

NANCY J. MARVEL  
Regional Counsel  
Samuel L. Brown  
Assistant Regional Counsel  
U.S. Environmental Protection Agency, Region 9  
75 Hawthorne Street  
San Francisco, CA 94105

**FILED**

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U.S. EPA, REGION IX  
REGIONAL HEARING CLERK

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 9**

IN THE MATTER OF:	)	Docket No. CWA-09-2012-0003
	)	
	)	
<b>AAA Plating &amp; Inspection, Inc.</b>	)	<b>CONSENT AGREEMENT AND</b>
<b>Compton, California</b>	)	<b>FINAL ORDER PURSUANT TO</b>
	)	<b>40 C.F.R. §§ 22.13 AND 22.18</b>
	)	
Respondent	)	Proceeding for Class II Civil Administrative
	)	Penalty under § 309(g) of the Clean Water Act

**I. CONSENT AGREEMENT**

The United States Environmental Protection Agency ("EPA") Region 9 and AAA Plating & Inspection, Inc. ("Respondent") agree to settle this matter and consent to the entry of this Consent Agreement and Final Order ("CAFO").

**A. AUTHORITY AND PARTIES**

1. This is a Class II civil administrative penalty proceeding under Section 309(g)(2)(B) of the Clean Water Act ("CWA"), 33 U.S.C. § 1319(g)(2)(B), and 40 C.F.R. Part 22 ("Consolidated Rules of the Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits") for the assessment of a penalty against Respondent for violations of CWA Section 307(d), 33 U.S.C. § 1317(d).

2. Complainant is the Director of the Water Division, EPA Region 9, who brings this action pursuant to authority delegated by the Administrator of EPA and the Regional Administrator of EPA Region 9.
3. Respondent is a corporation that owns and operates the facility at issue, which provides metal finishing and other services, such as inspection, testing, and painting, to the aerospace industry, and is subject to CWA Section 307(d).
4. This CAFO, which contains the elements of a complaint required by 40 C.F.R. § 22.14(a), simultaneously commences and concludes this penalty proceeding, as authorized by 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) .

#### B. STATUTORY AND REGULATORY BASIS

5. CWA Section 307, 33 U.S.C. § 1317, establishes the federal pretreatment program for regulating the introduction of wastewater from non-domestic sources into a publicly owned treatment works ("POTW").
6. CWA Section 307(d), 33 U.S.C. § 1317(d), prohibits any owner or operator of any source from introducing pollutants into POTWs in violation of any effluent standard or prohibition or pretreatment standard promulgated under Section 307 of the CWA.
7. "Person" includes any corporation under CWA Section 502(5), 33 U.S.C. § 1362(5).
8. "Pollutant" includes, but is not limited to, "chemical wastes" and "industrial waste" under CWA Section 502(6), 33 U.S.C. § 1362(6).
9. Pursuant to CWA Section 307(b), EPA promulgated "General Pretreatment Regulations for Existing and New Sources of Pollution" at 40 C.F.R. Part 403.
10. Under 40 C.F.R. § 403.3(l), the term "pretreatment standard" means any regulation

containing pollutant discharge limits promulgated by EPA in accordance with Section 307(b) and (c) of the CWA, 33 U.S.C. § 1317(b) and (c).

11. Under 40 C.F.R. § 403.3(j), the term "industrial user" means a source of "indirect discharge," which is in turn defined by 40 C.F.R. § 403.3(i) as the introduction of pollutants into a POTW from any non-domestic source regulated under Section 307(b), (c) or (d) of the CWA, 33 U.S.C. § 1317(b), (c) or (d).
12. The General Pretreatment Regulations at 40 C.F.R. § 403.6 include national standards specifying quantities or concentrations of pollutants that may be discharged to a POTW by existing or new industrial users in specific industrial subcategories. The categorical pretreatment standards for job-shop electroplating require existing job-shop metal finishers that perform common metals electroplating, anodizing, chemical coating, or chemical etching, and discharge less than 10,000 gallons per day to comply with the standards for cadmium, lead, amenable cyanide, and total toxic organics. 40 C.F.R. §§ 413.14, 413.44, 413.54, and 413.64.
13. The national pretreatment standards in 40 C.F.R. § 403.12(e) and (g) for industrial dischargers into POTWs require categorical industrial users to submit, at least twice per year, periodic reports of sampling that is representative of the discharge to the sewers and indicate both the concentration of the discharge for all federally-regulated parameters and the flow rate of the discharge.
14. The federal categorical pretreatment standards in 40 C.F.R. Part 413 for existing source job-shop electroplating operations discharging less than 10,000 gpd and 40 C.F.R. Part

433 for new source metal finishing operations apply to process-related wastewater discharges from Respondent.

### **C. FACTUAL BACKGROUND**

15. Respondent is a corporation and, therefore, a person within the meaning of Section 502(5) of the CWA, 33 U.S.C. § 1362(5). Respondent is a non-domestic wastewater source that introduces pollutants within the meaning of Section 502(6) of the CWA, 33 U.S.C. § 1362(6), into the Sanitation Districts of Los Angeles County ("LACSD") domestic sewer system and the Joint Water Pollution Control Plant, which is a POTW within the meaning of Section 307(b) of the CWA and the pretreatment regulation in 40 C.F.R. § 403.3(q). Respondent is also an "Industrial User" or "IU" as that term is defined at 40 C.F.R. 403.3(j). Therefore, Respondent is subject to the provisions of the CWA Section 307, 33 U.S.C. § 1317, and the Pretreatment Standards as that term is defined above.
16. On March 30, 2010, inspectors representing EPA Region 9, LACSD and the California Regional Water Resources Control Board conducted an Industrial User inspection of Respondent's facility at 424 East Dixon Street, Compton, California 90222. Based, in part, on that inspection, EPA Region 9 made the following findings:
  - a. Respondent owns and operates a job-shop metal finishing facility that generates process wastewater from degreasing, cleaning, dyeing, and testing of parts for the aerospace industry, as well as the rinses of plating, coating, and anodizing operations.
  - b. Respondent discharges its process-related wastewaters into the domestic sewers feeding into the LACSD's Joint Water Pollution Control Plant for discharge into the

Pacific Ocean. The discharges of process-related wastewater into the sewers are monitored at a sample box located outside the east side of the Respondent's Plating Building. This compliance sample point is referred to as compliance sample point 001124A, as labeled in Respondent's Industrial Wastewater Discharge Permit.

c. Respondent moved its cadmium process line to a different location at the facility in late 2007. As a result, the discharges from that process line became subject to the federal categorical pretreatment standards at 40 C.F.R. Part 433. Respondent made other changes to its process lines in the third quarter of 2009, including the removal and re-installation of the chromic acid and sulfuric acid anodize lines. As a result, the discharges from those process lines also became subject to the federal categorical pretreatment standards at 40 C.F.R. Part 433.

#### D. ALLEGED VIOLATIONS

17. The following are the CWA violations alleged by EPA:

a. Numeric Effluent Limitation Violations: based on Respondent's monitoring data for composite samples taken at the facility's compliance point for the period of November 2007 through September 2011, Respondent violated Section 307(d) of the CWA, 33 U.S.C. § 1317(d), forty- nine (49) times by failing to meet federal categorical pretreatment standards. The numeric effluent limitation violations are summarized below:

Month of Sample(s)	Date of Sample (if daily limit violated)	Pollutant	Type of Limit Violated	Measured Value	Pollutant Limit (based on 40 C.F.R. Parts 413/433)
		(A) = amenable	D=daily; M=monthly average	mg/l	mg/l
May-08	5/19/08	Chromium	D	4.42	2.58
		Chromium	M	4.42	1.59
Aug-08	8/14/08	Cadmium	D	1.9	1.06
		Cadmium	M	1.9	0.44
	8/14/08	Nickel	D	2.9	2.22
Jan-09	1/15/09	Cyanide(A)	D	5.8	4.66
		Cyanide(A)	M	5.8	1.40
		Cadmium	M	0.977	0.44
	1/15/09	Chromium	D	6.79	2.58
		Chromium	M	6.79	1.59
		Nickel	M	3.15	2.22
Jul-09	7/29/09	Chromium	D	40.5	2.58
		Chromium	M	40.5	1.59
Dec-09	12/14/09	Chromium	D	5.0	2.58
			M	5.0	1.59
		Cadmium	M	0.10	0.08
Jan-10	1/21/10	Cadmium	D	0.752	0.13
		Cadmium	M	0.752	0.08
		Chromium	M	1.69	1.59
Mar-10	3/31/10	Cadmium	D	0.440	0.13
		Cadmium	M	0.440	0.08
May-10	5/17/10	Cadmium	D	0.680	0.13
		Cadmium	M	0.680	0.08
	5/17/10	Chromium	D	3.10	2.58
		Chromium	M	3.10	1.59
Jul-10	7/19/10	Cadmium	D	0.30	0.13
		Cadmium	M	0.30	0.08
Oct-10	10/14/10	Cadmium	D	0.84	0.13
		Cadmium	M	0.84	0.08
		Chromium	M	1.7	1.59
Nov-10		Cadmium	M	0.13	0.08
Dec-10	12/22/10	Cadmium	D	0.44	0.13
		Cadmium	M	0.44	0.08
Jan-11	1/13/11	Cadmium	D	0.40	0.13
		Cadmium	M	0.40	0.08

Month of Sample(s)	Date of Sample (if daily limit violated)	Pollutant	Type of Limit Violated	Measured Value	Pollutant Limit (based on 40 C.F.R. Parts 413/433)
		(A) = amenable	D=daily; M=monthly average	mg/l	mg/l
		Cyanide(A)	M	4.20	1.40
	1/13/11	Chromium	D	4.90	3.70
		Chromium	M	4.90	2.22
Feb-11	2/10/11	Cadmium	D	0.30	0.13
		Cadmium	M	0.30	0.08
Mar-11	3/24/11	Cadmium	D	0.32	0.13
		Cadmium	M	0.32	0.08
May-11		Cadmium	M	0.084	0.08
Jun-11		Cadmium	M	0.11	0.08
Jul-11		Cadmium	M	0.13	0.08
Aug-11	8/15/11	Cadmium	D	0.19	0.13
		Cadmium	M	0.19	0.08
		Chromium	M	2.0	1.59
Sep-11		Cadmium	M	0.083	0.08

b. **Non-Numeric Effluent Limitation Violations:** after Respondent made changes to its facility in 2007 and 2009 it became subject to the requirements in 40 C.F.R. Part 433.

- i. Respondent was required by 40 CFR § 403.12(b) to submit a baseline monitoring report to LACSD, once a process line became subject to 40 C.F.R. Part 433. Respondent failed to submit a baseline monitoring report to LACSD both in 2007 and 2009.
- ii. Respondent was required by 40 CFR § 433.12(c) to conduct monitoring for cyanide after cyanide treatment and before dilution with other streams, unless the cyanide effluent limitations are adjusted based on the dilution ratio. Since LACSD had not adjusted the cyanide effluent limitations in

Respondent's Industrial Waste Discharge Permit for dilution and Respondent did not have a cyanide sampling point in accordance with 40 CFR § 433.12(c), Respondent failed to monitor properly for cyanide.

**E. RESPONDENT'S ADMISSIONS AND WAIVERS**

18. In accordance with 40 C.F.R. § 22.18(b)(2) and for the purpose of this proceeding, Respondent: (i) admits that EPA has jurisdiction over the subject matter of this CAFO and over Respondent; (ii) neither admits nor denies the specific factual allegations contained in Sections I.C and I.D. above; (iii) consents to any and all conditions specified in this CAFO and to the assessment of the civil administrative penalty under Section I.F. below; (iv) waives any right to contest the allegations contained in this CAFO; and (v) waives the right to appeal the Final Order contained in Section II of this CAFO.

**F. CIVIL ADMINISTRATIVE PENALTY**

19. In settlement of the CWA violations specifically alleged in Section I.D. above, Respondent shall pay to the United States a civil administrative penalty in the amount of SEVENTY FOUR THOUSAND DOLLARS (\$74,000.00). Respondent shall pay this penalty within thirty (30) calendar days of the effective date of this CAFO. The date by which payment must be received by the United States shall be the "due date" for the payment. Respondent shall make payment by cashier's or certified check payable to the "Treasurer, United States of America," and shall send the check to the following address:



U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. 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

Respondent shall accompany its payment with a transmittal letter identifying the case name, the case docket number, and this CAFO. Concurrent with delivery of the payment of the penalty, Respondent shall send a copy of the check and transmittal letter to the following addresses:

Bryan K. Goodwin, Regional Hearing Clerk (ORC-1)  
U.S. Environmental Protection Agency Region 9  
75 Hawthorne Street  
San Francisco, CA 94105

and

Samuel L. Brown, Office of the Regional Counsel (ORC-2)  
U.S. Environmental Protection Agency Region 9  
75 Hawthorne Street  
San Francisco, CA 94105

20. Respondent shall not use payment of any penalty under this CAFO as a tax deduction from Respondent's federal, state, or local taxes, nor shall Respondent allow any other person to use such payment as a tax deduction.
21. If the penalty identified above is overdue, interest shall accrue on any overdue amount from the first date after the due date through the date of payment, at the interest rate

established by the Secretary of the Treasury under 31 U.S.C. § 3717. In addition, a late payment handling charge of fifteen dollars (\$15.00) will be assessed for each 30-day period (or any portion thereof) following the due date in which the balance remains unpaid. Payment of any interest and late handling charges shall be made in accordance with paragraph 19 above.

22. Pursuant to CWA Section 309(g)(9), 33 U.S.C. § 1319(g)(9), if Respondent fails to pay the assessed penalty on time, EPA Region 9 may request the U.S. Department of Justice to bring a civil action to recover the overdue amount, plus interest at currently prevailing rates from the date of the final order. In such an action, the validity, amount, and appropriateness of the assessed penalty shall not be subject to review. In addition to any assessed penalty and interest, Respondent shall pay attorney fees, costs for collection proceedings, and a quarterly nonpayment penalty, which shall equal 20% of the aggregate amount of Respondent's penalties and nonpayment penalties that are unpaid as of the beginning of such quarter, for each quarter during which such failure to pay persists. EPA Region 9 may also take other debt collection actions as authorized by law, such as the Federal Debt Collection Act, 33 U.S.C. § 3711, and 33 C.F.R. Part 13.

#### G. RETENTION OF RIGHTS

23. In accordance with 40 C.F.R. § 22.18(c), this CAFO only resolves Respondent's liabilities for federal civil penalties for the violations and facts specifically alleged in Sections I.C. and I.D. of this CAFO.
24. This CAFO is not a permit or a modification of any permit. This CAFO shall not exempt, relieve, modify, or affect in any way Respondent's duties to comply with all

applicable federal, state, and local laws, regulations, rules, ordinances, and permits, including but not limited to any CWA requirements, permits or orders.

#### **H. ATTORNEYS' FEES AND COSTS**

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

#### **I. EFFECTIVE AND TERMINATION DATES**

26. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CAFO shall be effective on the date that the Final Order, having been signed by the Regional Judicial Officer, is filed with the Regional Hearing Clerk, and shall terminate when Respondent has complied with this CAFO in full.

#### **J. BINDING EFFECT**

27. The undersigned representative of each party certifies that he or she is fully authorized to execute and legally bind that party to this CAFO.
28. This CAFO shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns. Changes in ownership, including but not limited to any transfer of assets of real or personal property, shall not alter Respondent's status or responsibilities under this CAFO.

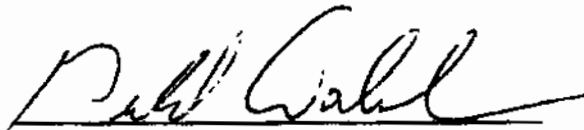
#### **K. PUBLIC NOTICE**

29. EPA Region 9's consent to this Consent Agreement is subject to CWA Section 309(g)(4), 33 U.S.C. § 1319(g)(4), and 40 C.F.R. § 22.45(b), which require public notice of, and a reasonable opportunity for comment on, the Consent Agreement. In the case of

a proceeding proposed to be commenced pursuant to 40 C.F.R. § 22.13(b), such as this one, the comment period shall be “no less than 40 days before the issuance of an order assessing a civil penalty. The notice period begins upon first publication of notice.” 40 C.F.R. § 22.45(b)(1). EPA Region 9 reserves the right to withdraw from or withhold the consent if public comments disclose material information that was not considered by EPA Region 9 in entering into this Consent Agreement. In such case, Respondent’s obligations under this document shall terminate, and EPA Region 9 may pursue any and all enforcement options as provided by law. If no comment is received during the comment period regarding the Consent Agreement, EPA Region 9 shall file the Final Order.

CONSENTING PARTIES:

For AAA Plating & Inspection, Inc.:

BY: 

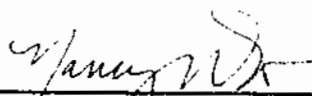
DATE:

GERALD WAHLIN, PRESIDENT, AUG. 24, 2012

*(Print name and title of person with  
authority required by paragraph 27 above)*

424 East Dixon Street  
Compton, California 90222

For the U.S. Environmental Protection Agency Region 9:

BY:   
Nancy Woo, Acting Director  
Water Division  
75 Hawthorne Street  
San Francisco, CA 94105

DATE: 8/27/12

## II. FINAL ORDER

**IT IS HEREBY ORDERED** that this Consent Agreement and Final Order pursuant to 40 C.F.R. § 22.18, U.S. EPA Docket No. CWA-09-2012-0003, be entered and that Respondent, AAA Plating & Inspection, Inc., pay a civil penalty of **\$74,000**. Payment shall be made pursuant to paragraph 19 of the CAFO within thirty (30) days of the Effective Date.

This Final Order shall be effective when the Final Order is filed with the Regional Hearing Clerk

10/19/12  
Date

  
Steven Jawglet -  
Regional Judicial Officer  
U.S. 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 AAA Plating (**Docket #s: CWA-09-2012-0003**) 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:

Brian Ward  
AAA Plating & Inspection, Inc.  
424 Dixon Street  
Compton, CA 90222

**CERTIFIED MAIL NUMBER:** 7010 1060 0002 0242 7761

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

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

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

10/22/12  
Date