reports including a discussion of the new employee's material findings regarding the Facility's compliance with the federal and state chemical safety and accident prevention requirements identified herein and the requirements of this Agreement, and corrective actions (if any) taken in response to those findings.

77. Delay in Performance/Stipulated Penalties. In the event Respondent fails to meet any requirement set forth in this Agreement, Respondent shall pay stipulated penalties as set forth below. Compliance by Respondent shall include completion of any activity under this Agreement in a manner acceptable to EPA and within the specified time schedules in and approved under this Agreement.

(a) Up to FIVE HUNDRED DOLLARS ($500) per day for the first to fifteenth day of delay, up to ONE THOUSAND DOLLARS ($1,000) per day for the sixteenth to thirtieth day of delay, and up to FIVE THOUSAND DOLLARS ($5,000) per day for each day of delay thereafter.

(b) Stipulated penalties shall begin to accrue on the day after performance is due, and shall continue to accrue through the final day until performance is complete. Respondent shall pay stipulated penalties within fifteen (15) days of receipt of a written demand by Complainant for such penalties. Payment of stipulated

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penalties shall be made in accordance with the procedure set forth for payment of penalties in Paragraph 74(b)(i) of this Agreement, provided however, that in the Notes field of the wire transfer Respondent shall indicate the payment is for a stipulated penalty pursuant to this Agreement, and shall specifically designate the CAA and EPCRA docket numbers on the caption page of this Agreement.

(c) If a stipulated penalty is not paid in full, interest shall begin to accrue on the unpaid balance at the end of the fifteen-day period at the current rate published by the United States Treasury, as described at 40 CFR §13.11. Complainant reserves the right to take any additional action, including but not limited to, the imposition of civil penalties, to enforce compliance with this Agreement or with the CAA and its implementing regulations.

(d) The payment of stipulated penalties specified in this Paragraph shall not be deducted by Respondent or any other person or entity for federal, state or local taxation purposes.

(e) Notwithstanding any other provision of this section, EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this Agreement.

78. Respondent agrees that the time period from the Effective Date of this Agreement until all of the conditions specified in Paragraph 76 are completed (the "Tolling Period") shall not be included in computing the running of any statute of limitations potentially applicable to any action brought by Complainant on any claims (the "Tolled Claims") set forth in Section E of this Agreement. Respondent shall not assert, plead, or raise in any fashion, whether by answer, motion or otherwise, any

defense of laches, estoppel, or waiver, or other similar equitable defense based on the running of any statute of limitations or the passage of time during the Tolling Period in any action brought on the Tolled Claims.

79. The provisions of this Agreement shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns. From the Effective Date of this Agreement until the end of the Tolling Period, as set out in Paragraph 78, Respondent must give written notice and a copy of this Agreement to any successors in interest prior to any transfer of ownership or control of any portion of or interest in the Facility. Simultaneously with such notice, Respondent shall provide written notice of such transfer, assignment, or delegation to the EPA. In the event of any such transfer, assignment, or delegation, Respondent shall not be released from the obligations or liabilities of this Agreement unless the EPA has provided written approval of the release of said obligations or liabilities.

80. By signing this Agreement, Respondent acknowledges that this Agreement and Order will be available to the public and agrees that this Agreement does not contain any confidential business information or personally identifiable information.

81. By signing this Agreement, the undersigned representative of Respondent certifies that he or she is fully authorized to execute and enter into the terms and conditions of this Agreement and has the legal capacity to bind Respondent to this Agreement.

82. By signing this Agreement, both parties agree that each party's obligations under this Consent Agreement and attached Final Order constitute sufficient consideration for the other party's obligations.

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83. By signing this Agreement, Respondent certifies to EPA that it has fully complied with the requirements of Section 304 of EPCRA, 42 U.S.C. §§ 11004, Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), and Sections 112(r)(1) and (7) of CAA, 42 U.S.C. § 9412(r)(1), (7), that formed the basis for the violations alleged in Section E above, and that Respondent is now in compliance with the relevant current reporting obligations under Section 304 of EPCRA, 42 U.S.C. §§ 11004, Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), and with Sections 112(r)(1) and (7) of CAA, 42 U.S.C. § 9412(r)(1), (7).

84. By signing this Agreement, Respondent certifies that the information it has supplied concerning this matter was at the time of submission true, accurate, and complete for each such submission, response, and statement. Respondent acknowledges that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.

85. Except as qualified by Paragraph 75, each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.

G. EFFECT OF CONSENT AGREEMENT AND ATTACHED FINAL ORDER

86. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this Consent Agreement and Final Order resolves only Respondent's liability for federal civil penalties for the violations and facts specifically alleged above.

87. Penalties paid pursuant to this Agreement shall not be deductible for purposes of federal, state or local taxes.

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88. This Agreement constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to the subject matter hereof.

89. The terms, conditions, and compliance requirements of this Agreement may not be modified or amended except upon the written agreement of both parties, and approval of the Regional Judicial Officer.

90. Any violation of this Order may result in a civil judicial action for an injunction or civil penalties of up to $37,500 per day per violation, or both, as provided in Section 113(b)(2) of the CAA, 42 U.S.C. § 7413(b)(2), as well as criminal sanctions as provided in Section 113(c) of the CAA, 42 U.S.C. § 7413(c). The EPA may use any information submitted under this Order in an administrative, civil judicial, or criminal action.

91. Nothing in this Agreement shall relieve Respondent of the duty to comply with all applicable provisions of the CAA, EPCRA, CERCLA and other federal, state, or local laws or statutes, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.

92. This Consent Agreement and Final Order is not intended to be nor shall it be construed as a permit. This Consent Agreement and Final Order does not relieve Respondent of any obligation to obtain and comply with any local, state or federal permits.

93. Nothing herein shall be construed to limit the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present an

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imminent and substantial endangerment to the public health, welfare, or the environment.

H. EFFECTIVE DATE

94. Respondent and Complainant agree to issuance of the attached Final Order. Upon filing, the EPA will transmit a copy of the filed Consent Agreement to the Respondent. This Consent Agreement and attached Final Order shall become effective after execution of the Final Order by the Regional Judicial Officer, on the date of filing with the Hearing Clerk.

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The foregoing Consent Agreement in the Matter of Titanium Metals Corporation is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:

James R Pieron
Signature

09/27/2016
Date

Printed Name: James R. Pieron

Title: President, Titanium Metals Corporation

Address: 4832 Richmond Road Suite 100 Warrensville Heights, OH 44128

Respondent's Federal Tax Identification Number: 13-5630895

The foregoing Consent Agreement in the Matter of Titanium Metals Corporation is Hereby Stipulated, Agreed, and Approved for Entry.

FOR COMPLAINANT:

9/29/16
DATE

Enrique Manzanilla
Director, Superfund Division
United States Environmental Protection Agency, Region IX

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
BEFORE THE ADMINISTRATOR

In the Matter of:	Docket Nos.
TITANIUM METALS CORPORATION,	CAA (112r)-09-2016- 0004
Respondent.	CERCLA (103)-09-2016- 0001
	EPCRA (304)-09-2016- 0002

Pursuant to 40 C.F.R. § 22.18(b) of the EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d), Section 325 of the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. § 11045, and Section 109 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9609, the attached Consent Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified.

The Respondent is ORDERED to comply with all terms of the Consent Agreement. This Final Order becomes effective upon filing by the Regional Hearing Clerk.

So ordered.

09/30/16
DATE

Steven Jawgiel
Regional Judicial Officer
United States Environmental Protection Agency, Region IX

CERTIFICATE OF SERVICE

Docket Nos.: CAA(112r)-09-2016-0004
CERCLA (103)-09-2016- 0001
EPCRA (304)-09-2016- 0002

I hereby certify that the original copy of the foregoing CAFO with the Docket number referenced above, have been filed with the Region 9 Hearing Clerk and that a copy was sent by certified mail, return receipt requested, to:

James R. Pieron, President
Titanium Metals Corporation
4832 Richmond Road, Suite 100
Warrensville Heights, OH 44128

CERTIFIED MAIL NUMBER: 7014 1820 0000 4722 5157

An additional copy was hand-delivered to the following U.S. EPA case attorney:

Thomas Butler, Esq.
Office of Regional Counsel
U.S. EPA, Region IX
75 Hawthorne St.
San Francisco, CA 94105

Sept. 30, 2016
Date

Steven Armsey

Steven Armsey
Acting Regional Hearing Clerk
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105