

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 7
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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
901 NORTH 5th STREET
KANSAS CITY, KANSAS 66101

IN THE MATTER OF:)
)
Electro-Coatings of Iowa, Inc.)
911 Shaver Road NE)
Cedar Rapids, Iowa 52402)
)
RCRA I.D. No. IAD005279039)
)
Respondent)
)
Proceeding under Section 3008(a) and (g) of)
the Resource Conservation and Recovery)
Act as amended, 42 U.S.C. § 6928(a) and (g))
_____)

**CONSENT AGREEMENT
AND FINAL ORDER**

Docket No. RCRA-07-2012-0004

I. PRELIMINARY STATEMENT

The United States Environmental Protection Agency (EPA), Region 7 (Complainant) and Electro-Coatings of Iowa, Inc. (Respondent) have agreed to a settlement of this action before the filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (Consolidated Rules of Practice), 40 Code of Federal Regulations (C.F.R.) §§ 22.13(b) and 22.18(b)(2). This Consent Agreement and Final Order (CAFO) is a complete and final settlement of all civil and administrative claims and causes of action for the violations set forth in this CAFO.

II. ALLEGATIONS

Jurisdiction

1. This administrative action is being conducted pursuant to Sections 3008(a) and (g) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA or the Act), and the Hazardous and Solid Waste Amendments of 1984 (HSWA), 42 United States Code (U.S.C.) § 6928(a) and (g), and in accordance with the Consolidated Rules of Practice.
2. This CAFO serves as notice that EPA has reason to believe that Respondent violated 3005 of RCRA, 42 U.S.C. § 6925, and the implementing regulations at 40 C.F.R. Part 262 and 265.

Parties

3. The Complainant is the Chief of the RCRA Waste Enforcement and Materials Management Branch in the Air and Waste Management Division of EPA, Region 7.
4. The Respondent is Electro-Coatings of Iowa, Inc. (Respondent), a company authorized to operate under the laws of Iowa.

Statutory and Regulatory Framework

5. When EPA determines that any person has violated or is in violation of any RCRA requirement, EPA may issue an order assessing a civil penalty for any past or current violation and/or require immediate compliance or compliance within a specified time period pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928.
6. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), authorizes a civil penalty of not more than \$25,000 per day for violations of Subchapter III of RCRA (Hazardous Waste Management). This figure has been adjusted upward for inflation pursuant to the Civil Monetary Penalties Inflation Adjustment Rule, 40 C.F.R. Part 19, so that penalties of up to \$32,500 per day are authorized for violations of Subchapter III of RCRA that occur between March 15, 2004 and January 12, 2009, and penalties of up to \$37,500 per day are authorized for violations that occur after January 12, 2009. Based upon the facts alleged in this CAFO and upon those factors which Complainant must consider pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), as discussed in the RCRA Civil Penalty Policy issued by EPA in June 2003, the Complainant and Respondent agree to the payment of a civil penalty pursuant to Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), for the violations of RCRA alleged in this CAFO.
7. Pursuant to the regulations set forth 40 C.F.R. Part 262, generators of solid waste must perform hazard waste determinations on all solid wastes.
8. Section 3005 of RCRA, 42 U.S.C. § 6925, and the regulations at 40 C.F.R. § 270.1(b), require each person owning or operating a facility for the treatment, storage, or disposal of a hazardous waste identified or listed under Subchapter C of RCRA to have a permit for such activities.
9. The regulations at 40 C.F.R. § 262.34(d), allow a generator to accumulate hazardous waste in containers on-site for one hundred eighty without a permit or without interim status, provided the conditions listed in 40 C.F.R. §§ 262.34(d)(1)-(5) are met. These conditions include compliance with various hazardous waste regulatory requirements.
10. The regulations at 40 C.F.R. Part 273, set forth the standards for generators of universal waste.

Factual Background

11. Respondent is a company authorized to conduct business in the State of Iowa, and is a "person" as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).
12. Respondent, located at 911 Shaver Road NE, Cedar Rapids, Iowa, conducts metal plating on carbon steel. Respondent employs approximately 14 full time employees at its Cedar Rapids, Iowa facility.
13. Respondent has been operating as a large quantity generator of hazardous waste. Large quantity generators generate more than 1,000 kilograms of hazardous waste per month.
14. Respondent has been assigned the following EPA ID Number: IAD005279039.
15. On or about May 16-17, 2011, an inspector for EPA conducted an inspection at Respondent's facility. Respondent was inspected as a large quantity generator of hazardous waste. Large quantity generators generate more than 1,000 kilograms of hazardous waste per month.
16. During the inspection, it was documented that Respondent accumulated hazardous waste with the following hazardous waste codes: D002 and D007 characteristic; and F006 listed hazardous wastes. Respondent is also a small quantity handler of universal waste (D009 characteristic hazardous waste lamps), accumulating less than 5,000 kilograms of universal waste at any time.
17. The regulations for determining whether a waste is a solid and/or hazardous waste are set forth at 40 C.F.R. Part 261. Each of the wastes listed in Paragraph 16 are a "solid waste" and a "hazardous waste" within the meaning of these regulations.
18. Respondent operates a 90 days or less hazardous waste container accumulation area at the facility.
19. Based on information obtained during the May 2011 inspection, Respondent was issued a Notice of Preliminary Findings for, among other things, storage of hazardous waste for longer than 90 days without a RCRA permit, failure to provide adequate aisle space for emergency response in hazardous waste storage area, failure to mark hazardous waste storage container with the words "hazardous waste," failure to mark date of accumulation visible for inspection on hazardous waste storage container, failure to provide adequate spill control, decontamination, and safety equipment in hazardous waste container storage area, failure to provide device capable of summoning emergency assistance in hazardous waste container storage area, failure to submit updated RCRA Contingency Plan to emergency response agencies, failure to include a description of action needed to respond to explosions in the RCRA Contingency Plan, failure to include home addresses and office telephone numbers of emergency coordinators in Contingency Plan, failure to list and describe emergency equipment, its location, and its capabilities in the RCRA Contingency Plan, failure to provide documentation of annual RCRA training, failure to

keep a hazardous waste storage container closed, failure to label containers with "Universal Waste – Lamp(s)" or "Waste Lamp(s)" or "Used Lamp(s)", failure to date or otherwise track universal waste (lamps) to demonstrate length of time of accumulation, and failure to keep a universal waste (lamps) container closed.

Violations

Count 1

Operation of a Hazardous Waste Facility Without a RCRA Permit or Interim Status

20. Complainant hereby incorporates the allegations contained in Paragraphs 12 through 19 above, as if fully set forth herein.
21. Section 3005 of RCRA, 42 U.S.C. § 6925, and 40 C.F.R. § 270.1(b), require each person owning or operating a facility for the treatment, storage, or disposal of a hazardous waste identified or listed under Subchapter C of RCRA to have a permit for such activities.
22. The regulations at 40 C.F.R. § 262.34(a), allow a large quantity generator to accumulate hazardous waste in containers on-site for 90 days or less without a permit or without interim status, provided the conditions listed in 40 C.F.R. §§ 262.34(a)(1)-(4) are met. These conditions include compliance with other hazardous waste regulatory requirements.
23. At the time of the May 2011 inspection, Respondent was not complying with various hazardous waste regulatory requirements, described below.
24. Respondent does not have a RCRA Permit or Interim Status to operate as a storage facility and is therefore in violation of Section 3005 of RCRA, 42 U.S.C § 6925.

Failure to Comply with Generator Requirements

25. At the time of the May 2011 inspection, Respondent was not complying with the following regulatory requirements:

Failure to provide adequate aisle space for emergency response

26. The regulations at 40 C.F.R. Part 262.34(a)(4) and 265.35 require that a generator maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency.
27. At the time of the May 2011 inspection, the inspector could not walk through to aisles to observe and photograph the label on the 330 gallon hazardous waste storage container of hazardous waste yellow dye and chromate (D007) without removal of the other containers. Therefore, the inspector determined that there was not adequate aisle space for emergency

response in the hazardous waste storage container area.

28. Respondent's failure to provide adequate aisle space for emergency response in a hazardous waste storage contain area is a violation of 40 C.F.R. §§ 262.34(a)(4) and 265.35.

Failure to mark hazardous waste storage containers with the words "Hazardous Waste"

29. The regulations at 40 C.F.R. Part 262.34(a)(3) require that a generator label hazardous waste storage containers with the words "Hazardous Waste"

30. At the time of the May 2011 inspection, the inspector observed approximately 550 gallons of waste nitric acid labeled with the words "spent nitric stripping solution," and not the words "hazardous waste."

31. Respondent's failure to properly label a hazardous waste storage container with the words "hazardous waste" is a violation of 40 C.F.R. §§ 262.34(a)(3).

Failure to mark hazardous date of accumulation visible for inspection on a hazardous waste storage container

32. The regulations at 40 C.F.R. Part 262.34(a)(2) require that a generator label hazardous waste storage containers with the date of accumulation visible for inspection.

33. At the time of the May 2011 inspection, the inspector observed two, one-cubic yard hazardous waste storage containers of hazardous wastewater treatment sludge (F006). The accumulation start dates on these containers were not visible for inspection.

34. Respondent's failure to label a hazardous waste storage container with the accumulation date visible for inspection is a violation of 40 C.F.R. §§ 262.34(a)(2).

Failure to keep a hazardous waste storage container closed

35. The regulations at 40 C.F.R. Part 262.34(a)(1)(i) and 265.173(a) require that a generator keep hazardous waste container closed during storage.

36. At the time of the May 2011 inspection, the inspector observed a one-cubic yard hazardous waste storage container beneath the filter press holding hazardous wastewater treatment sludge (F006) that was not closed.

37. Respondent's failure to keep a hazardous waste container closed during storage is a violation of 40 C.F.R. §§ 262.34(a)(3).

Failure to list addresses and phone numbers of emergency coordinators

in the RCRA Contingency Plan

38. The regulations at 40 C.F.R. §§ 40 CFR 262.34(a)(4) and 265.52(d) require that a generator list names, addresses, and phone numbers of the emergency coordinator and designated primaries in the RCRA Contingency Plan.

39. At the time of the May 2011 inspection, the inspector reviewed the facility's RCRA Contingency Plan and observed that it did not contain the home addresses and office telephone numbers of the current emergency coordinators.

40. Respondent's failure to list home addresses and office telephone numbers of the emergency coordinators in the RCRA Contingency Plan is a violation of 40 C.F.R. §§ 262.34(a)(4) and 265.52(d).

Failure to have a device capable of summoning emergency assistance available

41. The regulations at 40 C.F.R. §§ 262.34(a)(4) and 265.32(a) and (b) require that a generator has a device capable of summoning emergency assistance available.

42. At the time of the May 2011 inspection, the inspector noted the absence of any device or method to summon emergency assistance, such as a telephone, in or near the hazardous waste container storage area.

43. Respondent's failure to have a device capable of summoning emergency assistance in the hazardous waste container storage area is a violation of 40 C.F.R. §§ 262.34(a)(4) and 265.32(a) and (b).

Failure to have an adequate supply of spill control equipment available

44. The regulations at 40 C.F.R. §§ 262.34(a)(4) and 265.32(c) require that a generator has an adequate supply of fire control and spill control equipment available at or near the hazardous waste container storage area.

45. At the time of the May 2011 inspection, the facility did not have any spill control equipment materials to respond to spills in the wastewater treatment hazardous waste accumulation area or any spill control materials available for emergency response near the central hazardous waste container storage area.

46. Respondent's failure to have an adequate supply spill control equipment available at or near hazardous waste container storage areas is a violation of 40 C.F.R. §§ 262.34(a)(4) and 265.32(c).

Failure to list emergency equipment capabilities and locations in the RCRA Contingency Plan

47. The regulations at 40 C.F.R. §§ 262.34(a)(4) and 265.52(e) require that a generator list all emergency equipment including locations, physical descriptions, and descriptions of the equipment capabilities in the RCRA Contingency Plan.

48. At the time of the May 2011 inspection, the facility's RCRA Contingency Plan did not list the capabilities of emergency response equipment and the facility map was outdated and did not include an accurate location of emergency response equipment.

49. Respondent's failure to list equipment capabilities and location of emergency response equipment in the facility's RCRA Contingency Plan is a violation of 40 C.F.R. §§ 262.34(a)(4) and 265.52(e).

Failure to provide updated RCRA Contingency Plan to emergency response agencies

50. The regulations at 40 C.F.R. §§ 262.34(a)(4) and 265.53(b) require that a generator submit a copy of the RCRA Contingency Plan and all revisions to local emergency response agencies.

51. At the time of the May 2011 inspection, the facility's RCRA Contingency Plan did not include a description of the arrangements with local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services was not included in the plan.

52. Respondent's failure to provide a description of arrangement with emergency response agencies in the facility's RCRA Contingency Plan is a violation of 40 C.F.R. §§ 262.34(a)(4) and 265.53(b).

Failure to include a description of actions needed to respond to explosions in the RCRA Contingency Plan

53. The regulations at 40 C.F.R. §§ 262.34(a)(4) and 265.52(a) require that a generator must describe the actions facility personnel must take in response to fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste.

54. At the time of the May 2011 inspection, the facility's RCRA Contingency Plan did not include a description of actions needed to respond to explosions.

55. Respondent's failure to provide a description of actions needed to respond to explosions in the facility's RCRA Contingency Plan is a violation of 40 C.F.R. §§ 262.34(a)(4) and 265.53(b).

Failure to maintain documentation of annual RCRA refresher training

56. The regulations at 40 C.F.R. §§ 262.34(a)(4) and 265.16(d)(4) require that a generator

maintain documents at the facility, including records that document training required by 265.16(a), (b) and (c).

57. At the time of the May 2011 inspection, the facility did not maintain documentation of training on emergency and evacuation procedures, emergency equipment and safe handling of hazardous materials and wastes.

58. Respondent's failure to maintain documentation of annual RCRA refresher training is a violation of 40 C.F.R. §§ 262.34(a)(4) and 265.16(d)(4).

Storage of hazardous waste for over 90 days without a RCRA permit

59. The regulations at 40 C.F.R. § 262.34(a), allow a large quantity generator to accumulate hazardous waste in containers on-site for 90 days or less without a permit or without interim status, provided the conditions listed in 40 C.F.R. §§ 262.34(a)(1)-(4) are met. These conditions include compliance with other hazardous waste regulatory requirements.

60. At the time of the May 2011 inspection, Respondent was not complying with various hazardous waste regulatory requirements, described above. In addition, at the time of the May 2011 inspection, the inspector reviewed all hazardous waste manifests from June 2008 to present. Based on dates of the shipment of wastewater filter press sludge and a generation rate of approximately one yard of wastewater filter press sludge per week, the inspector determined that the wastewater filter press sludge was stored on-site greater than 90 days prior to shipment, thus violating 3005 of RCRA.

61. Respondent's storage of hazardous waste over 90 days without a RCRA permit is a violation of Section 3005 of RCRA and 40 C.F.R. 262.34(a).

Count 2

Failure to Comply with Universal Waste Requirements

62. The allegations stated in Paragraphs 12 through 19 above are realleged and incorporated as if fully set forth herein.

63. At the time of the 2011 inspection, the inspector observed the Respondent failed to comply with a number of universal waste requirements, described below.

Failure to label containers with the words "Universal Waste – Lamp(s)" or "Waste Lamp(s)" or "Used Lamp(s)"

64. The regulations at 40 C.F.R. § 274.14(e) require that universal waste containers be labeled with the words "Universal Waste – Lamp(s)" or "Waste Lamp(s)" or "Used Lamp(s)"

65. At the time of the May 2011 inspection, the inspector observed a fiberboard universal

waste storage container holding three, spent universal waste lamps. The container was not labeled as “universal waste lamps” or “waste lamps” or “used lamps.”

66. Respondent’s failure to properly label a universal waste container is a violation of 40 C.F.R. §§ 279.22(b)(1) and 279.22(b)(2).

Failure to date or otherwise track universal waste (lamps) to demonstrate length of time of accumulation

67. The regulations at 40 C.F.R. § 273.15(c) require that universal waste containers be dated or that a generator of universal waste otherwise track universal waste to demonstrate the length of time of accumulation.

68. At the time of the May 2011 inspection, the inspector observed a fiberboard universal waste storage container holding three, spent universal waste lamps. The universal waste storage container was not dated or otherwise tracked to show length of time of accumulation.

69. Respondent’s failure to properly date or otherwise track length of time of accumulation of a universal waste storage container is a violation of 40 C.F.R. §§ 279.15(c).

Failure to keep a universal waste container closed

70. The regulations at 40 C.F.R. § 273.13(d)(1) require that universal waste containers be stored closed.

71. At the time of the May 2011 inspection, the inspector observed a fiberboard universal waste storage container holding three, spent universal waste lamps. The universal waste storage container was not properly closed.

72. Respondent’s failure to properly maintain a closed universal waste storage container is a violation of 40 C.F.R. §§ 279.13(d)(1).

III. CONSENT AGREEMENT

73. Respondent and EPA agree to the terms of this CAFO and Respondent agrees to comply with the terms of the Final Order portion of this CAFO.

74. Respondent admits the jurisdictional allegations of this CAFO and agrees not to contest EPA’s jurisdiction in this proceeding or any subsequent proceeding to enforce the terms of the Final Order portion of this CAFO set forth below.

75. Respondent neither admits nor denies the factual allegations and legal conclusions set forth in this CAFO.

76. Respondent waives its right to a judicial or administrative hearing on any issue of fact or law set forth above, and its right to appeal the proposed Final Order portion of the CAFO.
77. Respondent and Complainant agree to conciliate the matters set forth in this CAFO without the necessity of a formal hearing and to bear their respective costs and attorney's fees.
78. This CAFO addresses all civil administrative claims for the RCRA violations identified above. Complainant reserves the right to take any enforcement action with respect to any other violations of RCRA or any other applicable law.
79. Nothing contained in the Final Order portion of this CAFO shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state, and local environmental statutes and regulations and applicable permits.
80. Respondent certifies that by signing this CAFO that to best of its knowledge, Respondent's facility is in compliance with all requirements of RCRA, 42 U.S.C. § 6901 *et. seq.* and all regulations promulgated thereunder.
81. The effect of settlement described in Paragraph 78 above is conditioned upon the accuracy of Respondent's representations to EPA, as memorialized in Paragraph 80, above, of this CAFO.
82. The undersigned representative of Respondent certifies that he or she is fully authorized to enter the terms and conditions of this CAFO and to execute and legally bind Respondent to it.
83. In settlement of this matter, Respondent agrees to complete the following Supplemental Environmental Project (SEP), which the parties agree is intended to secure significant environmental and/or public health benefits. Respondent shall conduct a pollution reduction SEP that will reduce the amount of chrome waste generated at Respondent's facility, at a cost of no less than One Hundred and Ten Thousand Dollars (\$110,000), in accordance with the Respondent's SEP Work Plan (attached hereto as Attachment A and incorporated by reference).
84. The total expenditure for the SEP shall be no less than \$110,000 and the SEP shall be completed no later than 210 days from the effective date of the Final Order. All work required to complete the SEP shall be performed in compliance with all federal, state, and local laws and regulations.
85. Within thirty (30) days of completion of the SEP, Respondent shall submit a SEP Completion Report to EPA, with a copy to the state agency identified below. The SEP Completion Report shall contain the following:
- (i) A detailed description of the SEP as implemented; and

- (ii) Itemized costs, documented by copies of purchase orders, receipts, or canceled checks.
- (iii) All reports shall be directed to the following:
Nicole Moran
U.S. Environmental Protection Agency
Region 7
901 North 5th Street
Kansas City, Kansas 66101.

86. In itemizing its costs in the SEP Completion Report, Respondent shall clearly identify and provide acceptable documentation for all eligible SEP costs. Where the report includes costs not eligible for SEP credit, those costs must be clearly identified as such. For purposes of this paragraph, "acceptable documentation" includes invoices, purchase orders or other documentation that specifically identifies and itemizes the individual costs of the goods and/or services for which payment is being made. Canceled drafts do not constitute acceptable documentation unless such drafts specifically identify and itemize the individual costs of the goods and/or services for which payment is being made.

87. Respondent agrees to the payment of stipulated penalties as follows: In the event the Respondent fails to comply with any of the terms or provisions of this Consent Agreement relating to the performance of the SEP as set forth in paragraphs 83 and 84 of this CAFO and/or to the extent that the actual expenditures of the SEP does not equal or exceed the cost of the SEP described in paragraphs 83 and 84 of this CAFO, Respondent shall be liable for stipulated penalties according to the provisions set forth below:

a. Except as provided in subparagraph (ii) and (iii) of this paragraph, if the SEP is not completed satisfactorily and timely pursuant to the agreement set forth in paragraphs 83 and 84 of this CAFO, Respondent shall be liable for and shall pay a stipulated penalty to the United States in the amount of One Hundred and Thirty-Two Thousand Dollars (\$132,000), minus any documented expenditures determined by EPA to be acceptable for the SEP, for a total equal to 120% of the projected costs of the SEP.

b. If Respondent fails to timely and completely submit the SEP Completion Report required by paragraph 85, Respondent shall be liable and shall pay a stipulated penalty in the amount of Two Hundred and Fifty Dollars (\$250).

c. If the SEP is not completed in accordance with paragraphs ~~82~~⁸³ and ~~83~~⁸⁴ of this CAFO, but EPA determines that the Respondent: (a) made good faith and timely efforts to complete the project; and (b) certifies, with supporting documentation, that at least 90 percent of the amount of money which was required to be spent was expended on the SEP, Respondent shall not be liable for any stipulated penalty.

88. Stipulated penalties shall begin to accrue on the day after performance is due, and shall continue to accrue through the final day of the completion of the activity.
89. Respondent shall pay stipulated penalties not more than fifteen (15) days after receipt of written demand by EPA for such penalties. Method of payment shall be in accordance with the provisions of paragraph 1 of the Final Order portion of this CAFO.
90. Respondent certifies that it is not required to perform or develop the SEP by any federal, state, or local law or regulation; nor is Respondent required to perform or develop the SEP by agreement, grant or as injunctive relief in this or any other case or to comply with state or local requirements. Respondent further certifies that Respondent has not received, and is not presently negotiating to receive, credit in any other enforcement action for the SEP.
91. Respondent certifies that it is not a party to any open federal financial assistance transaction that is funding or could be used to fund the same activity as the SEP. Respondent further certifies that, to the best of its knowledge and belief after reasonable inquiry, there is no such open federal financial transaction that is funding or could be used to fund the same activity as the SEP, nor has the same activity been described in an unsuccessful federal financial assistance transaction proposal submitted to EPA within two years of the date of this settlement (unless the project was barred from funding as statutorily ineligible). For the purposes of this certification, the term "open federal financial assistance transaction" refers to a grant, cooperative agreement, loan, federally-guaranteed loan guarantee or other mechanism for providing federal financial assistance whose performance period has not yet expired.
92. For federal income tax purposes, Respondent agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP.
93. Any public statement, oral or written, in print, film or other media, made by Respondent making reference to the SEP shall include the following language: "This project was undertaken in connection with the settlement of an enforcement action taken by the United States Environmental Protection Agency."
94. Late Payment Provisions: Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on a civil or stipulated penalty if it is not paid by the date required. Interest will be assessed at a rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b). A charge will be assessed to cover the costs of debt collection including processing and handling costs and attorneys fees. In addition, a non-payment penalty charge of six (6) percent per year compounded annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. Any such non-payment penalty charge on the debt will accrue from the date the penalty payment becomes due and is not paid. 31 C.F.R. §§ 901.9(c) and (d).
95. Respondent understands that failure to pay any portion of the civil penalty on the date the

same is due may result in the commencement of a civil action in Federal District Court to collect said penalty, along with interest thereon at the applicable statutory rate.

96. This CAFO shall be effective upon entry of the Final Order by the Regional Judicial Officer for EPA, Region 7. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

97. Respondent consents to the issuance of the Final Order hereinafter recited and consents to the payment of the civil penalty as set forth in the Final Order.

98. The undersigned representative of Respondent certifies that he or she is fully authorized to enter the terms and conditions of the CAFO and to legally bind Respondent to it.

IV. FINAL ORDER

Pursuant to the authority of Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and according to the terms of this CA/FO, IT IS HEREBY ORDERED THAT:

A. Payment of Civil Penalty

1. Within thirty (30) days of the effective date of this CA/FO, Respondent will pay a civil penalty of Nineteen Thousand One Hundred and Seventy-One Dollars (\$19,171). The payment must be received at the address below on or before 30 days after the effective date of the Final Order (the date by which payment must be received shall hereafter be referred to as the "due date"). Such payment shall identify Respondent by name and docket number and shall be by certified or cashier's check made payable to the "United States Treasury" and sent to:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, Missouri 63197-9000.

2. Wire transfers should be directed to the Federal Reserve Bank of New York:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, New York 10045

Field Tag 4200 of the Fedwire message should read
"D 68010727 Environmental Protection Agency"

3. A copy of the payment documentation shall also be mailed to:

Regional Hearing Clerk
U.S. EPA Region 7
901 North 5th Street
Kansas City, Kansas 66101

and to:

Kristen Nazar
Office of Regional Counsel
U.S. EPA Region 7
901 North 5th Street
Kansas City, Kansas 66101.

B. Reservation of Rights

4. Notwithstanding any other provision of this CAFO, EPA reserves the right to enforce the terms of the Final Order portion of this CAFO by initiating a judicial or administrative action under Section 3008 of RCRA, 42 U.S.C. § 6928, and to seek penalties against Respondent in an amount not to exceed Thirty-Two Thousand Five Hundred Dollars (\$32,500.00) per day per violation pursuant to Section 3008(c) of RCRA, for each day of non-compliance with the terms of the Final Order, or to seek any other remedy allowed by law. Pursuant to the Civil Monetary Penalties Inflation Adjustment Rule, 40 C.F.R. Part 19, penalties of up to \$32,500 per day are authorized for violations of Subchapter III of RCRA that occur between March 15, 2004, and January 12, 2009. For violations of Subchapter III of RCRA that occur after January 12, 2009, penalties of up to \$37,500 per day are authorized.

5. Complainant reserves the right to take enforcement action against Respondent for any future violations of RCRA and its implementing regulations and to enforce the terms and conditions of this CAFO.

6. Except as expressly provided herein, nothing in this CAFO shall constitute or be construed as a release from any claim (civil or criminal), cause of action, or demand in law or equity by or against any person, firm, partnership, entity, or corporation for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from Respondent's facility.

7. Notwithstanding any other provisions of the CAFO, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should EPA find that the future handling, storage, treatment, transportation, or disposal of solid

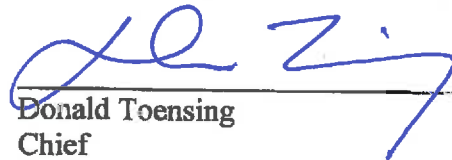
waste or hazardous waste at Respondent's facility may present an imminent and substantial endangerment to human health and the environment.

C. Parties Bound

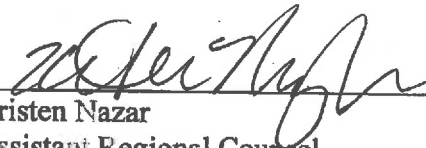
8. This Final Order portion of this CAFO shall apply to and be binding upon Respondent and Respondent's agents, successors and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms, or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this CAFO.

For the Complainant:
The United States Environmental Protection Agency

7-12-12
Date


Donald Toensing
Chief
RCRA Waste Enforcement and Materials Management Branch
Air and Waste Management Division

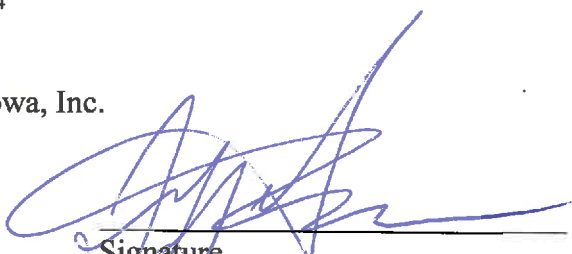
7/10/12
Date


Kristen Nazar
Assistant Regional Counsel
Office of Regional Counsel

For Respondent:
Electro-Coatings of Iowa, Inc.

7/6/2012

Date



Signature

Jeff Garvens

Printed Name


President

Title

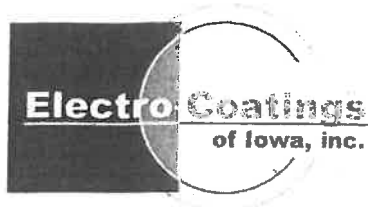
In the Matter of Electro-Coatings of Iowa, Inc.
Docket No. RCRA-07-2012-0004

IT IS SO ORDERED. This Final Order is effective upon its final entry by the Regional Judicial Officer.

July 19, 2012
Date



Robert Patrick
Regional Judicial Officer



Electro-Coatings of Iowa, Inc.
911 Shaver Rd, NE
Cedar Rapids, IA 52402
(319) 363-9602

Kristen Nazar
Assistant Regional Counsel
US EPA, Region 7
901 North 5th Street
Kansas City, Kansas 66101

Supplemental Environment Project (SEP) Proposal

Re: EPA case ID: IAD005279039

Dear Ms. Nazar,

Thank you for your time on May 16, 2012. We appreciate your receptiveness and willingness to listen to and take into consideration our concerns.

With regard to your latest settlement agreement amount of \$89,361.00 proposed on May 16, 2012; we would like for you to consider a final settlement amount of \$80,000 and the acceptance of the \$110,000.00 SEP explained below. We continue to strive to seek a quick settlement and are prepared to undertake this major capital investment to reduce the amount of hazardous chrome waste generated by 50% annually. The SEP proposal details are outlined below.

SEP Proposal:

We would like to submit the following project and supporting documentation in accordance with EPA's SEP Policy dated April 10, 1998 for your consideration in conjunction with this settlement. We are confident that this project will meet the required objectives of the environmental statute and has a justifiable nexus relationship by reducing the overall risk to public health or the environment which correlates with this settlement.

- I. **Project:** Purchase and installation of an Eco-Tec ChromaPur Model CP10 chrome purification system. A product summary is attached as ATT 1. A copy of the unit operator's manual has been requested and will be sent upon receipt for your review as well.
- II. **Description:** The CP10 chromaPur system is an ion exchange process where metal ions in solution are removed by a chemical substitution reaction with an ion-exchange resin. The metal salt produced can be returned to the plating bath for reuse. This increases the life of the bath and reduces the quantity of hazardous waste generated.

III. SEP Categories of Positive Impact:

- a. **Public Health:** As previously stated this SEP will reduce the amount of chrome waste that is generated and disposed of by an estimated 50%. Lowering the potential for any adverse effects on public health. Also, as a direct result of increased plating efficiency, less chrome mist will be captured in the air scrubber thus reducing the amount of chrome debris that is generated and shipped-offsite. These factors meet the criteria of a public health positive impact.
- b. **Pollution Prevention:** Historically, this site has generated an average of 15,000 lbs of chrome debris annually (ATT 2). This technology will reduce the amount of chrome and debris generated by an estimated 7,500 lbs thus meeting the criteria to qualify as a pollution prevention positive impact.
- c. **Pollution Reduction:** This system will extend the life of the plating bath dramatically reducing the amount of chrome rinse water and debris that is disposed of either by city sewer or hauled-offsite enabling recycling of the rinse water several times before disposal. Less disposed or hauled-off waste meets the criteria for a pollution reduction positive impact.
- d. **Environmental Restoration and Protection:** By reducing the amount of toxic chemicals contained in the rinse water, public water and land are far less subject to the potential for contamination. Whereby meeting the criteria for an environmental restoration and protection positive impact.

IV. Project Costs: We estimate that the final cost of this project will be \$110,000.00. Below are estimated/projected itemized costs and their associated attachments:

- a. **Equipment:** The cost of the equipment is \$94,800.00 (ATT 3).
- b. **Installation:** The cost of the installation is \$8,000.00 (ATT 4)
- c. **Training:** The cost of equipment startup and training is \$7,400 (ATT 3).
- d. **Operating:** The operating cost is estimated to be (ATT 5):
 - i. **Energy** - \$0.25/1,000 gal
 - ii. **Regeneration Chemicals** - H₂SO₄ 12 gal (conc.) @ \$2/gal per 12,900 gal flow (= \$1.9/1,000 gal)
 - iii. **Resin Replacement** - \$200/cu. Ft. (= \$0.3/1,000 gal)
 - iv. **Labor** - \$25/hr 2.0 hrs/day (= \$5.43/1,000 gal)
- e. **Hazardous waste disposal** - The current disposal fee for chrome sludge haul-off is \$1,052.00 for a 1 yard tote (includes delivery and fuel surcharge) (ATT 6).

V. Project Milestones: If approved, the goal is for the unit to be operational by the end of this year. Below are projected project target milestones and dates.

- **Bid selection process:** The project bid will be reviewed and agreed upon by 7/31/2012
- **Equipment Installation:** The equipment installation will be completed by 10/31/2012
- **Equipment Startup:** The system will be brought online by 11/30/2012

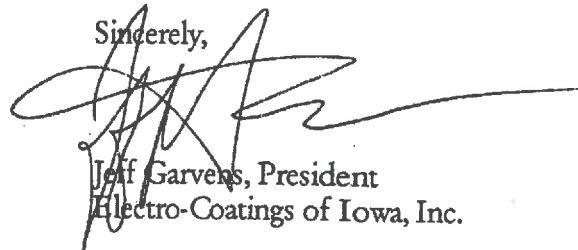
- **Testing and Training:** The system will be operational by 12/31/2012

VI. Future Benefits: As a direct result of this SEP by the reduction of tri-valent chrome generated, we can utilize the technology and start moving to alternative material anodes further reducing our environmental impact by lowering the amount of lead and lead compounds produced.

Conclusion:

Again, thank you for your time and consideration in this matter. Please do not hesitate to contact us if you have any questions. We look forward to having a follow-up meeting to continue our pre-filing negotiations,

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeff Garvens', with a long horizontal flourish extending to the right.

Jeff Garvens, President
Electro-Coatings of Iowa, Inc.

IN THE MATTER OF Electro-Coatings of Iowa, Inc., Respondent
Docket No. RCRA-07-2012-0004

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Order was sent this day in the following manner to the addressees:


Copy hand delivered to
Attorney for Complainant:

Kristen Nazar
Assistant Regional Counsel
Region 7
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Jeff Garvens, President
Electro-Coatings of Iowa, Inc.
911 Shaver Road NE
Cedar Rapids, Iowa 524021

Dated: 7/23/12


Kathy Robinson
Hearing Clerk, Region 7