

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX

U.S. EPA, REGION IX
REGIONAL HEARING CLERK

In the matter of:)	U.S. EPA Docket No.:
)	RCRA-09-2008- 0004
ADMIRAL TRANSPORTATION)	CONSENT AGREEMENT
)	AND
)	FINAL ORDER
EPA Identification No.)	PURSUANT TO
CAD982011199)	40 C.F.R. SECTIONS 22.13
)	AND 22.18
)	
)	
Respondent.)	
)	

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, as revised by 64 Fed. Reg. 141 (July 23, 1999). Complainant is the United States Environmental Protection Agency, Region IX ("EPA"). Respondent is Admiral Transportation ("Admiral" or "Respondent").
2. Admiral specializes in the transportation and warehousing of general commodities (including hazardous materials). Admiral's facility (the "Facility") is located at 300 N. Baldwin Park Boulevard, City of Industry, CA 91746. In the course of operations at the Facility, Admiral generates and stores hazardous wastes in connection with its transportation and warehousing activities. The Facility's EPA ID number is CAD982011199.
3. This Consent Agreement and Final Order ("CAFO"), pursuant to 40 C.F.R. § 22.13(b), simultaneously commences and concludes this proceeding, wherein EPA alleges that Admiral failed to comply with the following requirements of Title 22 of the California Code of Regulations ("22 C.C.R."):

- a. 22 C.C.R. § 66270.1¹ (*see also* 40 C.F.R. § 270.1) (storage of hazardous waste without a permit);
- b. 22 C.C.R. § 66265.173(a) (*see also* 40 C.F.R. § 265.173(a)) (failure to close containers of hazardous waste);
- c. 22 C.C.R. § 66262.41(b)² (*see also* 40 C.F.R. § 262.41(a)) (failure to submit biennial reports)
- d. 22 C.C.R. § 66265.31 (*see also* 40 C.F.R. § 265.31) (failure to maintain the facility in such a manner as to minimize the possibility of a release);
- e. 22 C.C.R. § 66262.11³ (*see also* 40 C.F.R. § 262.11) (failure to make a hazardous waste determination);
- f. 22 C.C.R. § 66265.174 (*see also* 40 C.F.R. § 265.174) (failure to perform weekly inspections of hazardous waste storage areas);
- g. 22 C.C.R. § 66265.16 (*see also* 40 C.F.R. § 265.16) (failure to comply with hazardous waste training requirements); and,
- h. 22 C.C.R. § 66262.12(c) (*see also* 40 C.F.R. § 262.12) and § 66262.20⁴ (*see also* 40 C.F.R. § 262.20) (provision of hazardous waste to a disposal facility without an Identification Number and failure to prepare a manifest when disposing of hazardous waste).

These are each violations of Section 3001 *et seq.* of RCRA, 42 U.S.C. § 6921 *et seq.* and state regulations adopted pursuant to the approved California hazardous waste management program. In addition, EPA alleges that Admiral failed to comply with Section 3007(a) of RCRA, which requires a generator of hazardous wastes to respond to an EPA request for information about such wastes.

B. JURISDICTION

¹ Revisions to the authorized version of 22 C.C.R. § 66270.1 do not affect the alleged violations set forth herein.

² 22 C.C.R. § 66262.41(b) was formerly, in the authorized version of the California program, 22 C.C.R. § 66262.41(a). Revisions to the authorized version of this provision do not affect the alleged violations set forth herein.

³ Revisions to the authorized version of 22 C.C.R. § 66262.11 do not affect the alleged violations set forth herein.

⁴ Revisions to the authorized version of 22 C.C.R. § 66262.20 do not affect the alleged violations set forth herein.

4. 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 Section 3006 of RCRA, 42 U.S.C. § 6926, and 40 C.F.R. Part 271. This authorization was updated on September 26, 2001 (*see* 66 Fed. Reg. 49118, September 26, 2001). 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 (“H&SC”), 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 CAFO.
5. Respondent is a “person” as defined in 22 C.C.R. § 66260.10⁵ (*see also* 40 C.F.R. § 260.10).
6. Respondent is the “operator” of a facility as defined in 22 C.C.R. § 66260.10 (*see also* 40 C.F.R. § 260.10).
7. Respondent is the “owner” of a facility as defined in 22 C.C.R. § 66260.10 (*see also* 40 C.F.R. § 260.10).
8. Respondent is a “generator” of hazardous waste as defined in 22 C.C.R. § 66260.10 (*see also* 40 C.F.R. § 260.10).
9. Respondent generates and stores materials that are “wastes” as defined in 22 C.C.R. §§ 66260.10 and 66261.2⁶ (*see also* 40 C.F.R. §§ 260.10 and 261.2).
10. At the Facility, Respondent generates hazardous waste as defined by California H&SC Section 25117, 22 C.C.R. §§ 66260.10 and 66261.3⁷ (*see also* Section 1004(5) of RCRA, 42 U.S.C. § 6903(5); 40 C.F.R. §§ 260.10 and 261.3).⁸ This hazardous waste includes, but is not limited to, flammable solvents (D001), epoxy

⁵ Revisions made to the authorized version of 22 C.C.R. § 66260.10 do not affect the alleged violations set forth herein.

⁶ Revisions made to the authorized version of 22 C.C.R. § 66261.2 do not affect the alleged violations set forth herein.

⁷ Revisions to the authorized versions of H&SC § 25117 and 22 C.C.R. § 66261.3 do not affect the alleged violations set forth herein.

⁸ The definition of “hazardous waste” contained in the California statute and regulations is broader in scope than the definition contained in RCRA and the federal regulations. Those hazardous wastes regulated under California law, but not regulated under federal law, are known as “California wastes” and the portions of the California statute and regulations governing California wastes were not included in the provisions authorized under RCRA. Thus, EPA enforces California’s authorized program but does not enforce those aspects of the California program relating solely to California wastes.

curing agents (D002), strontium chromate (D007), phenolic resin (U188), lead (D008), mercury (D009), Alkllen 77 (D002), phthlo blue (D001), resin solutions (D001), and corrosive materials (D002).

11. On April 14, 2006, EPA conducted a RCRA compliance evaluation inspection ("CEI") at the Facility. Based upon the findings made during the CEI, and additional information obtained subsequent to the CEI, 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.
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 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, 42 U.S.C. § 6928, to the EPA Regional Administrator for Region IX, who has redelegateed this authority to the Director of the Waste Management Division.

C. ALLEGED VIOLATIONS

COUNT I

Storage of Hazardous Waste without a Permit or Interim Status

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. § 66262.34⁹ (*see also* 40 C.F.R. § 262.34) allows generators of hazardous waste to accumulate hazardous waste on-site for certain specified time periods without a permit or interim status as long as they comply with specified waste management practices, including the labeling of hazardous waste containers. Generators who do not comply with the waste management

⁹ Revisions to the authorized version of 22 C.C.R. § 66262.34 do not affect the alleged violations set forth herein.

requirements must either be eligible for interim status or obtain a permit in order to store hazardous waste at the facility pursuant to 22 C.C.R. § 66270.1 (*see also* 40 C.F.R. § 270.1).

18. In order to be eligible to accumulate hazardous waste without a permit or interim status for less than 90 days, generators of hazardous waste must, among other requirements,:
 - a. mark containers of hazardous waste with the date they start accumulating hazardous waste in each container, pursuant to 22 C.C.R. § 66262.34(f)(1) (*see also* 40 C.F.R. § 262.34(a)(2)), and
 - b. mark each container of hazardous waste clearly with the words "Hazardous Waste," with information about the composition and physical state of the wastes, with statements that call attention to the particular hazardous properties of the wastes, and with the name and address of the person producing the wastes, pursuant to 22 C.C.R. § 66262.34(f)(3) (*see also* 40 C.F.R. § 262.34).
19. At the time of the CEI, Respondent accumulated numerous containers of hazardous waste without marking the start date of accumulation of the hazardous waste, the words "Hazardous Waste," information about the composition and physical state of the wastes, statements about the particular hazardous properties of the wastes, or the name and address of the person producing the wastes. Respondent thus failed to comply with at least two of the conditions for being able to accumulate hazardous waste for less than 90 days without a permit or interim status.
20. At the time of the CEI, Respondent was not eligible for interim status under RCRA, nor was Respondent in possession of a permit to store and dispose of hazardous waste.
21. Therefore, EPA alleges that Admiral has violated 22 C.C.R. § 66270.1 (*see also* 40 C.F.R. § 270.1), and RCRA.

COUNT II

Failure to Close Containers of Hazardous Waste

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. § 66265.173(a) (*see also* 40 C.F.R. § 265.173(a)) requires generators of hazardous waste who store such waste on-site to ensure that the waste is placed in closed containers, except when adding or removing waste.

24. At the time of the CEI, two containers of hazardous waste stored at the Facility were not closed. Admiral was not adding or removing wastes from the containers at this time.
25. Therefore, EPA alleges that Admiral has violated 22 C.C.R. § 265.173(a) (*see also* 40 C.F.R. § 265.173(a)), and RCRA.

COUNT III

Failure to Submit a Biennial Report

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. § 66262.41(b),¹⁰ (*see also* 40 C.F.R. § 262.41(a)), requires large quantity generators who ship hazardous waste off-site to a treatment, storage or disposal facility to prepare and submit a Biennial Report by March 1 of each even-numbered year. The Report must cover generator activities during the previous calendar year.
28. Respondent shipped hazardous waste off-site for treatment, storage or disposal during at least part of the calendar years 2003 and 2005. The amounts of hazardous waste generated by Respondent during the calendar years 2003 and 2005 exceeded the 1000 kilograms of hazardous waste per month threshold for small quantity generators and Respondent was thus required to comply with the Biennial Report requirements.
29. Respondent did not file a Biennial Report for waste it generated and shipped off-site for disposal in 2003 or 2005.
30. Therefore, EPA alleges that the Respondent has violated 22 C.C.R. § 66262.41(b) (*see also* 40 C.F.R. § 262.41(a)) and RCRA.

COUNT IV

Failure to Maintain the Facility in Such a Manner as to Prevent Releases

31. Paragraphs 1 through 30 above are incorporated herein by this reference as if they were set forth here in their entirety.
32. Pursuant to 22 C.C.R. § 66265.31, hazardous waste generators who store hazardous waste must operate the facility in such a manner so as to minimize the possibility of a release of hazardous waste from or at the facility.

¹⁰ Revisions to the authorized version of 22 C.C.R. § 66262.41(b) do not affect the alleged violations set forth herein.

33. At the time of the CEI, there were leaking containers and spills of hazardous waste in multiple parts of the Facility, including buildings 2 and 3.
34. Therefore, EPA alleges that Admiral violated 22 C.C.R. § 66265.31 (*see also* 40 C.F.R. § 265.31), and RCRA.

COUNT V

Failure to Make a Waste Determination

35. Paragraphs 1 through 34 above are incorporated herein by this reference as if they were set forth here in their entirety.
36. 22 C.C.R. § 66262.11¹¹ (*see also* 40 C.F.R. § 262.11) requires a person who generates a waste to determine if the waste is a hazardous waste using certain specified methods for conducting such a determination.
37. At the time of the CEI, Admiral was keeping abandoned, flammable materials in its storage areas in containers that lacked waste identification numbers, and Admiral had not determined the hazardous nature of these wastes.
38. Admiral disposed of spent metal halide lamps as non-hazardous waste, without having determined the hazardous nature of these wastes.
39. Both the abandoned, flammable materials in the Facility's storage areas (waste code D001) and the spent metal halide lamps (waste code D008/D009) are hazardous wastes as defined by California H&SC Section 25117, 22 C.C.R. §§ 66260.10 and 66261.3 (*see also* Section 1004(5) of RCRA, 42 U.S.C. § 6903(5); 40 C.F.R. §§ 260.10 and 261.3).
40. Therefore, EPA alleges that Admiral has violated 22 C.C.R. § 66262.11 (*see also* 40 C.F.R. § 262.11), and RCRA.

COUNT VI

Failure to Perform Weekly Inspections

41. Paragraphs 1 through 40 above are incorporated herein by this reference as if they were set forth here in their entirety.
42. Pursuant to 22 C.C.R. § 66265.174, hazardous waste generators who store hazardous waste must conduct weekly inspections of their facility's hazardous waste storage areas (*see also* 40 C.F.R. § 265.174).

¹¹ Revisions to the authorized version of 22 C.C.R. § 66262.11 do not affect the alleged violations set forth herein.

43. At the time of the CEI, no weekly inspections were being conducted at any of the Facility's hazardous waste storage areas.
44. Therefore, EPA alleges that Admiral violated 22 C.C.R. § 66265.174 (*see also* 40 C.F.R. § 265.174), and RCRA.

COUNT VII

Failure to Comply With Hazardous Waste Training Requirements

45. Paragraphs 1 through 44 above are incorporated herein by this reference as if they were set forth here in their entirety.
46. Pursuant to 22 C.C.R. § 66265.16, hazardous waste generators who store hazardous waste must properly train employees who handle hazardous waste and provide annual refresher training to the facility's personnel in charge of hazardous waste (*see also* 40 C.F.R. § 265.16).
47. At the time of the CEI, no training records had been maintained for any employees at the Facility and no annual refresher training had been provided to the Facility's representative in charge of hazardous waste.
48. Therefore, EPA alleges that Admiral violated 22 C.C.R. § 66265.16 (*see also* 40 C.F.R. § 265.16), and RCRA.

COUNT VIII

Failure to Dispose of Waste Properly

49. Paragraphs 1 through 48 above are incorporated herein by this reference as if they were set forth here in their entirety.
50. Pursuant to 22 C.C.R. § 66262.12 (*see also* 40 C.F.R. § 262.12), generators must not offer hazardous waste to transporters or disposal facilities that have not received an Identification Number.
51. Pursuant to 22 C.C.R. § 66262.20 (*see also* 40 C.F.R. § 262.20), generators must prepare a manifest for any hazardous waste transported or offered for offsite treatment, storage, or disposal.
52. Admiral disposed of spent metal halide lamps by offering these wastes to offsite disposal facilities without an Identification Number.
53. Admiral did not prepare a manifest for spent metal halide lamps before disposing of these wastes offsite.

54. Therefore, EPA alleges that Admiral violated 22 C.C.R. § 66262.12 (*see also* 40 C.F.R. § 262.12), 22 C.C.R. § 66262.20 (*see also* 40 C.F.R. § 262.20), and RCRA.

COUNT IX

Failure to Adequately Respond to a Request for Information

55. Paragraphs 1 through 54 above are incorporated herein by this reference as if they were set forth here in their entirety.
56. Pursuant to Section 3007(a) of RCRA, any person who generates or stores hazardous wastes shall, upon request of any officer or employee of EPA, furnish information relating to such wastes.
57. Admiral did not provide the following information in response to multiple letters that EPA sent to Admiral:
- a. EPA accumulation start dates for the wastes stored in Buildings 2, 3, and 4;
 - b. An inventory of outdated products (with corresponding dates); and,
 - c. EPA waste codes for a number of the hazardous wastes located at the Facility.
58. Therefore, EPA alleges that Admiral violated Section 3007(a) of RCRA.

D. TERMS OF SETTLEMENT

59. Respondent Admiral consents to the assessment of a civil penalty of FIFTEEN THOUSAND DOLLARS (\$15,000.00) in full satisfaction of all claims for civil penalties for the violations alleged in Section C of this CAFO. Respondent Admiral must pay the civil penalty in accordance with the following schedule:

<i>Deadline to Submit Payment</i>	<i>Amount of Payment</i>
No later than SIX MONTHS after the effective date of this CAFO	\$7,500.00
No later than TWELVE MONTHS after the effective date of this CAFO	\$7,500.00

60. The aforesaid settlement amount was based upon EPA's consideration of the statutory factors of the seriousness of Admiral's violations and any good faith efforts by Admiral to comply with all applicable requirements as provided in RCRA Section 3008(a)(3), 42 U.S.C. § 6928(a)(3), and in accordance with the applicable provisions of the "June 2003 RCRA Civil Penalty Policy." 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 69 Fed. Reg. 7121 (Feb. 13, 2004), authorizes a civil penalty of up to TWENTY-SEVEN THOUSAND, FIVE HUNDRED DOLLARS (\$27,500) per day for violations of

Subtitle C of RCRA, 42 U.S.C. § 6921 *et seq.*, occurring on or after January 31, 1997 but before March 16, 2004, and 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.*, occurring after March 15, 2004.

E. ADMISSIONS AND WAIVERS OF RIGHTS

61. Respondent Admiral admits and agrees that the EPA Administrator and Region IX Administrator have jurisdiction and authority over the subject matter of the action commenced in this CAFO and over Admiral pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928, and 40 C.F.R. §§ 22.4 and 22.37. Further, for the purposes of this proceeding, Admiral admits to the jurisdictional allegations of facts and law set forth in Section B of this CAFO. Admiral consents to and agrees not to contest EPA's jurisdiction and authority to enter into and issue this CAFO and to enforce its terms. Further, Admiral will not contest EPA's jurisdiction and authority to compel compliance with this CAFO in any enforcement proceedings, either administrative or judicial, or to impose sanctions for violations of this CAFO.
62. Respondent Admiral neither admits nor denies any allegations of fact or law set forth in Section C of this CAFO. Admiral hereby waives any rights it may have to contest the allegations set forth in this CAFO, waives any rights it may have to a hearing on any issue relating to the factual allegations or legal conclusions set forth in this CAFO, 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 CAFO without adjudication. In addition, Respondent Admiral hereby waives any rights it may have to appeal the Final Order attached to this Consent Agreement and made part of this CAFO.

F. PARTIES BOUND

63. This CAFO shall apply to and be binding upon Respondent Admiral and its agents, successors and assigns and upon all persons acting under or for Respondent Admiral, until such time as the civil penalty required under Section G has been paid. At such time as those matters are concluded, this CAFO shall terminate and constitute full settlement of the violations alleged herein.
64. No change in ownership or any other legal status relating to the Facility will in any way alter Admiral's obligations and responsibilities under this CAFO.
65. Respondent Admiral shall give prior notice of this CAFO to any successor in interest prior to transfer of ownership or operation of the Facility and shall notify EPA within seven (7) days prior to such transfer until the termination of this CAFO.

66. The undersigned representative of Admiral hereby certifies he or she is fully authorized to enter into this CAFO, to execute and to legally bind Respondent Admiral to it.

G. PAYMENT OF CIVIL PENALTY

67. Respondent Admiral consents to the assessment of and agrees to pay a civil penalty of FIFTEEN THOUSAND DOLLARS (\$15,000.00) in full settlement of the federal civil penalty claims set forth in this CAFO.

68. Respondent shall submit payment of the FIFTEEN THOUSAND DOLLARS (\$15,000.00) civil penalty in accordance with the schedule set forth in Section D in accordance with one of the options set forth below:

a. A check sent by regular U.S. Postal Service mail should be made payable to the "Treasurer, United States of America" and addressed to:

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

b. Wire transfers should be directed to the Federal Reserve Bank of New York as follows –

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"

c. A check sent by overnight mail should be payable to the "Treasurer, United States of America" and addressed to:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

Contact: Natalie Pearson, 314-418-4087

d. If using ACH (also known as REX or remittance express):

Automated Clearinghouse (ACH) for receiving US currency
PNC Bank
808 17th Street, NW
Washington, DC 20074
Contact – Jesse White 301-887-6548
ABA = 051036706
Transaction Code 22 – checking
Environmental Protection Agency
Account 310006
CTX Format

e. An On Line Payment Option is available through the Dept. of Treasury.
This payment option can be accessed from the information below:

WWW.PAY.GOV
Enter sfo 1.1 in the search field

Open form and complete required fields.

69. At the time payment is so made, a copy of the check or other form of payment or evidence thereof shall be sent to each of the following Region IX addresses:

Danielle Carr
Regional Hearing Clerk (ORC-1)
U.S. Environmental Protection Agency - Region IX
75 Hawthorne Street
San Francisco, CA 94105

and

Loren Henning (WST-3)
Waste Management Division
U.S. Environmental Protection Agency - Region IX
75 Hawthorne Street
San Francisco, CA 94105

70. 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.
71. In accordance with the Debt Collection Act of 1982 and U.S. Treasury directive (TFRM 6-8000), the payment must be received in accordance with the schedule set forth in Section D of this CAFO to avoid additional charges. If payment is not received by each deadline specified in the schedule in Section D of this CAFO, interest will accrue on the amount due from the appropriate deadline set forth in

the schedule 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 thirty (30) day period. A 6% per annum penalty will further apply on any principal amount not paid within ninety (90) calendar days of the deadline set forth in the schedule in Section D of this CAFO. Respondent will also be liable for stipulated penalties as set forth below for any payment not received by its deadline.

H. DELAY IN PERFORMANCE/STIPULATED PENALTIES

72. In the event Respondent ADMIRAL fails to submit a payment to EPA by the time required in this CAFO, Respondent shall pay stipulated penalties up to FIVE HUNDRED DOLLARS (\$500.00) per day for the first to fifteenth day of delay, up to ONE THOUSAND DOLLARS (\$1,000.00) per day for the sixteenth to thirtieth day of delay, and up to FIFTEEN HUNDRED DOLLARS (\$1,500.00) per day for each day of delay thereafter.
73. All penalties shall begin to accrue on the date that performance is due or a violation occurs, and shall continue to accrue through the final day of correction of the noncompliance or completion of the activity. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations.
74. All penalties owed to EPA under this Section shall be due within thirty (30) days of receipt of a written demand by EPA for such penalties. Such demand 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 (30) day period. Unless EPA directs payments pursuant to this CAFO to a different address, any stipulated penalty payment shall be made in accordance with one of the options set forth in Section G above.
75. At the time any penalties owed to EPA under this Section are made, a copy of the check or other form of payment or evidence thereof shall be sent to Region IX in accordance with Paragraph 69 above.
76. All payments shall indicate the name of the Facility, EPA identification number of the Facility, Respondent Admiral's name and address, and the EPA docket number of this action.
77. The payment of stipulated penalties shall not alter in any way Respondent Admiral's obligation to complete the performance required hereunder.
78. 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 Admiral's failure to comply with any of the requirements of this CAFO.

I. RESERVATION OF RIGHTS

79. EPA expressly reserves all rights and defenses that it may have.
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 Admiral perform tasks in addition to those required by this CAFO. EPA further reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, which may pertain to Respondent Admiral's failure to comply with any of the requirements of this CAFO, including without limitation, the assessment of penalties under Section 3008(c) of RCRA, 42 U.S.C. § 6928(c). This CAFO 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, 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 Admiral with the terms of this CAFO shall not relieve Admiral of its obligations to comply with RCRA or any other applicable local, California, or federal laws and regulations.
82. The entry of this CAFO and Respondent Admiral'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 it relates to Respondent Admiral's liability for federal civil penalties for the specific alleged violations and facts as set forth in Section C of this CAFO.
83. This CAFO is not intended to be nor shall it be construed as a permit. This CAFO does not relieve Respondent Admiral of any obligation to obtain and comply with any local, California, or federal permits.

J. OTHER CLAIMS

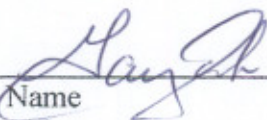
84. Nothing in this CAFO shall constitute or be construed as a release from any other claim, cause of action or demand in law or equity by or against any person, firm, partnership, entity or corporation for any liability it may have arising out of or relating in any way to the generation, storage, treatment, 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


85. By signing this CAFO, Respondent Admiral without admitting or denying them, certifies that all of the alleged violations set forth in Section C of this CAFO, which are or were capable of correction, have been corrected.
86. This CAFO may be amended or modified only by written agreement executed by both EPA and Respondent.
87. The headings in this CAFO are for convenience of reference only and shall not affect interpretation of this CAFO.
88. The Effective Date of this CAFO is the date the CAFO, once signed by the Regional Judicial Officer, is filed with the Regional Hearing Clerk.

IT IS SO AGREED.

12-7-7
Date

 V.P. / CER mgr.
Name
Title
For Respondent Admiral Transportation

12/28/07
Date



Nancy Lindsay, Acting Director
Waste Management Division
U.S. Environmental Protection Agency, Region IX

FINAL ORDER

IT IS HEREBY ORDERED that this Consent Agreement and Final Order (U.S. EPA Docket No. RCRA-09-2008-0004) be entered and that Respondent ADMIRAL TRANSPORTATION ("Respondent") pay a civil penalty of FIFTEEN THOUSAND DOLLARS (\$15,000.00) in any of the manners outlined in Section G, within the time frames set forth in the schedule in Section D of this Consent Agreement and Final Order. A notice of each payment and a copy of each check shall be sent to the EPA Region IX addresses specified in Section G of this Consent Agreement and Final Order within each of the specific, applicable time frames set forth in the Schedule in Section D.

This Final Order, once signed, shall be effective immediately upon it being filed with the Regional Hearing Clerk.

12.31.07
Date



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

CERTIFICATE OF SERVICE

I hereby certify that on the date below, duplicate originals of the foregoing Complaint, Consent Agreement and Final Order, was filed with the Regional Hearing Clerk, Region IX. One of the duplicates was sent, on the date indicated below, by certified mail, return receipt requested, to:

Gary Erb
Vice President/General Manager
Admiral Transportation
300 N. Baldwin Park Blvd.
City of Industry, CA 91746

January 2, 2008
Date

Danielle E. Carr
Danielle Carr
Regional Hearing Clerk
Office of Regional Counsel, Region IX