

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

In the Matter of:  
  
Jarco-U.S. Castings Corp.,  
  
Respondent.  
  
In a proceeding under Section 113(d)  
of the Clean Air Act, 42 U.S.C. § 7413(d)

**CONSENT AGREEMENT  
AND  
FINAL ORDER**

CAA-02-2016-1207

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U.S. Environmental  
Protection Agency-Reg 2

PRELIMINARY STATEMENT

This administrative proceeding for the assessment of a civil penalty is instituted pursuant to Section 113(d) of the Clean Air Act (the “Act”), 42 U.S.C. § 7413(d). Pursuant to 40 C.F.R. § 22.13(b) of 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, where the parties agree to settlement of one or more causes of action before the filing of an administrative complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a consent agreement and final order (“CAFO”) pursuant to 40 C.F.R. § 22.13(b) and 22.18(b)(2) and (3).

The Director of the Division of Enforcement and Compliance Assistance of the United States Environmental Protection Agency, Region 2 (“EPA” or “Complainant”), alleges that Jarco-U.S. Castings Corp., (“Jarco” or “Respondent”) violated Section 112 of the Clean Air Act and 40 C.F.R. §

(a) make findings of violations, (b) issue CAA Section 113(d) administrative penalty complaints, and (c) agree to settlements and sign consent agreements memorializing those settlements, for CAA violations that occur in the State of New York, the State of New Jersey, the Commonwealth of Puerto Rico, and the Territory of the U.S. Virgin Islands.

5. Section 112 of the Act requires the EPA Administrator to: (i) publish a list of hazardous air pollutants ("HAPs"), (ii) publish a list of categories and subcategories of major and area sources of those HAPs, and (iii) promulgate regulations establishing emission standards for each such category and subcategory.

6. Emissions standards promulgated pursuant to Section 112 are commonly known as National Emissions Standards for Hazardous Air Pollutants, or NESHAPs. NESHAPs promulgated under the CAA as it existed prior to the 1990 CAA amendments are set forth in 40 CFR Part 61. NESHAPs promulgated under the CAA as amended in 1990 are set forth in 40 CFR Part 63. Part 63 NESHAPs are sometimes known as MACT standards, because Section 112(d) of the CAA, as amended in 1990, directs EPA to promulgate emissions standards based on the maximum achievable control technology ("MACT").

7. Section 112(a) of the Act contains definitions relevant to Section 112. More specifically:

(a) Section 112(a)(1) of the Act defines "major source" as any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants.

(b) Section 112(a)(2) of the Act defines "area source" as any stationary source of hazardous air pollutants that is not a major source.

(c) Section 112(a)(3) of the Act defines “stationary source” as any building, structure, facility or installation which emits or may emit any air pollutant.

(d) Section 112(a)(9) defines “owner or operator” as any person who owns, leases, operates, controls or supervises a stationary source.

8. Section 112(i)(3)(A) prohibits the operation of a source in violation of any emissions standard, limitation or regulation issued pursuant to Section 112, and directs the Administrator to set a compliance deadline for existing sources that is no more than 3 years after the effective date of the standard.

9. MACT Subpart WWWW (National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Plating and Polishing Operations) sets forth standards applicable to owners and operators of a plating and polishing facility that is an area source of hazardous air pollutant (HAP) emissions and meets the following criteria:

(a) The facility must be a plant site engaged in at least one of the following: electroplating other than chromium electroplating (i.e., non-chromium electroplating); electroless or non-electrolytic plating; other non-electrolytic metal coating processes; dry mechanical polishing of finished metals and formed products after plating and thermal spraying; electroforming; and electropolishing;

(b) The facility must be an area source of HAP emissions, where an area source is any stationary source or group of stationary sources within a contiguous area under common control that does not have the potential to emit any single HAP at a rate of 9.07 megagrams per year (Mg/yr) (10 tons per year (tpy)) or more and any combination of HAP at a rate of 22.68 Mg/yr (25 tpy) or more; and

(c) The facility must use or have emissions of compounds of one or more plating and polishing metal HAP, which means any compound of any of the following metals:



cadmium, chromium, lead, manganese, and nickel. With the exception of lead, this includes any of these metals in the elemental form.

40 C.F.R. § 63.11504.

10. An existing affected source under Subpart WWWW must achieve compliance with the applicable provisions of the subpart by no later than July 1, 2010. 40 C.F.R. § 63.11506.

11. Under 40 C.F.R. § 63.11509(c), “[i]f you own or operate an affected source, you must prepare an annual certification of compliance report . . . . These reports do not need to be submitted unless a deviation from the requirements of this subpart has occurred during the reporting year, in which case, the annual compliance report must be submitted along with the deviation report.”

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

12. Respondent is Jarco-U.S. Castings Corp., a corporation doing business in the state of New Jersey.

13. Jarco is the owner and/or operator of an electroplating facility located at 109 45th Street, Union, NJ 07087.

14. Jarco conducts non-chromium electroplating at its facility using lead.

15. The Jarco facility is an area source of lead emissions with the potential to emit less than 9.07 megagrams per year (Mg/yr) (10 tons per year (tpy)) of any single HAP and less than 22.68 Mg/yr (25 tpy) of any combination of HAP.

16. Jarco admits that it did not prepare an annual certification of compliance report for 2015 by the deadline of January 31, 2016.

17. Jarco has since completed its preparation of an annual certification of compliance report for 2015 and provided a copy to Region 2 of the EPA on July 18, 2016.

18. Jarco has also voluntarily installed electroplating tank covers consisting of plastic balls that float on and cover the liquid surface of the tanks, reducing actual air emissions from its electroplating

tanks.

19. Jarco is a "person" as defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e).

20. Jarco is subject to 40 C.F.R. Part 63, Subpart WWWWWW (National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Plating and Polishing Operations) as the owner and/or operator of an affected source.

21. Jarco failed to timely prepare an annual certification of compliance report for 2015 by the deadline of January 31, 2016 as required by 40 C.F.R. § 63.11509(c).

#### CONSENT AGREEMENT

22. Based on the foregoing, and pursuant to Section 113(d) of CAA, 42 U.S.C. § 7413(d) and in accordance with 40 C.F.R. §§ 22.13(b) and 22.18, it is hereby agreed by and between the parties, that Respondent voluntarily and knowingly agrees to comply with the following terms.

23. For the purposes of this Consent Agreement, Respondent: a) admits that EPA has jurisdiction to commence a civil administrative proceeding for the violations described in the "Findings of Fact and Conclusions of Law" section, above; b) neither admits nor denies the specific Findings of Fact and Conclusions of Law contained in this Consent Agreement; c) consents to the assessment of the civil penalty as set forth below; d) consents to the issuance of the Final Order accompanying this Consent Agreement; and e) waives any right to contest the allegations and its right to appeal the proposed final order accompanying the consent agreement.

24. Respondent shall hereinafter maintain compliance with all applicable statutory requirements of CAA § 112, 42 U.S.C. § 7412 and the implementing regulations at 40 C.F.R. Part 63, Subpart WWWWWW.

25. Respondent hereby certifies that, as of the date of its signature to this Agreement, to the best of its knowledge and belief, it is now in full compliance with the provisions of CAA § 112,

42 U.S.C. § 7412 and the implementing regulations at 40 C.F.R. Part 63, Subpart WWWWWW.

26. Penalty Payment. Respondent agrees to:

- a. pay the civil penalty of \$14,871 (“EPA Penalty”) within 30 calendar days of the Effective Date of this Agreement.
- b. pay the EPA Penalty using any method, or combination of methods, provided on the website <http://www2.epa.gov/financial/additional-instructions-making-payments-epa>, and identifying each and every payment with “Docket No. CAA-02-2016-1207.”
- c. Within 24 hours of payment of the EPA Penalty, send proof of payment to:

Robert Buettner, Chief, Air Compliance Branch  
Division of Enforcement and Compliance Assistance  
U.S. Environmental Protection Agency – Region 2  
290 Broadway – 21st Floor  
New York, New York 10007

and

Liliana Villatora, Chief, Air Branch  
Office of Regional Counsel  
U.S. Environmental Protection Agency – Region 2  
Broadway – 16th Floor  
New York, New York 10007

“Proof of payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to the EPA requirements, in the amount due, and identified with “Docket No. CAA-02-2016-1207”.

27. Failure to pay the penalty in full according to the above provisions will result in the referral of this matter to the U.S. Department of Justice or the U.S. Department of the Treasury for collection.

28. Further, if payment is not received on or before the due date, interest will be assessed, at



the annual rate established by the Secretary of the Treasury pursuant to the Debt Collection Act, 31 U.S.C. § 3717, on the overdue amount from the due date through the date of payment. In addition, a late payment handling charge of \$15 will be assessed for each 30-day period (or any portion thereof) following the due date in which the balance remains unpaid. A 6% per annum penalty also will be applied on any principal amount not paid within 90 days of the due date.

29. This Consent Agreement is being voluntarily and knowingly entered into by the parties in full and final settlement (upon full payment of the civil penalty due under Paragraph 25) of the civil liabilities that attach or might have attached as a result of the violations described in the “Findings of Fact and Conclusions of Law” section, above. Nothing herein shall be read to preclude EPA or the United States, on behalf of EPA, however, from pursuing appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

30. Respondent has read the Consent Agreement, understands its terms, finds it to be reasonable, and consents to its issuance and its terms. Respondent agrees that all terms of settlement are set forth herein.

31. Respondent hereby waives its right to seek or to obtain any hearing (pursuant to Subpart D of 40 C.F.R. Part 22) or other judicial proceeding on the determinations contained in the “Findings of Fact and Conclusions of Law” section, above or on the accompanying Final Order. Respondent further waives its right otherwise to contest all such determinations or to contest the validity or any term of this CAFO in any action brought: a) by the United States, including EPA, to enforce this CAFO, or b) to enforce a judgment relating to this CAFO.

32. This Consent Agreement does not waive, extinguish, or otherwise affect Respondent’s obligation to comply with all applicable federal, state, or local laws, rules, or regulations.

33. Each undersigned signatory to this Consent Agreement certifies that he or she is duly and

fully authorized to enter into and ratify this Consent Agreement and all terms and conditions set forth in this Consent Agreement.

34. Each party shall bear its own costs and attorney fees in this matter.

35. Respondent consents to service upon Respondent of a copy of this Consent Agreement and Final Order by an EPA employee other than the Regional Hearing Clerk.



The foregoing Consent Agreement in the matter of Jarco-U.S. Castings Corp., Docket No. CAA-02-2016-1207, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:

  
Signature

9-19-2016  
Date

Printed Name: Mario A. Hervera

Title: President


Address: 109 45th St. Union City, NJ 07087

Respondent's Federal Tax Identification Number: 22-239-7669

The foregoing Consent Agreement In the Matter of Jarco-U.S. Castings Corp., Docket No. CAA-02-2016-1207, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR COMPLAINANT:

9/22/16  
DATE

  
\_\_\_\_\_  
Dore LaPosta  
Director, Division of Enforcement and Compliance Assistance  
  
U.S. EPA, Region 2  
290 Broadway, 21<sup>st</sup> Floor  
New York, NY 10007

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2  
BEFORE THE ADMINISTRATOR

In the Matter of:

Jarco-U.S. Castings Corp.,

Respondent.

Docket No.  
CAA-02-2016-1207

**FINAL ORDER**

The Regional Judicial Officer of EPA, Region 2, concurs in the foregoing Consent Agreement, in the matter of Jarco-U.S. Castings Corp., CAA-02-2016-1207. The Consent Agreement, entered into by the parties, is hereby approved and issued, as a Final Order, effective immediately.

DATE: September 22, 2016

Helen Ferrara

Helen Ferrara  
Regional Judicial Officer  
United States Environmental  
Protection Agency, Region 2



**CERTIFICATE OF SERVICE**

I certify that on 9/22/16, 2016, I caused the foregoing "Consent Agreement" and "Final Order," in the Matter of Jarco-U.S. Castings Corp., Docket No. CAA-02-2016-1207 to be filed and copies of the same to be mailed to the parties as indicated below.

*One Original and One Copy, by hand delivery to:*

Karen Maples  
Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region 2  
290 Broadway, 16<sup>th</sup> Floor  
New York, NY 10007-1866

*One Copy, by hand delivery to:*

Sara Froikin  
Assistant Regional Counsel  
U.S. Environmental Protection Agency  
Region 2  
290 Broadway, 16<sup>th</sup> Floor  
New York, NY 10007-1866

Helen S. Ferrara  
Regional Judicial Officer  
U.S. Environmental Protection Agency  
Region 2  
290 Broadway, 16<sup>th</sup> Floor  
New York, NY 10007-1866

*One Copy, by Certified Mail-Return Receipt Requested, Article Number 7015 3016 0000 7504 to:*

1778

Mario A. Herrera, President  
Jarco-U.S. Castings Corp.  
109 45<sup>th</sup> Street, Union City, NJ 07087

Dated: 9/22, 2016

Signature:

Yolanda Masette

Print Name:

Yolanda Masette

Title:

WTS Branch Secretary  
U.S. Environmental Protection Agency  
Office of Regional Counsel, Region 2