

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX

**** FILED ****
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U.S.EPA - Region 09

In the matter of)	U.S. EPA Docket No.
)	RCRA-09-2018-0003
Anaplex Corporation)	
)	
)	
RCRA EPA ID No. CAD020165353)	CONSENT AGREEMENT AND
)	FINAL ORDER PURSUANT TO
)	40 C.F.R. SECTIONS 22.13 AND
<u>Respondent.</u>)	22.18

CONSENT AGREEMENT

A. PRELIMINARY STATEMENT

1. This is a civil administrative enforcement action instituted pursuant to Section 3008(a)(1) of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. § 6928(a)(1) and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 Code of Federal Regulations ("C.F.R.") Part 22.
2. Complainant is the United States Environmental Protection Agency, Region 9 ("EPA"). Respondent is Anaplex Corporation ("Respondent" or "Anaplex").
3. Respondent owns and operates a facility located at 15547 Garfield Avenue, in Paramount, California, 90723 (the "Facility"). The Facility's RCRA EPA Identification Number is CAD020165353. At the Facility, Respondent performs metal finishing operations, including electroplating, electroless plating, anodizing, coating and chemical etching.
4. On January 10, 2017, an inspector from the EPA conducted a multimedia Compliance Evaluation Investigation ("CEI") at the Facility. The purpose of the inspection was to determine the Facility's compliance with applicable regulations adopted by the California authorized program under RCRA in the California Code of Regulations ("C.C.R."), Title 22, Division 4.5 and the California Health and Safety Code, Division 20; and the Clean Water Act wastewater pretreatment requirements, 40 C.F.R. §§ 403.6 and 433.17. Based upon the findings EPA made during the inspection, and additional information obtained subsequent to the inspection, EPA alleges that Respondent had violated the California Health & Safety Code § 25100 *et seq.* and the regulations adopted pursuant thereto, as authorized by the United States.

5. This Consent Agreement and Final Order pursuant to 40 C.F.R. §§ 22.13 and 22.18 ("CA/FO"), simultaneously commences and concludes this proceeding, wherein EPA alleges that Respondent failed to: (1) maintain and operate the facility to minimize the possibility of any unplanned release, a violation of 22 C.C.R. § 66262.34(a)(4) and 22 C.C.R. § 66265.31 [*see also* 40 C.F.R. § 262.251]; (2) meet container labeling requirements, a violation of 22 C.C.R. § 66262.34(f) [*see also* 40 C.F.R. § 262.17(a)(5)]; (3) update facility contingency plan, a violation of 22 C.C.R. § 66265.52(d) [*see also* 40 C.F.R. § 262.261]; and (4) complete annual training, a violation of 22 C.C.R. § 66265.16(c) [*see also* 40 C.F.R. § 265.17(a)(7)]. The EPA alleges that Respondent thereby violated Section 3001 *et seq.* of RCRA, 42 U.S.C. § 6921 *et seq.*, and state regulations authorized pursuant thereto.¹

B. JURISDICTION

6. The State of California received authorization to administer the RCRA hazardous waste management program in lieu of the federal program pursuant to § 3006 of RCRA, 42 U.S.C. § 6926, and 40 C.F.R. Part 271 on August 1, 1992. The authorized hazardous waste program is established pursuant to the Hazardous Waste Control Law, Chapter 6.5 of Division 20 of the California Health and Safety Code, and the regulations promulgated thereunder at Title 22, Division 4.5 of the California Code of Regulations, 22 C.C.R. §§ 66001 *et seq.* The State of California has been authorized for all the hazardous waste management regulations referenced in this CA/FO.
7. Respondent is a "person" as defined in 22 C.C.R. § 66260.10 [*see also* 40 C.F.R. § 260.10].
8. Respondent is the "operator" of a facility as defined in 22 C.C.R. § 66260.10 [*see also* 40 C.F.R. § 260.10].
9. Respondent is a "generator" of hazardous waste as defined in 22 C.C.R. § 66260.10 [*see also* definition of "large quantity generator" at 40 C.F.R. § 260.10].
10. Respondent is or has been engaged in "storage" of hazardous waste as defined in 22 C.C.R. § 66260.10 [*see also* 40 C.F.R. § 260.10].
11. At the Facility, Respondent generates and accumulates, or has generated and accumulated, "hazardous waste" as defined in California Health & Safety Code § 25117, and 22 C.C.R. §§ 66260.10 and 66261.3 [*see also* RCRA § 1004(5), and 40 C.F.R. §§ 260.10 and 261.3]. These hazardous wastes include but are not limited to ignitable

¹ All citations to the "C.C.R." refer to Division 4.5 of Title 22 of the current California Code of Regulations. EPA is enforcing California hazardous waste management program requirements as approved and authorized by the United States. Citations to the corresponding current Federal rules are provided in brackets.

waste (RCRA D001), corrosive waste (RCRA D002), cadmium waste (RCRA D006), chromium waste (RCRA D007), spent halogenated solvents (RCRA F001), spent non-halogenated solvents (RCRA F005) wastewater treatment sludge (RCRA F006) and spent cyanide plating bath solutions (RCRA F007).

12. Section 3006 of RCRA, 42 U.S.C. § 6926 provides, *inter alia*, that authorized state hazardous waste programs are carried out under Subtitle C of RCRA. Therefore, a violation of any requirement of law under an authorized state hazardous waste program is a violation of a requirement of Subtitle C of RCRA.
13. A violation of California's authorized hazardous waste program, found at H&SC § 25100 *et seq.*, constitutes a violation of Subtitle C of RCRA and, therefore, a person who violates California's authorized hazardous waste program is subject to the powers vested in the EPA Administrator by Section 3008 of RCRA, 42 U.S.C. § 6928.
14. Section 3008 of RCRA, 42 U.S.C. § 6928, authorizes the EPA Administrator to issue orders assessing a civil penalty and/or requiring compliance immediately or within a specified time for violation of any requirement of Subtitle C of RCRA, Section 3001 of RCRA *et seq.*, 42 U.S.C. § 6921 *et seq.*
15. The Administrator has delegated the authority under Section 3008 of RCRA to the EPA Regional Administrator for Region 9, who has redelegate this authority to the EPA signatory below.

C. ALLEGATIONS

COUNT I

Failure to maintain and operate the facility to minimize the possibility of an unplanned release

16. Paragraphs 1 through 15 above are incorporated herein by this reference as if they were set forth here in their entirety.
17. 22 C.C.R. § 66262.34(a)(4) and 22 C.C.R. § 66265.31 provide that facilities must be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment [*see also* 40 C.F.R. § 262.251].
18. EPA alleges that during an inspection conducted by the South Coast Air Quality Management District December 9, 2016, SCAQMD observed solids on the roof of the Facility near air vents associated with the chromium tanks. SCAQMD's samples determined the solids were RCRA hazardous waste, exhibiting the toxicity characteristic for chromium.
19. Anaplex cleaned the roof and disposed of the waste appropriately as hazardous waste.

20. The EPA alleges that volatilized chromium was exiting through air vents and solidifying on the roof.
21. Therefore, EPA alleges that Respondent failed to operate its facility to minimize the possibility of a release of hazardous waste, and has violated 22 C.C.R. § 66262.34(a)(4) and 22 C.C.R. § 66265.31 [*see also* 40 C.F.R. § 262.251].

COUNT II

Failure to meet container labeling requirements

22. Paragraphs 1 through 21 above are incorporated herein by this reference as if they were set forth here in their entirety.
23. 22 C.C.R. § 66262.34(f) requires generators to label containers of hazardous waste with certain information, including the date upon which each period of accumulation begins [*see also* 40 C.F.R. § 262.17(a)(5)].
24. EPA alleges that during the CEI, the EPA Inspector observed a container of spent acetone, a RCRA hazardous waste, without an accumulation start date. Anaplex corrected this violation during the inspection.
25. Therefore, EPA alleges that Respondent violated 22 C.C.R. § 66262.34(f) [*see also* 40 C.F.R. § 262.17(a)(5)].

COUNT III

Failure to maintain contingency plan

26. Paragraphs 1 through 25 above are incorporated herein by this reference as if they were set forth here in their entirety.
27. 22 C.C.R. § 66262.34(a)(4) and 22 C.C.R. § 66265.51 require the Facility to maintain a contingency plan, designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water. 22 C.C.R. § 66265.52 mandates the contents of the plan.
28. 22 C.C.R. § 66265.52(d) requires that the plan shall list names, address and phone numbers (office and home) of all persons qualified to act as emergency coordinator (as required under 66265.55), and this list shall be kept up to date.
29. EPA alleges that on the date of the CEI, the EPA Inspector determined that the Facility's contingency plan did not have current information for the primary environmental contact.
30. Therefore, EPA alleges that Respondent failed to maintain its contingency plan, and has violated 22 C.C.R. § 66265.52 [*see also* 40 C.F.R. § 262.261].

COUNT IV

Failure to complete annual training

31. Paragraphs 1 through 30 above are incorporated herein by this reference as if they were set forth here in their entirety.
32. 22 C.C.R. § 66262.34(a)(4) and 22 C.C.R. § 66265.16(c) require that Facility personnel take part in an annual review of initial training required under 22 C.C.R. § 66265.16(a).
33. EPA alleges that on the date of the CEI, the EPA Inspector determined that the main employee managing hazardous waste had timely initiated annual training (by December 2016), but had failed to complete the training as of the inspection date (January 10, 2017). Respondent has since submitted proof of certification of annual training.
34. Therefore, EPA alleges that Respondent failed to complete annual training, and has violated 22 C.C.R. § 66265.16(c) [*see also* 40 C.F.R. § 262.17(a)(7)].

D. CIVIL PENALTY

35. Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), as adjusted by the Federal Civil Penalties Adjustment Act Improvement Act of 2015 and the Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19, authorize a civil penalty of up to NINETY-SEVEN THOUSAND, TWO HUNDRED AND TWENTY-NINE dollars (\$97,229) per day for violations of Subtitle C of RCRA, 42 U.S.C. § 6921 *et seq.*, occurring after November 2, 2015, where the penalty is assessed after January 18, 2018. Based upon an analysis of Respondent's ability to pay a penalty, EPA is not assessing a civil penalty for the violations alleged herein.

E. ADMISSIONS AND WAIVERS OF RIGHTS

36. For the purposes of this proceeding, Respondent admits to the jurisdictional allegations set forth in Section B of this CA/FO and agrees not to contest EPA's jurisdiction and authority to enter into and issue this CA/FO and to enforce its terms. Further, Respondent will not contest EPA's jurisdiction and authority to compel compliance with this CA/FO in any enforcement proceedings, either administrative or judicial, or to impose sanctions for violations of this CA/FO.
37. Respondent neither admits nor denies any allegations of fact or law set forth in Section C of this CA/FO. Respondent hereby waives any rights Respondent may have to contest the allegations set forth in this CA/FO, waives any rights Respondent may have to a hearing on any issue relating to the factual allegations or legal conclusions set forth in this CA/FO, including without limitation a hearing pursuant to Section 3008(b) of RCRA, 42 U.S.C. § 6928(b), and hereby consents to the issuance of this CA/FO without adjudication. In addition, Respondent hereby waives any rights Respondent may have to appeal the Final Order attached to this Consent Agreement and made part of this CA/FO.

F. PARTIES BOUND

38. This CA/FO shall apply to and be binding upon Respondent and its agents, successors and assigns, until the compliance tasks in Section G have been completed. When those matters are concluded, this CA/FO shall terminate and constitute full settlement of the violations alleged herein.
39. No change in ownership or corporate, partnership or legal status relating to the Facility will in any way alter Respondent's obligations and responsibilities under this CA/FO.
40. The undersigned representative of Respondent hereby certifies that he or she is fully authorized by Respondent to enter into this CA/FO, to execute and to legally bind Respondent to it.

G. COMPLIANCE

41. Respondent shall inspect the roof of the Facility at least annually for the three years following the Effective Date of this CA/FO. The first annual inspection shall take place in January 2019. If during the annual inspection, Respondent finds any solids on the roof, Respondent shall manage the solids found on the roof in accordance with RCRA and its implementing regulations, if applicable.
42. If Respondent determines that solids found on the roof exhibit a characteristic of toxicity, Respondent shall notify EPA of the determination, and submit to EPA a description of the waste and of the steps taken to manage the waste appropriately.
43. Respondent shall maintain records at the Facility documenting the roof inspections.

H. CERTIFICATION OF COMPLIANCE

44. In executing this CA/FO Respondent certifies under penalty of law to EPA that it has fully complied with RCRA Hazardous Waste Management requirements, 42 U.S.C. §§ 6921–6939e, and the federally authorized California hazardous waste management program including (1) 22 C.C.R. § 66265.31 [*see also* 40 C.F.R. § 262.251], (2) 22 C.C.R. § 66262.34 [*see also* 40 C.F.R. § 262.17(a)(5)], (3) 22 C.C.R. § 66265.52 [*see also* 40 C.F.R. § 262.261], and (4) 22 C.C.R. § 66265.16(c) [*see also* 40 C.F.R. § 265.17(a)(7)], that formed the basis for the violations alleged in this CA/FO.
45. This certification of compliance is based upon true, accurate, and complete information, which the signatory can verify personally or regarding which the signatory has inquired of the person or persons directly responsible for gathering the information.

46. Anaplex hereby certifies, to the best of its knowledge and belief, after thorough inquiry, (a) that it has submitted to the United States financial information that fairly, accurately, and materially sets forth its financial circumstances; and (b) that those circumstances have not materially changed between the time the financial information was submitted to the United States and the time Anaplex executed this consent agreement.

I. RESERVATION OF RIGHTS

47. EPA hereby reserves all its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, including the right to require that Respondent perform tasks in addition to those required by this CA/FO, except as to those civil penalties for the violations and facts alleged herein. EPA further reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, which may pertain to Respondent's failure to comply with any of the requirements of this CA/FO. This CA/FO shall not be construed as a covenant not to sue, release, waiver or limitation of any rights, remedies, powers or authorities, civil or criminal, which EPA has under RCRA or EPCRA (except as to those civil penalties for the violations and facts alleged herein); the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"); or any other statutory, regulatory or common law enforcement authority of the United States.
48. Compliance by Respondent with the terms of this CA/FO shall not relieve Respondent of its obligations to comply with RCRA, or any other applicable local, State or federal laws and regulations.
49. The entry of this CA/FO and Respondent's consent to comply shall not limit or otherwise preclude EPA from taking additional enforcement actions should EPA determine that such actions are warranted except as they relate to Respondent's liability for federal civil penalties for the specific alleged violations and facts as set forth in Section C of this CA/FO.
50. This CA/FO is not intended to be nor shall it be construed as a permit. This CA/FO does not relieve Respondent of any obligation to obtain and comply with any local, State or federal permits.

J. OTHER CLAIMS


51. Nothing in this CA/FO shall constitute or be construed as a release from nor an admission by Respondents of any other claim, 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 the Facility.

K. MISCELLANEOUS

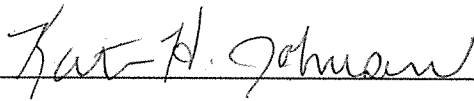
- 52. Each party shall bear its own attorneys' fees, costs, and disbursements incurred in this proceeding.
- 53. This CA/FO may be amended or modified only by written agreement executed by both EPA and Respondent.
- 54. The headings in this CA/FO are for convenience of reference only and shall not affect interpretation of this CA/FO.
- 55. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), the Effective Date of this CA/FO is the date the Final Order, having been approved by the Regional Judicial Officer, is filed by the Regional Hearing Clerk.

IT IS SO AGREED.

8/16/18
Date


Carmen Campbell, President
Anaplex Corporation

9/4/18
Date


Kathleen H. Johnson, Director
Enforcement Division
U.S. Environmental Protection Agency, Region 9

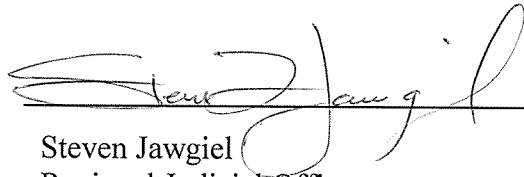
FINAL ORDER

IT IS HEREBY ORDERED that this Consent Agreement and Final Order pursuant to 40 C.F.R. Sections 22.13 and 22.18 (U.S. EPA Docket No. RCRA-9-2018-0003) be entered and that Anaplex Corporation complete the compliance tasks as set forth in Section G of this Consent Agreement.

This Final Order shall be effective upon filing by the Regional Hearing Clerk.

09/12/18

Date



Steven Jawgiel
Regional Judicial Officer
United States Environmental Protection Agency,
Region 9

CERTIFICATE OF SERVICE

I certify that the original of the fully executed Consent Agreement and Final Order in the matter of **Anaplex Corporation (Docket #: RCRA-09-2018-00 03)** 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:

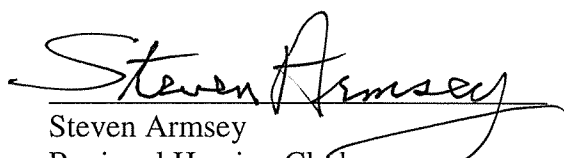
A copy was mailed via CERTIFIED MAIL to:

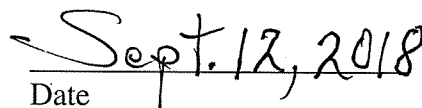
Ms. Carmen Campbell, President
Anaplex Corporation
15547 Garfield Avenue
Paramount, CA 90723

CERTIFIED MAIL NUMBER: 7012 1640 0001 2190 7373

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

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


Steven Armsey
Regional Hearing Clerk
U.S. EPA, Region IX


Date