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U.S. ENVIRONMENTAL PROTECTION AGENCY
REGIONAL HEARING CENTER

1 NANCY J. MARVEL
Regional Counsel
2
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U.S. Environmental Protection Agency
4 Region IX
75 Hawthorne Street
5 San Francisco, CA 94105
(415) 972-3898
6

7 UNITED STATES
8 ENVIRONMENTAL PROTECTION AGENCY
9 REGION IX

10 In the matter of:) Docket No. EPCRA-09-2011-0019
11)
12 Precision Stampings, Inc.,) CONSENT AGREEMENT
AND FINAL ORDER
13 Respondent.) pursuant to 40 C.F.R. §§ 22.13(b),
22.18(b)(2), and 22.18(b)(3)
14

15 I. CONSENT AGREEMENT

16 The United States Environmental Protection Agency, Region IX ("EPA"), and Precision
17 Stampings, Inc. (the "Respondent") agree to settle this matter and consent to the entry of this
18 Consent Agreement and Final Order ("CAFO").

19 A. AUTHORITY AND PARTIES

20 1. This is a civil administrative action brought under Section 325(c) of the Emergency
21 Planning and Community Right-To-Know Act ("EPCRA"), 42 U.S.C. § 11045(c), for
22 assessment of a civil administrative penalty against Respondent for its failure to submit timely,
23 complete and correct Toxic Chemical Release Inventory Forms for calendar years 2006 and 2008
24 in violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and the implementing regulations set
25 forth at 40 C.F.R. Part 372.

26 2. Complainant is the Director of the Communities and Ecosystems Division in EPA,
27 Region IX (the "Complainant"). Pursuant to EPA Delegation Order Number 22-3-A, dated May
28 11, 1994, the Administrator of EPA has delegated the authority to file this action under EPCRA

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 or toxic chemical category listed under Section 313(c) of
13 EPCRA and 40 C.F.R. § 372.65 that it manufactured, processed, or otherwise used if: (i) the
14 facility has ten or more full-time employees; (ii) the facility is in North American Industry
15 Classification System Code 335931; and (iii) the facility manufactured, processed, or otherwise
16 used during the calendar year the listed toxic chemical or toxic chemical category in excess of the
17 threshold quantity established under Section 313(f) of 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 or toxic chemical category that occurred during a calendar
23 year must be submitted on or 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 manufacturing micro-miniature metal parts (*i.e.*, stampings), located

1 at 500 Egan Avenue in Beaumont, California, that fits within the definition of a “facility,” as
2 provided in Section 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 335931.

7 10. During the calendar year 2006, Respondent “processed,” as that term is defined in 40
8 C.F.R. § 372.3, approximately 355,640 pounds of copper compounds, a toxic chemical category
9 listed under 40 C.F.R. § 372.65. This quantity exceeded the 25,000 pound threshold for
10 reporting “processing” of that chemical category established under Section 313(f) of EPCRA, 42
11 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.

12 11. During the calendar year 2008, Respondent “processed,” as that term is defined in 40
13 C.F.R. § 372.3, approximately 137,774 pounds of copper compounds, a toxic chemical category
14 listed under 40 C.F.R. § 372.65. This quantity exceeded the 25,000 pound threshold for
15 reporting “processing” of that chemical category established under Section 313(f) of EPCRA, 42
16 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.

17 12. Respondent was required to submit a Form R for copper compounds to EPA and the
18 State of California for calendar year 2006 on or before July 1, 2007.

19 13. Respondent was required to submit a Form R for copper compounds to EPA and the
20 State of California for calendar year 2008 on or before July 1, 2009.

21 14. Respondent failed to timely submit the Form Rs required of it to EPA and the State
22 of California for calendar years 2006 and 2008, and thus violated Section 313 of EPCRA, 42
23 U.S.C. § 11023, and 40 C.F.R. Part 372.

24 15. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), and the Civil Monetary Penalty
25 Inflation Adjustment Rule, 40 C.F.R. Part 19, provide that any person who violates any
26 requirement of Section 313 shall be liable to the United States for a civil penalty in an amount
27 not to exceed (1) \$32,500 for each such violation that occurred after March 15, 2004 but on or
28 before January 12, 2009, and (2) \$37,500 for each such violation that occurred on or after

1 January 12, 2009. Under the Enforcement Response Policy for Section 313 of EPCRA, dated
2 August 10, 1992, and the Civil Monetary Penalty Inflation Adjustment Rule, the two violations
3 cited above would merit an unadjusted, gravity-based civil penalty of TWENTY-NINE
4 THOUSAND DOLLARS (\$29,000), given the nature, circumstances, and extent of the violations
5 alleged.

6 D. RESPONDENT'S ADMISSIONS

7 16. In accordance with 40 C.F.R. § 22.18(b)(2) and for the purpose of this proceeding,
8 with respect to the 2006 violation identified in Paragraph 10, Respondent: (i) admits that EPA
9 has jurisdiction over the subject matter of this CAFO and over Respondent; (ii) neither admits
10 nor denies the specific factual allegations contained in Section I.C of this CAFO; (iii) consents to
11 any and all conditions specified in this CAFO and to the assessment of the civil administrative
12 penalty under Section I.F of this CAFO; (iv) waives any right to contest the allegations contained
13 in this CAFO; and (v) waives the right to appeal the proposed Final Order contained in this
14 CAFO.

15 17. In accordance with 40 C.F.R. § 22.18(b)(2) and for the purpose of this proceeding,
16 with respect to the 2008 violation identified in Paragraph 11, Respondent: (i) admits that EPA
17 has jurisdiction over the subject matter of this CAFO and over Respondent; (ii) admits the
18 specific factual allegations contained in Section I.C of this CAFO; (iii) consents to any and all
19 conditions specified in this CAFO and to the assessment of the civil administrative penalty under
20 Section I.F of this CAFO; (iv) waives any right to contest the allegations contained in this
21 CAFO; and (v) waives the right to appeal the proposed Final Order contained in this CAFO.

22 E. AUDIT POLICY

23 18. EPA's final policy statement on *Incentives for Self-Policing: Discovery, Disclosure,*
24 *Correction and Prevention of Violations*, 65 Federal Register 19618 (April 11, 2000) (the "Audit
25 Policy") has several important goals, including encouraging greater compliance with the laws and
26 regulations which protect human health and the environment and reducing transaction costs
27 associated with violations of the laws EPA is charged with administering. If certain specified
28 criteria are met, reductions in gravity-based penalties of up to 100% are available under the Audit

1 Policy. These criteria are: (1) systematic discovery of the violation(s) through an environmental
2 audit or compliance management system; (2) voluntary disclosure; (3) prompt disclosure; (4)
3 discovery and disclosure independent of government or third party plaintiff; (5) correction and
4 remediation; (6) prevent recurrence; (7) no repeat violations; (8) other violations excluded; and
5 (9) cooperation.

6 19. Complainant has determined that Respondent has satisfied all of the criteria under the
7 Audit Policy for the 2008 violation identified in Paragraph 11 and thus qualifies for the
8 elimination of civil penalties for this incidence of non-compliance. Accordingly, the civil
9 penalty assessed for this 2008 violation is ZERO DOLLARS (\$0).

10 20. Complainant's finding that Respondent has satisfied the criteria of the Audit Policy
11 with respect to the 2008 violation identified in Paragraph 11 is based upon documentation that
12 Respondent has provided to establish that it satisfies these criteria. Complainant and Respondent
13 agree that, should any material fact upon which Complainant relied in making its finding
14 subsequently prove to be other than as represented by Respondent, this CAFO may be voided in
15 whole or in part.

16 F. CIVIL ADMINISTRATIVE PENALTY

17 21. In settlement of the violations specifically alleged in Section I.C of this CAFO,
18 Respondent shall pay a civil administrative penalty of TEN THOUSAND, NINE HUNDRED,
19 AND FIFTY DOLLARS (\$10,950). Respondent shall pay this civil penalty within thirty (30)
20 days of the effective date of this CAFO. The civil penalty shall be paid by remitting a certified or
21 cashier's check, including the name and docket number of this case. for the amount, payable to
22 "Treasurer, United States of America," (or be paid by one of the other methods listed below) and
23 sent as follows:

24 Regular Mail:

25 U.S. Environmental Protection Agency
26 Fines and Penalties
27 Cincinnati Finance Center
28 PO Box 979077
St. Louis, MO 63197-9000

Wire Transfers:

Wire transfers must be sent directly to the Federal Reserve Bank in New

1 York City with the following information:
2 Federal Reserve Bank of New York
3 ABA = 021030004
4 Account = 68010727
5 SWIFT address = FRNYUS33
6 33 Liberty Street
7 New York, NY 10045
8 Field Tag 4200 of the Fedwire message should read "D 68010727
9 Environmental Protection Agency"

6 Overnight Mail:
7 U.S. Bank
8 1005 Convention Plaza
9 Mail Station SL-MO-C2GL
10 ATTN Box 979077
11 St. Louis, MO 63101

10 ACH (also known as REX or remittance express):
11 Automated Clearinghouse (ACH) for receiving U.S. currency
12 PNC Bank
13 808 17th Street, NW
14 Washington, DC 20074
15 ABA = 051036706
16 Transaction Code 22 – checking
17 Environmental Protection Agency
18 Account 31006
19 CTX Format

15 On Line Payment:
16 This payment option can be accessed from the information below:
17 www.pay.gov
18 Enter "sfo1.1" in the search field
19 Open form and complete required fields

18 If clarification regarding a particular method of payment remittance is
19 needed, contact the EPA's Cincinnati Finance Center at (513) 487-2091.

20 A copy of each check, or notification that the payment has been made by one of the other
21 methods listed above, including proof of the date payment was made, shall be sent with a
22 transmittal letter, indicating Respondent's name, the case title, and docket number, to the
23 following addresses:

24
25 Regional Hearing Clerk
26 Office of Regional Counsel (ORC-1)
27 U.S. Environmental Protection Agency, Region IX
28 75 Hawthorne Street
29 San Francisco, CA 94105

27
28 Russell Frazer
29 Communities and Ecosystems Division (CED-4)
30 U.S. Environmental Protection Agency, Region IX

1 75 Hawthorne Street
2 San Francisco, CA 94105

3 Edgar Coral
4 Office of Regional Counsel (ORC-2)
5 U.S. Environmental Protection Agency, Region IX
6 75 Hawthorne Street
7 San Francisco, CA 94105

8 22. Respondent shall not use payment of any penalty under this CAFO as a tax deduction
9 from Respondent's federal, state, or local taxes, nor shall Respondent allow any other person to
10 use such payment as a tax deduction.

11 23. If Respondent fails to pay the assessed civil administrative penalty of TEN
12 THOUSAND, NINE HUNDRED, AND FIFTY DOLLARS (\$10,950), as identified in Paragraph
13 21, by the deadline specified in that Paragraph, then Respondent shall also pay a stipulated
14 penalty to EPA upon EPA's written request. The amount of the stipulated penalty will be TEN
15 THOUSAND, NINE HUNDRED, AND FIFTY DOLLARS (\$10,950), and will be immediately
16 due and payable upon EPA's written request on the day following the deadline specified in
17 Paragraph 21, together with the initially assessed civil administrative penalty of TEN
18 THOUSAND, NINE HUNDRED, AND FIFTY DOLLARS (\$10,950), resulting in a total
19 penalty due of TWENTY-ONE THOUSAND, NINE HUNDRED DOLLARS (\$21,900). Failure
20 to pay the civil administrative penalty specified in Paragraph 21 by the deadline specified in that
21 Paragraph may also lead to any or all of the following actions:

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

27 (2) The U.S. Government may collect the debt by administrative offset
28 (*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 U.S. Government), which includes, but is not
limited to, referral to the Internal Revenue Service for offset against income tax refunds. 40
C.F.R. §§ 13(C) and 13(H).

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

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

8 (a) Interest. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R.
9 § 13.11(a)(1), any unpaid portion of the assessed penalty shall bear interest at the rate established
10 according to 26 U.S.C. § 6621(a)(2) from the effective date of this CAFO, provided, however,
11 that no interest shall be payable on any portion of the assessed penalty that is paid within thirty
12 (30) days of the effective date of this CAFO.

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

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

20 G. CERTIFICATION OF COMPLIANCE

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

25 H. RETENTION OF RIGHTS

26 25. In accordance with 40 C.F.R. § 22.18(c), this CAFO only resolves Respondent's
27 liabilities for federal civil penalties for the violations and facts specifically alleged in Section I.C
28 of this CAFO. Nothing in this CAFO is intended to or shall be construed to resolve: (i) any civil

1 liability for violations of any provision of any federal, state, or local law, statute, regulation, rule,
2 ordinance, or permit not specifically alleged in Section I.C of this CAFO; or (ii) any criminal
3 liability. EPA specifically reserves any and all authorities, rights, and remedies available to it
4 (including, but not limited to, injunctive or other equitable relief or criminal sanctions) to address
5 any violation of this CAFO or any violation not specifically alleged in Section I.C of this CAFO.

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

9 I. ATTORNEYS' FEES AND COSTS

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

12 J. EFFECTIVE DATE

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

16 K. BINDING EFFECT


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

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

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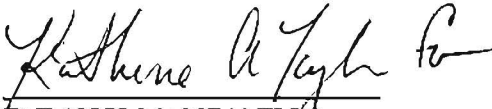
FOR RESPONDENT PRECISION STAMPINGS, INC.:

9-20-11
DATE


STEVEN MORGAN
President
Precision Stampings, Inc.
500 Egan Avenue
Beaumont, CA 92223

FOR COMPLAINANT EPA:

9/28/11
DATE

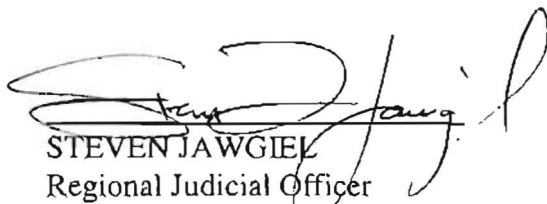

ENRIQUE MANZANILLA
Director, Communities and Ecosystems Division
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, California 94105

1 II. FINAL ORDER

2 EPA and Precision Stampings, Inc. having entered into the foregoing Consent Agreement,

3 IT IS HEREBY ORDERED that this CAFO (Docket No. EPCRA-09-2011-0019) be
4 entered, and Respondent shall pay a civil administrative penalty in the amount of TEN
5 THOUSAND, NINE HUNDRED, AND FIFTY DOLLARS (\$10,950), and comply with the
6 terms and conditions set forth in the Consent Agreement.
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11 09/29/11
12 DATE

13 
14 STEVEN JAWGIEL
15 Regional Judicial Officer
16 U.S. Environmental Protection Agency, Region IX
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CERTIFICATE OF SERVICE

I certify that the original of the fully executed Consent Agreement and Final Order against **Precision Stampings, Inc. (Docket #: EPCRA-09-2011-0019)** was filed with the Regional Hearing Clerk, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, and that a true and correct copy of the same was sent to the following parties:

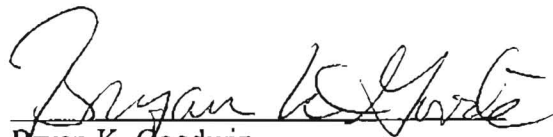
A copy was mailed via CERTIFIED MAIL to:

Steven Morgan
President
Precision Stampings, Inc.
500 Egan Avenue
Beaumont, CA 92223

CERTIFIED MAIL NUMBER: 7010-1060-0002-0234-7083

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

Edgar Coral, Esq.
Office of Regional Counsel
U.S. EPA, Region IX
75 Hawthorne Street
San Francisco, CA 94105



Bryan K. Goodwin
Regional Hearing Clerk
U.S. EPA, Region IX

9/20/11
Date



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

Certified Mail No. 7010 1060 0002 0234 7083
Return Receipt Requested

SEP 29 2011

Re: EPCRA-09-2011-0019

Steven Morgan
President
Precision Stampings, Inc.
500 Egan Avenue
Beaumont, CA 92223

Dear Mr. Morgan:

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 Edgar Coral at (415) 972-3898.

Sincerely,

A handwritten signature in black ink, appearing to read "Enrique Manzanilla".

Enrique Manzanilla, Director
Communities and Ecosystems Division

Enclosure