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Region IX
75 Hawthorne Street
San Francisco, CA 94105

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX**

IN THE MATTER OF:)	Docket No. CWA-09-2012-0001
)	
Coast Plating, Inc.)	CONSENT AGREEMENT AND
Gardena, California)	FINAL ORDER PURSUANT TO
)	40 C.F.R. §§ 22.13 AND 22.18
)	
Respondent)	Proceeding for Class I Civil Administrative
_____)	Penalty under § 309(g) of the Clean Water Act

I. CONSENT AGREEMENT

The United States Environmental Protection Agency (“EPA”) Region IX, and Coast Plating, 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 I civil administrative penalty proceeding under Section 309(g)(2)(A) of the Clean Water Act (“CWA”), 33 U.S.C. § 1319(g)(2)(A), 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 Water Division, EPA Region IX, who brings this action pursuant to authority delegated by the Administrator of EPA and the Regional Administrator of EPA Region IX.
3. Respondent is a corporation that owns and operates the facility at issue, which processes large parts for 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 “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 in 40 C.F.R. § 413, specifically, Subparts D, E, and F, require existing job-shop metal finishers that perform anodizing, chemical coating, or chemical etching and discharge 10,000 gallons per day or more to comply with the standards for cyanide, copper, nickel, chromium, zinc, lead, cadmium, total metals, and total toxic organics which are listed in 40 C.F.R. §§ 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.

C. FACTUAL BACKGROUND

14. Respondent is a corporation and, therefore, a person within the meaning of Section 502(5) of the Act, 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.

15. On August 26, 2010, inspectors representing EPA Region IX and LACSD conducted an industrial use inspection of Respondent’s facility at 417 W. 164th St. in Gardena, California. Based on this inspection, EPA Region IX made the following findings:
 - a. Respondent owns and operates a job-shop metal finishing facility that generates for discharge to the sewers wastewater from rinses for anodizing, chemical coating, and chemical etching operations, primarily for the aerospace industry.
 - b. Respondent discharges process-related wastewaters into the domestic sewers feeding into the Joint Water Pollution Control Plant POTW for discharge into the Pacific Ocean. The discharges of process-related wastewater to the sewers are monitored at a sample box located immediately downstream of the clarifier, which is the facility’s compliance point.
 - c. The federal categorical pretreatment standards in 40 C.F.R. Part 413 for existing source job-shop metal finishing operations apply to process-related wastewater discharges from Respondent.

D. ALLEGED VIOLATIONS

16. Based on LACSD's monitoring data for composite samples taken at the facility's compliance point for the period of July 2008 through June 2011, Respondent violated Section 307(d) of the CWA, 33 U.S.C. § 1317(d), eight (8) times by failing to meet federal pretreatment standards. These violations are summarized below:

Date	Chromium (mg/L)		Total Metals (mg/L)	
	Daily	4-Day	Daily	4-Day
Federal 40 CFR 413 Limits	7.0	4.0	10.4	6.8
March 2, 2010	9.37		11.1	
July 14, 2010	12.2		14.3	
October 13, 2010	24.3		27.8	
8/12/09-10/13/10		11.7		13.6

E. RESPONDENT'S ADMISSIONS AND WAIVERS

17. 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 Section 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

18. 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

TWENTY FOUR THOUSAND DOLLARS (\$24,000.00). 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 IX
75 Hawthorne Street
San Francisco, CA 94105

Marcela von Vacano, Office of the Regional Counsel (ORC-2)
U.S. Environmental Protection Agency Region IX
75 Hawthorne Street
San Francisco, CA 94105

19. 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.
20. 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 18 above.
21. 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 IX may request the 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 IX 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

22. 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 Section I.D. of this CAFO. Nothing in this CAFO is intended to or shall be construed to resolve: (i) any civil liability for violations of any provision of any federal, state, or local law, statute, regulation, rule, ordinance, or permit not specifically alleged in Section I.D. above; or (ii) any criminal liability. EPA reserves any and all authorities, rights, and remedies available to it (including, but not limited to, injunctive or other equitable relief or criminal sanctions) to address any violation of this CAFO or any violation not specifically alleged in Section I.D. above.
23. 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

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

I. EFFECTIVE AND TERMINATION DATES

25. 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

26. The undersigned representative of each party certifies that he or she is fully authorized to execute and legally bind that party to this CAFO.
27. 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

28. BPA Region IX'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 IX reserves the right to withdraw from or withhold the consent if public comments disclose material information that was not considered by EPA Region IX in entering into this Consent Agreement. In such case, Respondent's obligations under this document shall terminate, and EPA Region IX 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 IX shall file the Final Order.

CONSENTING PARTIES:

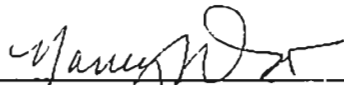
For Coast Plating, Inc.:

BY:  _____

DATE: _____

Tom McKeel, CEO
(Print name and title of person with
authority required by paragraph 26 above)
128 W. 154th Street
Gardena, California 90248

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

BY:  _____

DATE: 5-18-12

Nancy Woo, Acting Director
Water Division
75 Hawthorne Street
San Francisco, CA 4105

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-09-2012-0001, be entered and that Respondent, Coast Plating, Inc. pay a civil penalty of **\$24,000**. Payment shall be made pursuant to paragraph 18 of the CAFO within thirty (30) days of the Effective Date.

This Final Order shall be effective immediately.

Date

Steven Jawgiel
Regional Judicial Officer
U.S. Environmental Protection Agency Region IX

