

2014 AUG -5 PM 3: 41

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION IX

US EPA - REGION IX  
HEARING CLERK

In the matter of	)	U.S. EPA Docket No.
	)	RCRA- 9-2014- 0007
Alumin-Art Plating Co.	)	
	)	
EPA ID No. CAD 981379100	)	CONSENT AGREEMENT AND
	)	FINAL ORDER PURSUANT TO
	)	40 C.F.R. SECTIONS 22.13 AND
<u>Respondent.</u>	)	22.18

CONSENT AGREEMENT

A. PRELIMINARY STATEMENT

1. This is a civil administrative enforcement action initiated pursuant to Section 3008(a)(1) of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. § 6928(a)(1), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, and the Revocation/Termination or Suspension of Permits, 40 Code of Federal Regulations ("C.F.R.") Part 22. Complainant is the United States Environmental Protection Agency, Region 9 ("EPA"). Respondent is Alumin-Art Plating Company (Respondent or "Alumin-Art").
2. Respondent owns and operates a facility located at 803 W. State Street in Ontario, California, 91762 (the "Facility"). The Facility's EPA Identification Number is CAD981379100. Respondent is a metal finishing company specializing in anodizing, chromate conversion coating, powder coating, and zinc and cadmium plating.
3. On August 31, 2012, EPA conducted an unannounced RCRA Compliance Evaluation Inspection ("CEI") at the Facility. Based upon the findings EPA made during the inspection, and additional information obtained subsequent to the inspection, EPA determined that Respondent had violated California Health & Safety Code § 25100 *et seq.* and the regulations adopted pursuant thereto, as approved and authorized by the United States.
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: (1) stored hazardous waste without a permit, a violation of 22 California Code of Regulations ("C.C.R.") §§ 66262.34 and 66270.1 [see also 40 C.F.R. §§ 262.34 and 270.1]; (2) failed to close containers of hazardous waste, a violation of 22

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

C. ALLEGED VIOLATIONS

COUNT I

Storage of hazardous waste without a permit

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. § 66270.1(c) requires that each person owning or operating a facility where hazardous waste is transferred, treated, stored, or disposed must have a permit. At the time of the inspection, Respondent did not have a permit or grant of interim status to store hazardous waste under 22 C.C.R. § 66270.1(c) (*see also* 40 C.F.R. § 270.1(c)).
18. 22 C.C.R. § 66262.34(a) provides that generators may accumulate hazardous waste for up to 90 days without a permit so long as the generator meets certain conditions, including that hazardous waste must be placed in tanks or containers, and the containers must be labeled with the words "hazardous waste" and the date accumulation of the waste begins [*see also* 40 C.F.R. § 262.34(a)]. 22 C.C.R. § 66262.34(f) also requires that the label show the composition and physical state of the wastes; a statement or statements which call attention to the particular hazardous properties of the waste (e.g., flammable, reactive, etc.); and the name and address of the person producing the waste. Failing to meet the conditions of the exemption at 22 C.C.R. § 66262.34(a) subjects the generator to the permitting requirements at 22 C.C.R. § 66270.1.
19. At the time of the CEI, the EPA Inspectors observed an area where wood planking contaminated with chromium, a hazardous waste, was stacked pending disposal. The waste was not in a container, nor was it labelled with the words hazardous waste or the accumulation start date.
20. Respondent failed to meet the conditions of the permit exemption at 22 C.C.R. § 66262.34(a). Therefore EPA alleges that Respondent violated the requirements of 22 C.C.R. § 66270.1 [*see also* 40 C.F.R. § 270.1].

6928(a)(3), and the 2003 RCRA Civil Penalty Policy ("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 TWENTY-EIGHT THOUSAND DOLLARS (\$28,000.00) as the civil penalty for the violations alleged herein. The proposed penalties were calculated in accordance with the Penalty Policy.

E. ADMISSIONS AND WAIVERS OF RIGHTS

30. 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.
31. Respondent neither admits nor denies any allegations of fact set forth in Section C of this CA/FO. Respondent hereby waives any rights Respondent may have to contest the allegations set forth in this CA/FO, waives any rights Respondent may have to a hearing on any issue relating to the factual allegations or legal conclusions set forth in this CA/FO, including without limitation a hearing pursuant to Section 3008(b) of RCRA, 42 U.S.C. § 6928(b), and hereby consents to the issuance of this CA/FO without adjudication. In addition, Respondent hereby waives any rights Respondent may have to appeal the Final Order attached to this Consent Agreement and made part of this CA/FO.

F. PARTIES BOUND

32. 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 Respondent's Federal civil penalty liability for the violations and facts alleged herein.
33. 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.
34. 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.

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 "sfo1.1" in the search field

Open form and complete required fields

**If clarification regarding a particular method of payment remittance is needed, contact the EPA Cincinnati Finance Center at 513-487-2091.**

At the time payment is made, a copy of the payment transmittal shall be sent to:

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

and

John Brock (ENF 2-2)  
Enforcement Division, Waste and Chemical Section  
U.S. Environmental Protection Agency - Region 9  
75 Hawthorne Street  
San Francisco, CA 94105.

37. EPA assesses interest on all debts not paid within 30 days of the Effective Date, Accordingly, the payments below reflect interest calculated pursuant to 40 C.F.R. 13.11(a). The first payment of \$7,023.33 is due within 30 days of the Effective Date of this CA/FO. The following payments are due at six month intervals, with interest included, as follows:

Due by:	Payment
Within 30 days of Effective Date	\$7,023.33
Effective Date+210 days	\$7,105.00
Effective Date+390 days	\$7,070.00
Effective Date+570 days	\$7,035.00
<b>Totals:</b>	<b>\$28,233.33</b>

38. 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

J. RESERVATION OF RIGHTS

46. 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.
47. 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.
48. 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.
49. 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

50. 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

51. This CA/FO may be amended or modified only by written agreement executed by both EPA and Respondent.
52. The headings in this CA/FO are for convenience of reference only and shall not affect interpretation of this CA/FO.

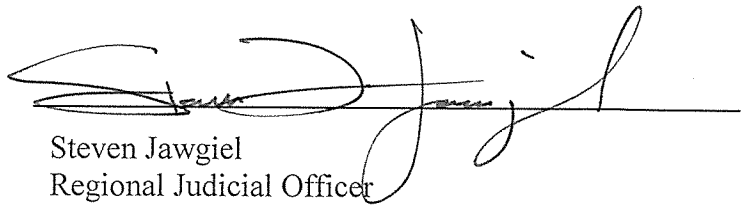
FINAL ORDER

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 -2014- 0007 ) be entered. Alumin-Art Plating Company is being assessed a civil penalty of \$28,000.00, and shall pay in accordance with the payment plan specified in Paragraph 37 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.

08/04/14

Date

A handwritten signature in black ink, appearing to read "Steven Jawgiel", is written over a horizontal line. The signature is stylized with large loops and a long tail.

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

CERTIFICATE OF SERVICE

I certify that the original of the fully executed Consent Agreement and Final Order in the matter of **Alumin-Art Plating Company, Inc.** (Docket #: **RCRA-09-2014-0007**) 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:

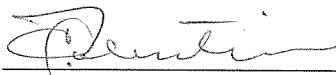
A copy was mailed via CERTIFIED MAIL to:

Isaac Rudy  
Alumin-Art Plating Company  
803 W. State Street  
Ontario, CA 91762

**CERTIFIED MAIL NUMBER:** 7010 2780 0000 8388 8716

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

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

  
\_\_\_\_\_  
FOR: Steven Armsey  
Regional Hearing Clerk  
U.S. EPA, Region IX

8/6/2014  
\_\_\_\_\_  
Date