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EPA--REGION 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

CASCADE PLATING & MACHINE, INC.
Eugene, Oregon

Respondent

Docket No.: RCRA-10-2014-0102

**CONSENT AGREEMENT AND
FINAL ORDER**

I. STATUTORY AUTHORITY

1.1. This Consent Agreement and Final Order (“CAFO”) is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Section 3008(a) of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6928(a) and (g).

1.2. The Administrator has delegated the authority to issue the Final Order contained in Part V of this CAFO to the Regional Administrator of EPA Region 10, who has re-delegated this authority to the Regional Judicial Officer in EPA Region 10.

1.3. Pursuant to Section 3006(b) of RCRA, U.S.C. § 6926(b), EPA granted the State of Oregon final authorization to administer and enforce a hazardous waste program and to carry out such program in lieu of the federal program.

1.4. Pursuant to Sections 3008(a) and (g) and 3006(g) of RCRA, 42 U.S.C. §§ 6928(a) and (g) and 6926(g), EPA may enforce the federally-approved Oregon State Hazardous Waste program.

1.5. Notification of this action has been given to the Oregon State Department of Environmental Quality (“ODEQ”) pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), but ODEQ is not a party to this CAFO.

1.6. Pursuant to Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g), and in accordance with the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties,” 40 C.F.R. Part 22, EPA issues, and Cascade Plating & Machine, Inc. (“Respondent”) agrees to the issuance of, the Final Order contained in Section V of this CAFO.

II. PRELIMINARY STATEMENT

2.1. In accordance with 40 C.F.R. §§ 22.13 and 22.18(b), issuance of this CAFO commences this proceeding, which will conclude when the Final Order contained in Part V of this CAFO becomes effective.

2.2. The Director of the Office of Compliance and Enforcement, EPA Region 10 (“Complainant”) has been delegated the authority pursuant to Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g), to sign consent agreements between EPA and the party against whom an administrative penalty is proposed to be assessed.

2.3. Part III of this CAFO contains a concise statement of the factual and legal basis for the alleged violations of RCRA together with the specific provisions of RCRA and the implementing regulations and permit requirements that Respondent is alleged to have violated.

III. ALLEGATIONS

3.1. Respondent is a corporation doing business in the State of Oregon as Cascade Plating & Machine, Inc.

3.2. Respondent is a "person" as that term is defined by Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and 40 C.F.R. § 260.10 and Oregon Administrative Rules (OAR) 340-012-0030(16).

3.3. At all times relevant to the allegations set forth herein, Respondent is and has been the "owner" and "operator" of the "facility" located at 3790 Cross Street, Eugene, Oregon ("Facility"), as those terms are defined at 40 C.F.R. § 260.10, which is incorporated by reference at OAR 340-100-0002.

3.4. Respondent's Facility manufactures and repairs metal parts. Generally, the process involves removing chrome from an old part and fixing the part by welding, machining, plating, and re-machining the part. The process involved the use of chrome plating solutions which generate chromium-laden wastes.

3.5. Pursuant to 40 C.F.R. § 261.24, which is incorporated by reference at OAR 340-100-0002, chromium is regulated as a hazardous waste.

3.6. At all times relevant to the allegations set forth herein, in its metal parts manufacturing process, Respondent generated and stored chromium hazardous waste.

3.7. On May 8, 2012, authorized representatives of EPA conducted a RCRA compliance inspection ("Inspection") of Respondent's Facility.

Count 1: Storage of Chromium Hazardous Waste Without a Permit or Interim Status

3.8. OAR 340-100-0002 incorporates by reference 40 C.F.R § 270.1(b), which requires that any person who treats, stores, or disposes of hazardous waste must have a permit. OAR 340-102-0034 incorporates by reference 40 C.F.R. § 262.34(a), which provides that, subject to certain conditions, a generator may accumulate hazardous waste on-site in a tank or container without a permit for 90 days or less after the date of generation. Among other conditions, containers of such waste must be labeled or marked with the words "Hazardous Waste," facility personnel must be trained to ensure compliance with the regulations, containers must be kept closed, storage areas must be inspected weekly, and records must be maintained and made available to the regulators.

3.9. At the time of the Inspection, Respondent had been accumulating drips and spill residue from chromium plating baths in a metal tank.

3.10. At the time of the inspection, Respondent had been accumulating waste materials contaminated with chromium plating residue in containers (drums).

3.11. Respondent did not have a permit for storage of the chromium hazardous waste in the tank and could not document that the conditions for storage without a permit had been met.

3.12. Respondent did not have a permit for storage of the chromium plating contaminated waste materials in the drums and could not document that the conditions for storage without a permit had been met.

3.13. Respondent violated OAR 340-100-0002 by storing hazardous waste (chromium and chromium residue) in a tank or in containers without a permit or interim status.

Count 2: Mismanagement of Universal Waste Lamps

3.14. OAR 340-100-0000 and OAR 340-100-0002 incorporate by reference 40 CFR §§ 273.13, 273.14, and 273.15, which require a generator of universal waste lamps to keep containers closed and labeled, and prohibit storage of the universal waste beyond one year.

3.15. At the time of the Inspection, at the Facility, there was a container of waste lamps that was not closed and not labeled and a second container of waste lamps, closed and labeled, that was dated 10/31/2007 (about four years prior to the Inspection).

3.16. Respondent violated the OAR 340-100-0000 and OAR 340-100-0002 management standards for universal waste by not labeling or closing the container of universal waste lamps.

3.17. Respondent violated OAR 340-100-0000 and OAR 340-100-0002 by exceeding the one-year limit for storage of the container of universal waste lamps.

IV. CONSENT AGREEMENT

4.1. Respondent admits the jurisdictional allegations of this CAFO.

4.2. Respondent neither admits nor denies the specific factual allegations contained in this CAFO.

4.3. Respondent agrees that this settlement will be considered prior history of noncompliance for purposes of assessing penalties in any future enforcement actions brought by EPA against Respondent.

4.4. As required by Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), EPA has taken into account the seriousness of the violations and any good faith efforts to comply with applicable requirements.

4.5. EPA has determined and Respondent agrees that an appropriate penalty to settle this action is \$20,400.00.

4.6. Respondent agrees to pay the total civil penalty set forth in Paragraph 4.5 within 30 days of the effective date of the Final Order contained in Part V of this CAFO, and to undertake the actions specified in the Final Order.

4.7. Payment under this CAFO must be made by cashier's check or certified check made payable to the order of "Treasurer, United States of America" and delivered via United States mail to the following address:

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

Respondent must note on the check the title and docket number of this action.

4.8. Respondent must serve photocopies of the check described in Paragraph 4.7 on the Regional Hearing Clerk and EPA Region 10 at the following addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 10, Mail Stop ORC-158
1200 Sixth Avenue, Suite 900
Seattle, WA 98101

Jack Boller, Compliance Officer
U.S. Environmental Protection Agency
Region 10, Mail Stop AWT-122
1200 Sixth Avenue, Suite 900
Seattle, WA 98101

4.9. If Respondent fails to pay the penalty assessed by this CAFO in full by its due date, the entire unpaid balance of penalty and accrued interest shall become immediately due and owing. Such a failure may also subject Respondent to a civil action to collect the assessed penalty under Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g), together with interest, fees, costs, and additional penalties described below. In any collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

4.10. If Respondent fails to pay any portion of the penalty assessed by this CAFO in full by its due date, Respondent shall also be responsible for payment of the following amounts:

4.10.1. Interest. Any unpaid portion of the assessed penalty shall bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1) from the effective date of the Final Order contained herein, provided, however, that no interest shall be payable on any portion of the assessed penalty that is paid within 30 days of the effective date of the Final Order contained herein.

4.10.2. Handling Charge. Pursuant to 31 U.S.C. § 3717(e)(1), a monthly handling charge of \$15 shall be paid if any portion of the assessed penalty is more than 30 days past due.

4.10.3. Nonpayment Penalty. Pursuant to 31 U.S.C. § 3717(e)(2), a nonpayment penalty of 6% per annum shall be paid on any portion of the assessed penalty that is more than 90 days past due, which nonpayment shall be calculated as of the date the underlying penalty first becomes past due.

4.11. The penalty described in Paragraph 4.5, including any additional costs incurred under Paragraph 4.10 above, represents an administrative civil penalty assessed by EPA and shall not be deductible for purposes of federal taxes.

4.12. The undersigned representative of Respondent certifies that he or she is authorized to enter into the terms and conditions of this CAFO and to bind Respondent to this document.

4.13. The undersigned representative of Respondent also certifies that, as of the date of Respondent's signature on this CAFO, Respondent has corrected the violations alleged in Part III above.

4.14. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state, or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.

4.15. Each party shall bear its own costs and attorneys' fees in bringing or defending this action.

4.16. Respondent expressly waives any right to contest the allegations and waives any right to appeal the Final Order set forth in Part V.

4.17. The provisions of this CAFO shall bind Respondent and its agents, servants, employees, successors, and assigns.

4.18. The above provisions are STIPULATED AND AGREED upon by Respondent and EPA Region 10.

DATED:

5-1-14


FOR RESPONDENT


SCOTT MORSETH, General Manager
CASCADE PLATING & MACHINE, INC.

DATED:

5/9/2014

FOR COMPLAINANT


EDWARD J. KOWALSKI, Director
Office of Compliance and Enforcement
U.S. EPA REGION 10

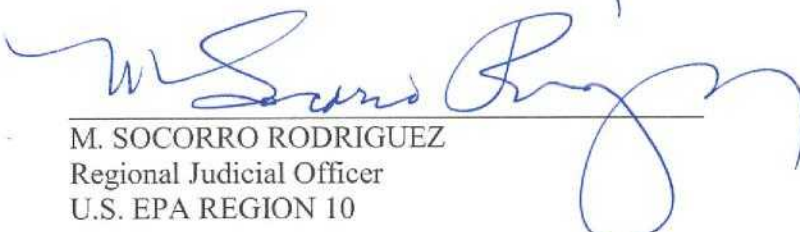
V. FINAL ORDER

5.1. The terms of the foregoing Parts I-IV are ratified and incorporated by reference into this Final Order. Respondent is ordered to comply with the terms of settlement.

5.2. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to RCRA for the particular violations alleged in Part III. In accordance with 40 C.F.R. § 22.31(a), nothing in this CAFO shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This CAFO does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of RCRA, and regulations promulgated or permits issued thereunder.

5.3. This Final Order shall become effective upon filing.

SO ORDERED this 13th day of May 2014


M. SOCORRO RODRIGUEZ
Regional Judicial Officer
U.S. EPA REGION 10

Certificate of Service

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER** in: **In the Matter of: CASCADE PLATING & MACHINE, INC., DOCKET NO. RCRA-10-2014-0102**, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:

The undersigned certifies that a true and correct copy of the document was delivered to:

Joan C. Shirley, Assistant Regional Counsel
U.S. EPA REGION 10, M/S: ORC-158
1200 Sixth Avenue, Suite 900
Seattle, WA 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt to:

William H. Sherlock, Attorney
HUTCHINSON COX COONS ORR & SHERLOCK P.C.
P. O. Box 10886
Eugene, Oregon 97440

DATED this 14th day of May, 2014


Signature

Candace H. Smith
Regional Hearing Clerk
EPA Region 10