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UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION IX

In the matter of	)	U.S. EPA Docket No.
	)	RCRA- 9-2011- 0009
Accutech Photo Machining Corp.	)	
	)	CONSENT AGREEMENT AND
EPA ID No. CAD982477051	)	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 C.F.R. Part 22. Complainant is the United States Environmental Protection Agency, Region IX ("EPA"). Respondent is Accutech Photo Machining Corp. ("Respondent").
2. Respondent generates or has generated hazardous waste at its facility located at 1724 First St., San Fernando, California (the "Facility"). Respondent specializes in chemical etching of small metal parts for such industries as aerospace, computer and electronics. The facility uses solutions of ferric chloride as its chemical etchant.
3. Respondent generates or has generated the following hazardous wastes at the Facility: D002 (corrosive) and F006 (wastewater treatment sludge).
4. This Consent Agreement and Final Order pursuant to 40 C.F.R. Sections 22.13 and 22.18 ("CA/FO"), simultaneously commences and concludes this proceeding, wherein EPA alleges that Respondent had the following violations: 1) failure to close containers of hazardous waste, in violation of Title 22 of the California Code of Regulations<sup>1</sup> ("22 C.C.R.") §§ 66262.34(a)(1)(A) and 66265.173(a) [see also 40 C.F.R. §§ 262.34(a)(1)(i) and 265.173(a)]; 2) failure to maintain and operate the facility safely, in violation of 22 C.C.R. §§ 66262.34(a)(4) and 66265.31 [see also 40 C.F.R. §§ 262.34(a)(4) and 265.31];

<sup>1</sup> All references to California requirements, unless otherwise noted, are to the federally authorized version of the State's RCRA hazardous waste management program. Where the federally authorized version of the State requirement differs in any respect from the current version of the requirement, that distinction is noted as well.

3) failure to conduct weekly inspections of areas used for hazardous waste storage, in violation of 22 C.C.R. §§ 66262.34(a)(1)(A) and 66265.174 [see also 40 C.F.R. §§ 262.34(a)(i) and 265.174]; 4) tank violations, specifically lack of tank certification by an outside, certified engineer in violation of 22 C.C.R. §§ 66262.34(a)(1)(A) and 66265.191(a) [see also 40 C.F.R. §§ 262.34(a)(i) and 265.191(a)]; no tank leak detection system, in violation of §§ 66262.34(a)(1)(A) and 66265.191(c)(3) [see also 40 C.F.R. §§ 262.34(a)(i) and 265.191(c)(3)]; and no system of daily tank inspections, in violation of §§ 66262.34(a)(1)(A) and 66265.195(a) [see also 40 C.F.R. §§ 262.34(a)(i) and 265.195(a)]; 5) training violations, specifically no initial training, in violation of 22 C.C.R. §§ 66262.34(a)(4) and 66265.16(a) [see also 40 C.F.R. §§ 262.34(a)(4) and 265.16(a)]; no annual refresher training, in violation of 22 C.C.R. §§ 66262.34(a)(4) and 66265.16(c) [see also 40 C.F.R. §§ 262.34(a)(4) and 265.16(c)]; and no training records, in violation of 22 C.C.R. §§ 66262.34(a)(4) and 66265.16(d)(1)-(4) [see also 40 C.F.R. §§ 262.34(a)(4) and 265.16(d)(1)-(4)]; 6) no contingency plan, in violation of 22 C.C.R. §§ 66262.34(a)(4) and 66265.51(a) [see also 40 C.F.R. §§ 262.34(a)(4) and 265.51(a)]; 7) no 2007 Biennial Report, in violation of 22 C.C.R. § 66262.41(b) [see also 40 CFR §§ 262.41(a)]; and 8) storage without a permit due to failure to mark or label containers of hazardous waste as required by 22 C.C.R. § 66262.34(a)(3), (e)(1)(E) and (f) [see also 40 C.F.R. §§ 262.34(a)(2) and (3) and (c)(1)(ii)] and storing hazardous waste for over the 90 day limit provided for in 22 C.C.R. § 66262.34(a) and (c), in violation of 22 C.C.R. § 66270.1 [see also 40 C.F.R. §§ 262.34(a) and 270.1]. These are all in violation of Section 3001 *et seq.* of RCRA, 42 U.S.C. § 6921 *et seq.*, and state regulations adopted pursuant thereto.<sup>2</sup>

## B. JURISDICTION

5. On August 1, 1992, the State of California received authorization to administer the 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. The authorized 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 regulations referenced in this CA/FO.
6. Respondent is a "person" as defined in 22 C.C.R. § 66260.10 [see also 40 C.F.R. § 260.10].

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<sup>2</sup> 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 on August 1, 1992 (*see* 57 FR 32726, July 23, 1992) and September 26, 2001 (66 FR 49118, September 26, 2001). Corresponding Federal citations are provided in brackets.

7. The Facility at 1724 First Street, San Fernando, California, 91340 was a "hazardous waste facility" as defined in 22 CCR § 66260.10<sup>3</sup> (*see also* the definition of "facility" at 40 CFR § 260.10 and the definition of "facility or activity" at 40 CFR § 270.2) at the time of the violations alleged.
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 the "owner" of a facility as defined in 22 C.C.R. § 66260.10 [*see also* 40 C.F.R. § 260.10].
10. Respondent was a "generator" of hazardous waste as defined in 22 CCR 66260.10 (*see also* 40 CFR § 260.10) at the time of the violations alleged.
11. Respondent was engaged in the "storage" of hazardous waste as defined in 22 CCR 66260.10 (*see also* 40 CFR § 260.10) at the time of the violations alleged.
12. Respondent generated and/or stored "hazardous waste" as defined in H&SC Section 25117,<sup>4</sup> (*see also* Section 1004(5) of RCRA, 42 U.S.C. § 6903(5)) and 22 CCR 66260.10<sup>5</sup> (*see also* 40 CFR § 260.10) and 22 CCR § 66261.3<sup>6</sup> (*see also* 40 CFR § 261.3), at the time of the violations alleged.
13. Federal regulations governing the hazardous waste permit program, 40 CFR Part 270, became effective April 1, 1983. The 1991 version of the California regulations governing the hazardous waste permit program were federally authorized in 1992 and certain later amendments were federally authorized in 2001.<sup>7</sup>
14. EPA determined that Respondent has violated California H&SC § 25100 *et seq.* and the regulations adopted pursuant thereto, as approved and authorized by the United States.
15. 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

<sup>3</sup> Since the initial federal authorization of 22 CCR § 66260.10, which occurred in 1992, the State's regulatory definition of "hazardous waste facility" has changed. The version of the definition in effect as of November 12, 1998 was federally authorized. Additional changes have been made to that authorized provision since November 12, 1998, but those changes do not affect this allegation.

<sup>4</sup> The 1989 version of H&SC Section 25117 was federally authorized in 1992. The provision was amended in 1995 and again in 1996. Those amendments do not affect this allegation.

<sup>5</sup> Since the initial federal authorization of 22 CCR § 66260.10 in 1992, the State's regulatory definition of "hazardous waste" has changed. However, the changes do not affect this allegation.

<sup>6</sup> Since the initial federal authorization of 22 CCR § 66261.3 in 1992, the State's regulatory definition of "hazardous waste" has changed. The version of the definition in effect as of November 12, 1998 was federally authorized in 2001. At least one additional change has been made to that provision since November 12, 1998, but that change does not affect this allegation.

<sup>7</sup> For a list of the amendments to 22 CCR § 66270.1 *et seq.* that were authorized in 2001, *see* 66 FR 33037 *et seq.* (June 20, 2001) and 66 FR 49118 *et seq.* (Sept. 26, 2001).

violation of any requirement of law under an authorized state hazardous waste program is a violation of a requirement of Subtitle C of RCRA.

16. 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.
17. Section 3008 of RCRA, 42 U.S.C. § 6928, authorizes the EPA Administrator to issue orders 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.*
18. On January 11, 2010, EPA conducted an inspection at the Facility to determine compliance with RCRA. Based on the January 11, 2010 inspection and information collected by EPA thereafter, EPA determined that Respondent has violated the following regulations:
  - 1) 22 C.C.R. § 66265.173(a) [see also 40 C.F.R. § 265.173(a)];
  - 2) 22 C.C.R. § 66265.31 [see also 40 C.F.R. § 265.31];
  - 3) 22 C.C.R. § 66265.174 [see also 40 C.F.R. § 265.174];
  - 4) 22 C.C.R. §§ 66265.191(a), 66265.193(c)(3) and 66265.195(a) [see also 40 C.F.R. §§ 265.191(a), 265.191(c)(3) and 265.195(a)];
  - 5) 22 C.C.R. §§ 66265.16(a), 66265.16(c) and 66265.16(d)(1)-(4) [see also 40 C.F.R. § 265.16(a), 265.16(c)]; [see also 40 C.F.R. 265.16(d)(1)-(4)];
  - 6) 22 C.C.R. § 66265.51(a) [see also 40 C.F.R. § 265.51(a)];
  - 7) 22 C.C.R. § 66262.41(b) [see also 40 C.F.R. §§ 262.41(a)]; and
  - 8) 22 C.C.R. § 66270.1 [see also 40 C.F.R. § 270.1].
19. Respondent, in violating the requirements cited above, violated Section 3001 *et seq.*, of RCRA, 42 U.S.C. § 6921 *et seq.*, and therefore is subject to the powers vested in the EPA Administrator by Section 3008 of RCRA, 42 U.S.C. § 6928.
20. The Administrator has delegated the authority under Section 3008 of RCRA, 42 U.S.C. § 6928, to the EPA Regional Administrator for Region IX, who has redelegated this authority to the Director of the Waste Management Division.

C. ALLEGED VIOLATIONS

Count I  
(Open Container)

21. Paragraphs 1 through 20 above are incorporated herein by this reference as if they were set forth here in their entirety.

22. 22 C.C.R. § 66265.173(a) [*see also* 40 C.F.R. § 265.173(a)] requires that a container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.
23. On January 11, 2010, EPA inspectors observed a 1 cubic yard tote of F006 filter cake was open. Respondent was not adding or removing waste at the time.
24. Therefore, EPA alleges that Respondent violated 22 C.C.R. § 66265.173(a) [*see also* 40 C.F.R. § 265.173(a)].

### Count II

#### (Failure to Maintain Facility to Minimize Release)

25. Paragraphs 1 through 24 above are incorporated herein by this reference as if they were set forth here in their entirety.
26. 22 CCR § 66265.31 (*see also* 40 CFR § 265.35) requires owners and operators to maintain and operate facilities to minimize the possibility of a fire, explosion or aisle space or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to the air, soil or surface water.
27. On January 11, 2011, EPA inspectors observed a deep crack in the cement floor beneath the ferric chloride etchant machine in the photo developer area. EPA inspectors also observed that one of the ferric chloride etchant machines in the ferric chloride etchant room was leaking.
28. The leak and the crack presented a risk of an unplanned release of hazardous waste constituents into the environment.
29. Therefore, EPA alleges that Respondent violated 22 CCR § 66265.31 (*see also* 40 CFR § 265.31).

### Count III

#### (Failure to Conduct Required Inspections)

30. Paragraphs 1 through 29 above are incorporated herein by this reference as if they were set forth here in their entirety.
31. 22 C.C.R. § 66265.174 [*see also* 40 C.F.R. § 265.174] requires that owners and operators inspect areas that are used for container storage or transfer at least weekly, looking for leaking containers and for deterioration of containers and the containment system caused by corrosion or other factors.
32. On January 11, 2010, EPA inspectors inquired if the inspections of the hazardous waste storage area or any other areas that were storing greater than 55 gallons of hazardous

waste were being conducted. The inspectors were informed by facility representatives that these hazardous waste storage area inspections were not being conducted.

33. Therefore, EPA alleges that Respondent violated 22 CCR § 66265.174 (*see also* 40 CFR § 265.174).

Count IV

(Failure to Comply with Tank Requirements)

34. Paragraphs 1 through 3 above are incorporated herein by this reference as if they were set forth here in their entirety.

35. 22 C.C.R. § 66265.190 requires that owners and operators of facilities that use tank systems to comply with specific requirements for those tanks, including:

- (a) the requirement of 22 C.C.R. § 66265.191(a) that the owner or operator keep on file a written assessment reviewed and certified by a qualified Professional Engineer that attests to the tank system's integrity [*see also* 40 C.F.R. § 265.191(a)];
- (b) the requirement of 22 C.C.R. § 66265.193(c)(3) that the tank be equipped with a tank leak detection system [*see also* 40 C.F.R. § 265.193(c)(3)]; and
- (c) the requirement of 22 C.C.R. § 66265.195(a) to inspect the tank on a daily basis [*see also* 40 C.F.R. § 265.195(a)].

36. On January 11, 2010, EPA inspectors were informed by facility representatives that the facility did have not a written assessment reviewed and certified by a qualified Professional Engineer that attests to the tank system's integrity and that Respondent did not inspect the tanks on a daily basis.

37. On January 11, 2010, EPA inspectors observed that the tank system did not have a tank leak detection system.

38. Therefore, EPA alleges that Respondent violated 22 C.C.R. §§ 66265.191(a), 66265.193(c)(3) and 66265.195(a) [*see also* 40 C.F.R. §§ 265.191(a) 265.191(c)(3) and 265.195(a)].

Count V

(Failure to Train Personnel or Maintain Training Records)

39. Paragraphs 1 through 38 above are incorporated herein by this reference as if they were set forth here in their entirety.

40. 22 C.C.R. § 66265.16(a)(1) [*see also* 40 C.F.R. § 265.16(c)] requires that facility personnel successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with applicable hazardous waste regulations. 22 C.C.R. § 66265.16(c) [*see also* 40 C.F.R. § 265.16(c)] requires that facility personnel take part in an annual review

of the initial training required in 22 C.C.R. § 66265.16(a). In addition, 22 C.C.R. §§ 66265.16(d)(1-4) [*see also* 40 C.F.R. §§ 265.16(d)(1-4)] requires that facility owners and operators maintain specified training documents and records at the facility until closure of the facility, or, for former employees, for three years from the day they last worked at the facility.

41. The required records are to include: (1) the job title for each position related to hazardous waste management, and the name of the employee filling each job; (2) a written job description for each position; (3) a written description of the type and amount of both introductory and continuing training that will be given to each person filling a position; and (4) records that document that the training or job experience required has been given to, and completed by, facility personnel.
42. On January 11, 2010, EPA inspectors were informed by facility representatives that the facility personnel responsible for hazardous waste handling had not received either the required initial training, or any refresher training, and that the facility therefore did not have the required records of training.
43. Therefore, EPA alleges that Respondent violated 22 C.C.R. § 66265.16 [*see also* 40 C.F.R. § 265.16].

Count VI  
(Failure to Maintain Contingency Plan)

44. Paragraphs 1 through 43 above are incorporated herein by this reference as if they were set forth here in their entirety.
45. 22 C.C.R. § 66265.52 [*see also* 40 C.F.R. § 265.52] requires that owners and operators maintain a contingency plan that: (a) describes the actions facility personnel shall take to respond to fires, explosions or unplanned releases of hazardous waste or hazardous waste constituents; (b) incorporates hazardous waste management provisions, if the facility already has a Spill Prevention Control and Countermeasures Plan in place; (c) describes arrangements with local police and fire departments, hospitals, contracts and State and local emergency response teams with respect to emergency coordination; (d) lists up to date information as to the names, addresses and phone numbers (office and home) of all persons qualified to act as emergency coordinator; (e) a list of emergency equipment at the facility including the location and physical description of each item and an outline of its capabilities; (f) an evacuation plan; and (g) the current telephone number of the State Office of Emergency Services.
46. On January 11, 2010, EPA inspectors were informed by facility representatives that the facility did not have a contingency plan as required by 22 C.C.R. § 66265.52 [*see also* 40 C.F.R. § 265.52].

47. Therefore, EPA alleges that Respondent violated 22 CCR § 66265.52 (*see also* 40 CFR § 265.52).

Count VII  
(Failure to File Biennial Report)

48. Paragraphs 1 through 47 above are incorporated herein by this reference as if they were set forth here in their entirety.
49. 22 C.C.R. § 66262.41(a) requires that each owner or operator file a biennial report for the hazardous waste generated the prior year [*see also* 40 C.F.R. § 26.2.41(a)]. The report is due by March 1.
50. At the time of the January 11, 2010 inspection, Respondent had not filed a biennial report for 2007. The report would have been due on March 1, 2008.
51. Therefore, EPA alleges that Respondent has failed to comply with the requirements of 22 C.C.R. §§ 66262.41(a) [*see also* 40 C.F.R. § 262.41(a)].

Count VII  
(Storage of Hazardous Waste without a Permit)

52. Paragraphs 1 through 51 above are incorporated herein by this reference as if they were set forth here in their entirety.
53. Pursuant to 22 CCR § 66270.1(c) (*see also* 40 CFR § 270.1(c)), a permit is required for, among other things, the storage of hazardous waste. However, pursuant to 22 CCR § 66262.34(a) [*see also* 40 CFR §§ 262.34(a)(2) and (3)], a large quantity generator of hazardous waste may accumulate hazardous waste on-site for 90 days or less without a permit or interim status so long as certain conditions applicable to the accumulation of that waste are met pursuant to 22 C.C.R. § 66262.34(a)(4) [*see also* 40 C.F.R. § 262.34(a)(4)].
54. At the time of the January 11, 2010 inspection, the EPA inspectors observed that the Respondent had not shipped any spent ferric chloride off-site since August 10, 2009, approximately 155 days earlier.
55. EPA inspectors were informed by facility representatives that the D002 ferric chloride in the 2100 gallon waste tank had been in the tank since the time of the last shipment on August 10, 2009.
56. At the time of the January 11, 2010 inspection, the Facility had neither a RCRA permit nor was it eligible for interim status.



57. Therefore, Respondent had stored waste on-site approximately 65 days longer than the 90 days allowed by 22 CCR § 66262.34(a) [see also 40 CFR §§ 262.34(a)(2) and (3)], and was in violation of the requirement to have a permit or grant of interim status in 22 CCR § 66270.1(c) [see also 40 CFR § 270.1(c)].
58. Among the requirements for on-site accumulation without a permit or interim status is that each container for onsite accumulation of hazardous waste shall be labelled with the words "hazardous waste", the initial date of waste accumulation, the composition and physical state of the waste, the particular hazardous properties of the waste, and the name and address of the person producing the waste. 22 C.C.R. § 66262.34(a)(3) and (f) [see also 40 C.F.R. § 262.34(a)(2) and (3)].
59. At the time of the January 11, 2010, EPA inspectors observed that the 2100 gallon tank of spent ferric chloride (D002) was unlabeled, a 1 cubic yard tote of filter cake was unlabeled and one 55-gallon satellite accumulation drum of spent ferric chloride was unlabeled.
60. Therefore, Respondent had stored waste on-site without complying with the labelling requirements of 22 C.C.R. § 66262.34(a)(3) and (f) [see also 40 C.F.R. § 262.34(a)(2) and (3)] and was in violation of the requirement to have a permit or grant of interim status in 22 CCR § 66270.1(c) [see also 40 CFR § 270.1(c)].
61. The conditions for storage of hazardous waste without a permit also include compliance with training requirements of 22 C.C.R. §§ 66265.16(a), 66265.16(c) and 66265.16(d)(1)-(4) [see also 40 C.F.R. § § 265.16(a), 265.16(c)]; the container requirements of 22 C.C.R. § 66265.173(a) [see also 40 C.F.R. § 265.173(a)] and 22 C.C.R. § 66265.174 [see also 40 C.F.R. § 265.174]; tank requirements of 22 C.C.R. §§ 66265.191(a), 66265.193(c)(3) and 66265.195(a) [see also 40 C.F.R. §§ 265.191(a) 265.191(c)(3) and 265.195(a)], and Articles 3 and 4 of Chapter 15, including requirement to minimize releases in 22 C.C.R. § 66265.31 [see also 40 C.F.R. § 265.31], contingency plan requirements of 22 C.C.R. § 66265.51(a) [see also 40 C.F.R. § 265.51(a)].
62. As detailed in paragraphs 21-47 above, Respondent failed to comply with the training requirements of 22 C.C.R. §§ 66265.16(a), 66265.16(c) and 66265.16(d)(1)-(4) [see also 40 C.F.R. § § 265.16(a), 265.16(c)], the container requirements of 22 C.C.R. § 66265.173(a) [see also 40 C.F.R. § 265.173(a)] and 22 C.C.R. § 66265.174 [see also 40 C.F.R. § 265.174]; tank requirements of 22 C.C.R. §§ 66265.191(a), 66265.193(c)(3) and 66265.195(a) [see also 40 C.F.R. §§ 265.191(a) 265.191(c)(3) and 265.195(a)], and Articles 3 and 4 of Chapter 15, including requirement to minimize releases in 22 C.C.R. § 66265.31 [see also 40 C.F.R. § 265.31], contingency plan requirements of 22 C.C.R. § 66265.51(a) [see also 40 C.F.R. § 265.51(a)].
63. Therefore, EPA alleges that Respondent stored hazardous waste without a permit in violation of 22 CCR Section 66262.34(a) [see also 40 CFR §262.34(a)(2) and (3)] and 22 CCR Section 66270.1(c) [see also 40 CFR §270.1(c)].

D. CIVIL PENALTY

64. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), as adjusted by the Debt Collection Improvement Act of 1996, *see* 61 Fed. Reg. 69360 (Dec. 31, 1996), and the Civil Monetary Penalty Inflation Adjustment Rule, *see* 69 Fed. Reg. 7121 (Feb. 13, 2004), authorizes a civil penalty of up to THIRTY-TWO THOUSAND FIVE HUNDRED DOLLARS (\$32,500) per day for violations of Subtitle C of RCRA, 42 U.S.C. § 6921 *et seq.*, that occur after March 15, 2004 and before Jan. 13, 2009, 69 Fed. Reg. 7121 (Feb. 13, 2004) and up to THIRTY-SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$37,500) for violations that occur after January 12, 2009. 69 Fed. Reg. 75340, 75346 (Dec. 11, 2008). Based upon the facts alleged herein and upon those factors which EPA must consider pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), and the RCRA Civil Penalty Policy, including the seriousness of the violations, any good faith efforts by Respondent to comply with applicable requirements, and any economic benefit accruing to Respondent, as well as such other matters as justice may require, EPA proposes that Respondent be assessed ONE THOUSAND DOLLARS (\$1000) as the civil penalty for the violations alleged herein. The proposed penalties were calculated in accordance with the "June 2003 RCRA Civil Penalty Policy." Under the penalty policy, EPA uses a penalty assessment matrix to determine a gravity-based penalty. That penalty amount is then adjusted to take into account multi-day violations, the economic benefit gained from non-compliance, where appropriate, and case-specific circumstances, including the financial condition of Respondent. Respondent has submitted tax returns to establish financial condition.

E. ADMISSIONS AND WAIVERS OF RIGHTS

65. 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.
66. Respondent neither admits nor denies any allegations of fact or law set forth in Section C of this CA/FO, and this CA/FO and Respondent's compliance with it shall not be construed as an admission by Respondents of any wrongdoing or liability. Notwithstanding the foregoing, 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

67. This CA/FO shall apply to and be binding upon Respondent and its agents, successors and assigns, until such time as the civil penalty required under Sections D and G has been paid in accordance with Section G, and any delays in performance and/or stipulated penalties have been resolved. At such time as those matters are concluded, this CA/FO shall terminate and constitute full settlement of the violations alleged herein.
68. 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.
69. 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. PAYMENT OF CIVIL PENALTY

70. Respondent consents to the assessment of and agrees to pay a civil penalty of ONE THOUSAND DOLLARS (\$1000) in full settlement of the federal civil penalty claims set forth in this CA/FO.
71. Respondent shall submit payment of the ONE THOUSAND DOLLARS (\$1000) within 30 days of the Effective Date of this CA/FO. The Effective Date of this CA/FO is the date the Final Order, signed by the Regional Judicial Officer, is filed with the Regional Hearing Clerk. All payments shall indicate the name of the Facility, EPA identification number of the Facility, the Respondent's name and address, and the EPA docket number of this action. Payment shall be made by certified or cashier's check payable to "Treasurer of the United States" and sent as follows:

Regular Mail:

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

Overnight Mail:

U.S. Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
ATTN Box 979077  
St. Louis, MO 63101  
Contact: Natalie Pearson (314-418-4087)

Alternatively, payment may be made by electronic transfer as provided below:

Wire Transfers:

Wire transfers must be sent directly to the Federal Reserve Bank in New York City with the following information:

Federal Reserve Bank of New York

ABA = 021030004

Account = 68010727

SWIFT address = FRNYUS33

33 Liberty Street

New York, NY 10045

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

ACH (also known as REX or remittance express):

Automated Clearinghouse (ACH) for receiving US currency

PNC Bank

808 17<sup>th</sup> Street, NW

Washington, DC 20074

Contact – Jesse White (301-887-6548)

ABA = 051036706

Transaction Code 22 – checking

Environmental Protection Agency

Account 31006

CTX Format

On Line Payment:

This payment option can be accessed from the information below:

[www.pay.gov](http://www.pay.gov)

Enter "sf01.1" in the search field

Open form and complete required fields

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

Steven Armsey

Regional Hearing Clerk (RC-1)

U.S. Environmental Protection Agency - Region 9

75 Hawthorne Street

San Francisco, CA 94105

and

Clint Sciter (WST-3)

Waste Management Division

U.S. Environmental Protection Agency - Region 9  
75 Hawthorne Street  
San Francisco, CA 94105.

72. In accordance with the Debt Collection Act of 1982 and U.S. Treasury directive (TFRM 6-8000), each payment must be received by the due date set forth in this CA/FO to avoid additional charges. If payment is not received by the due date, interest will accrue from the Effective Date of this CA/FO at the current rate published by the United States Treasury as described at 40 C.F.R. § 13.11. A late penalty charge of \$15.00 will be imposed after thirty (30) calendar days with an additional \$15.00 charge for each subsequent 30-day period. A 6% per annum penalty will further apply on any principal amount not paid within ninety (90) calendar days of its due date. Respondent further will be liable for stipulated penalties as set forth below for any payment not received by its due date.

H. DELAY IN PERFORMANCE/STIPULATED PENALTIES

73. In the event Respondent fails to meet any requirement set forth in this CA/FO, Respondent shall pay stipulated penalties as set forth below:

For failure to submit a payment to EPA by the time required in this CA/FO: ONE HUNDRED DOLLARS (\$100) per day for first to fifteenth day of delay, FIVE HUNDRED DOLLARS (\$500) per day for sixteenth to thirtieth day of delay, and ONE THOUSAND DOLLARS (\$1,000) per day for each day of delay thereafter.

74. All penalties owed to EPA under this Section shall be due within thirty (30) days of receipt of a notification of noncompliance. Such notification shall describe the noncompliance and shall indicate the amount of penalties due. Interest at the current rate published by the United States Treasury, as described at 40 C.F.R. §13.11, shall begin to accrue on the unpaid balance at the end of the thirty-day period.
75. All penalties shall be made payable by certified or cashier's check to "Treasurer of the United States" and shall be remitted as described in Paragraph 71.
76. The payment of stipulated penalties shall not alter in any way Respondent's obligation to complete the performance required hereunder.
77. The stipulated penalties set forth in this Section do not preclude EPA from pursuing any other remedies or sanctions which may be available to EPA by reason of Respondent's failure to comply with any of the requirements of this CA/FO.

I. COMPLIANCE

78. By signing this consent agreement, Respondent certifies under penalty of law to EPA that the Respondent has, to the best of its knowledge and belief, fully complied with RCRA Hazardous Waste Management requirements, 42 U.S.C. §§ 6921-6939e, and the federally

authorized California hazardous waste management program, including the requirements that formed the basis for the violations alleged in this CA/FO. 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.

79. At the time of the payment required above in Paragraph 64, Respondent will certify to EPA that to the best of its knowledge and belief it is in compliance with RCRA Hazardous Waste Management requirements, 42 U.S.C. §§ 6921-6939e, and the federally authorized California hazardous waste management program, which formed the basis for the violations alleged in this CA/FO. The certification may be submitted in the form of a letter to Clint Seiter at the address set out above in Paragraph 71.

J. RESERVATION OF RIGHTS

80. EPA hereby reserves all of 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, including without limitation, the assessment of penalties under Section 3008(c) of RCRA, 42 U.S.C. § 6928(c). 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 (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.
81. 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.
82. 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.
83. 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.

K. OTHER CLAIMS

84. 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.

L. MISCELLANEOUS

- 85. This CA/FO may be amended or modified only by written agreement executed by both EPA and Respondent.
- 86. The headings in this CA/FO are for convenience of reference only and shall not affect interpretation of this CA/FO.
- 87. The Effective Date of this CA/FO is the date the Final Order, signed by the Regional Judicial Officer, is filed by the Regional Hearing Clerk.

IT IS SO AGREED.

4/13/11  
Date

5/6/11  
Date

Mike Murray  
Accutech Photo Machining, Inc.

Jeff Scott  
Jeff Scott, Director  
Waste Management Division  
U.S. Environmental Protection Agency, Region 9

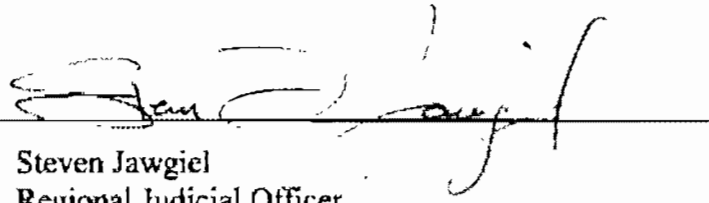
FINAL ORDER

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-9-2011-~~0009~~ ) be entered and that the Accutech Photo Machining, Inc. shall pay a civil penalty of ONE THOUSAND DOLLARS (\$1000) due in accordance within thirty (30) days from the effective date of this Consent Agreement and Final Order. Payment must be made pursuant to Section G of the Consent Agreement.

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

05/13/11

Date



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



CERTIFICATE OF SERVICE

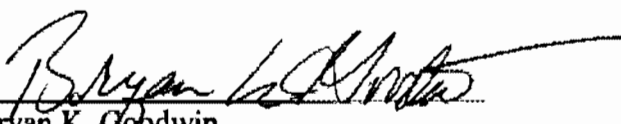
I certify that the original of the fully executed Consent Agreement and Final Order (Docket No. RCRA-09-2011-0009) against the Alco Iron and Metal Company, was filed with the Regional Hearing Clerk, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, and that a true and correct copy of the same was sent to the following parties:

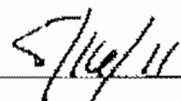
**CERTIFIED MAIL NUMBER:** 7007-2560-0001-7660-8119

Mr. Mike Murray  
President  
Accutech Photo Machining, Inc.  
1724 First Street  
San Fernando, CA 91340-2711

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

Mr. Michael Hingerty  
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

  
Date