

ALCOA ALUMINUM CO. OF AMERICA
P.O. BOX 10000

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1. This Consent Agreement and Final Order ("CAFO") is entered into by the United States Environmental Protection Agency, Region 6 ("EPA" or "Complainant") and Residuos Industriales Multiquim, S.A. de C.V ("RIMSA" or "Respondent"), and concerns the RIMSA facility located at 929 E. Esperanza Avenue, Suite 12, McAllen, Texas 78501.
2. Notice of this action has been given to the State of Texas, under Section 3008(a)(2) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928(a)(2).
3. For the purpose of these proceedings, Respondent admits the jurisdictional allegations herein; however, the Respondent neither admits nor denies the specific factual allegations and conclusions of law contained in this CAFO. This CAFO states a claim upon which relief may be granted.

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4. The Respondent explicitly waives any right to contest the allegations and its right to appeal the proposed final order contained in this CAFO, and waives all defenses which have been raised or could have been raised to the claims set forth in the CAFO.
5. The CAFO resolves only those violations and facts which are alleged herein.
6. The Respondent consents to the issuance of the CAFO hereinafter recited, consents to the assessment and payment of the stated civil penalty in the amount and by the method set out in this CAFO, and consents to the specific stated compliance order.

II. JURISDICTION

7. This CAFO is issued by the EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928, as amended by the Hazardous and Solid Waste Amendments of 1984 ("HSWA") and is simultaneously commenced and concluded through the issuance of this CAFO under 40 Code of Federal Regulations ("C.F.R.") §§ 22.13(b) and 22.18(b)(2) and (3).
8. Respondent agrees to undertake and complete all actions required by the terms and conditions of this CAFO. In any action by the EPA or the United States to enforce the terms of this CAFO, Respondent agrees not to contest the authority or jurisdiction of the EPA to issue or enforce this CAFO, and agrees not to contest the validity of this CAFO or its terms or conditions.

III.
FINDING OF FACTS AND CONCLUSIONS OF LAW

9. RIMSA owns and operates a company that acts as the importer for hazardous waste generated at maquiladoras in Mexico and disposed of in the United States of America and as such RIMSA must comply with the applicable requirements of Title 30 of the Texas Administrative Code (“TEX.ADMIN.CODE”) and 40 C.F.R. Part 262.
30 TEX.ADMIN.CODE § 335.76 (a) and 40 C.F.R. § 262.60(a).
10. Respondent is a “person” within the meaning of Section 1004(15) of RCRA, 42 U.S.C. § 6903(15); and 30 TEX.ADMIN.CODE § 3.2(25), [40 C.F.R. § 260.10].
11. During the period of January 2014 through July 2014, EPA conducted a RCRA investigation and record review (“Investigation”) of RIMSA’s performance as an importer of record and therefore a generator of hazardous waste for its operation in the State of Texas.
12. During the Investigation, EPA discovered that RIMSA, at a minimum, imported the following waste:
 - i. D001, ignitable hazardous waste;
 - ii. D002, corrosive hazardous waste;
 - iii. D003, reactivity hazardous waste;
 - iv. Hazardous wastes that exhibit the toxicity characteristic for arsenic, barium, cadmium, chromium, lead, mercury, silver, chlorobenzene; and methyl ethyl ketone, tetrachloroethylene, trichloroethylene, respectively with the hazardous

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waste codes, D004, D005, D006, D007, D008, D009, D011, D021, D035, D039, D040; and

- v. At least four (4) listed hazardous waste streams described as spent non-halogenated solvent and spent halogenated with one or all of the following waste codes: F001, F002, F003, F005.

13. The waste streams identified in Paragraph 12 are hazardous waste as defined in

30 TEX.ADMIN.CODE § 335.1(69), [40 C.F.R. § 261.24].

14. From the Investigation, EPA determined that during the period of 2009 through 2013, RIMSA

imported the hazardous waste streams identified in Paragraph 12 and in quantities that exceeded the threshold amount of 1,000 kilograms of hazardous waste per month, which qualifies RIMSA for the large quantity generator status as established under 30 TEX.ADMIN.CODE Chapter 335. Subchapter C, [40 C.F.R. Part 262].

15. As an importer, RIMSA is a “generator” of “hazardous wastes” as those terms are defined in

Sections 1004(5) & (6) of RCRA, 42 U.S.C. §§ 6903(5) & (6), and/or

30 TEX ADMIN.CODE §§ 335.1(65) & (69), [40 C.F.R. § 260.10.].

16. As a generator of hazardous waste, RIMSA is subject to Sections 3002 and 3010 of RCRA,

42 U.S.C. §§ 6922 and 6930, and the regulations set forth at 30 TEX.ADMIN.CODE,

Chapter 335 Subchapter C, [40 C.F.R Part 262].

Claim i. Notification Requirements

17. The allegations in Paragraphs 1-16 are realleged and incorporated herein by reference.

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18. Pursuant to 30 TEX.ADMIN.CODE § 335.61(c), [40 C.F.R. § 262.60(a)], as an importer of hazardous waste into the United States, RIMSA must comply with the standards applicable to generators.
19. Pursuant to Section 3010(a) of RCRA, 42 U.S.C. § 6930(a), any person generating a characteristic or listed hazardous waste shall file with the Administrator or authorized State a notification stating the location and general description of such activity and the identified or listed hazardous wastes handled by such person.
20. At the time of the Investigation, RIMSA had filed a RCRA 3010 EPA Notification Form 8700-12 ("Notification") indicating in Section 10.A.1 that it is an importer. However, RIMSA did not indicate its generator size and status nor did RIMSA indicate that it is a large quantity handler of universal hazardous waste.
21. RIMSA did not file a proper and/or subsequent Notification of hazardous waste activities with the Administrator or authorized State in violation of Section 3010(a) of RCRA, 42 U.S.C. § 6930(a).

Claim ii. Failure to Comply with the Manifest Requirements

22. The allegations in Paragraphs 1-21 are realleged and incorporated herein by reference.
23. Pursuant to 30 TEX.ADMIN.CODE §§ 335.76(d), [40 C.F.R. § 262.60(b)] when importing hazardous waste, a person must meet all the requirements of 30 TEX.ADMIN.CODE §§ 335.10(a), [40 C.F.R. § 262.20] for the manifest except that the importer of record must meet the special requirements at, 40 C.F.R. § 262.60(b)(1) and (2); (d); & (e), incorporated

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by reference in 30 TEX.ADMIN.CODE §§ 335.10 and (a). In addition, the generator must comply with 30 TEX.ADMIN.CODE §§ 335.10(a)(1).

24. Pursuant to 30 TEX.ADMIN.CODE §§ 335.10(a)(1), [40 C.F.R. § 262.20(a)] a large quantity generator shall not offer its hazardous waste for shipment unless it prepares a standard manifest form (EPA Form 8700-22) according to the instructions found in the Appendix to 40 C.F.R. Part 262 and includes the EPA and Texas waste codes for each hazardous waste itemized on the manifest.
25. On September 18, 2013, RIMSA on manifest number 000422318GBF offered its hazardous waste for transport and treatment, without first including the name and address of the foreign generator. Further, the manifest did not include the Texas waste codes for each hazardous waste itemized on the manifest.
26. On November 25, 2013, RIMSA on manifest number 000422339GBF offered its hazardous waste for transport and treatment, without first including the name and address of the foreign generator. Further, the manifest did not include the Texas waste codes for each hazardous waste itemized on the manifest.
27. Therefore, RIMSA failed to accurately and adequately prepare its hazardous waste manifests for the shipments of hazardous waste identified in Paragraphs 25 and 26 above in violation of 30 TEX.ADMIN.CODE §§ 335.10(a) and (a)(1), [40 C.F.R. §§ 262.20(a) & 262.60(b)].

Claim iii. Failure to file Biennial Reports

28. The allegations in Paragraphs 1-27 are realleged and incorporated herein by reference.

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29. Pursuant to 30 TEX.ADMIN.CODE § 335.71, [40 C.F.R. § 262.41] a generator who ships any hazardous waste off-site for treatment, storage and/or disposal must prepare and submit a biennial Report to EPA's Regional Administrator, and to the TCEQ, by March 1 of each even-numbered year as is required by 30 TEX.ADMIN.CODE § 335.71, [40 C.F.R. § 262.41].
30. At all times relevant to this CAFO, the EPA and/or the TCEQ did not receive the requisite number of biennial Reports that RIMSA was required to file in violation of 30 TEX.ADMIN.CODE § 335.71, [40 C.F.R. § 262.41].

IV.
COMPLIANCE ORDER

31. Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), Respondent is hereby ordered to take the following actions, and within ninety (90) calendar days of the effective date of the settlement agreement, Respondent shall provide in writing the following:
- A. Respondent shall certify that it has reviewed all environmental requirements (Federal and State) that are applicable to RIMSA as an importer and generator of hazardous waste and has developed and implemented a RCRA Compliance Plan designed to ensure that RIMSA is meeting the applicable importer and generator standards, including its manifest and reporting requirements;
 - B. Respondent shall certify that it has accurately and adequately complied with its RCRA Section 3010 Notification obligation; and

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C. Respondent shall provide, with its certification, a copy of Respondent's RCRA

Compliance Plan as described in subparagraph A above.

32. In all instances in which this CAFO requires written submission to EPA, the submittal made

by Respondent shall be signed by a responsible official of RIMSA and shall include the

following certification:

"I certify under the penalty of law that this document and all its attachments were prepared by me or under my direct supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations." For purposes of this certification, a "responsible official" of a Respondent means a person with the authority to bind Respondent as to the truth, accuracy, and completeness of all certified information.

Copies of all documents required by this CAFO shall be sent to the following:

U.S. Environmental Protection Agency
Compliance Assurance and Enforcement Division
Hazardous Waste Enforcement Branch
Compliance Enforcement Section (6EN-HC)
1445 Ross Avenue
Dallas, TX 75202-2733
Attn: Dale Thrush

V.

TERMS OF SETTLEMENT

i. Penalty Provisions

33. Pursuant to the authority granted in Section 3008 of RCRA, 42 U.S.C. § 6928, and upon

consideration of the entire record herein, including the above referenced Findings of Fact and

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Conclusions of Law, which are hereby adopted and made a part hereof, upon the seriousness of the alleged violations, and Respondent's good faith efforts to comply with the applicable regulations, it is ordered that Respondent be assessed a civil penalty of One Hundred and Two Thousand Seven Hundred Dollars (\$102,700.00).

34. The penalty shall be paid within thirty (30) calendar days of the effective date of this CAFO and made payable to the Treasurer United States.

35. The following are Respondent's options for transmitting the penalties:

Regular Mail, U.S. Postal Mail (including certified mail) or U.S. Postal Service Express

Mail, the check should be remitted to:

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

Overnight Mail (non-U.S. Postal Service), the check should be remitted to:

U.S. Bank
Government Lockbox 979077
US EPA Fines and Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101
314-418-1028

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Wire Transfer:

Federal Reserve Bank of New York
ABA: 021030004
Account No. 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

The case name and docket number (In the Matter of Residuos Industriales Multiquim, S.A. de C.V Docket No. RCRA-06-2014-0917) shall be clearly documented on or within your chosen method of payment to ensure proper credit.

36. The Respondent shall send a simultaneous notice of such payment to the following:

Lorena S. Vaughn
Regional Hearing Clerk (6RC-D)
U.S. EPA, Region 6
1445 Ross Avenue
Dallas, Texas 75202-2733

Mark Potts, Associate Director
Hazardous Waste Enforcement Branch (6EN-H)
Compliance Assurance and Enforcement Division
U.S. EPA, Region 6
1445 Ross Avenue
Dallas, Texas 75202-2733
Attention: Dale Thrush

Your adherence to this request will ensure proper credit is given when penalties are received by EPA.

37. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, unless otherwise prohibited by law,

EPA will assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the cost of process and handling a delinquent claim. Interest on

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the civil penalty assessed in this CAFO will begin to accrue on the effective date of the CAFO and will be recovered by EPA on any amount of the civil penalty that is not paid within thirty (30) calendar days of the civil penalty's due date and will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). Moreover, the costs of EPA's administrative handling overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). EPA will also assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) day period the penalty remains unpaid. In addition, a penalty charge of up to six percent per year will be assessed monthly on any portion of the debt which remains delinquent more than ninety (90) days. 40 C.F.R. § 13.11(b). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

ii. Cost

38. Each party shall bear its own costs and attorney's fees. Furthermore, Respondent specifically waives its right to seek reimbursement of its costs and attorney's fees under the Equal Access to Justice Act (5 U.S.C. § 504), as amended by the Small Business Regulatory Enforcement Fairness Act (P.L. 04-121), and any regulations promulgated pursuant to those Acts.

iii. Termination and Satisfaction

39. The provisions of this CAFO will terminate when one of the following two conditions has been satisfied, unless the EPA, Region 6 objects in writing with specific reasons within sixty (60) days of EPA's receipt of Respondent's certification, then this CAFO is terminated on the basis of Respondent's certification:

- A. When the Respondent certifies to EPA in writing, and in accordance with the certification language set forth in Section IV, (Compliance Order), Paragraph 32 that Respondent has made payment of the civil penalty required under this CAFO and has ceased all activities that require notification of hazardous waste activities under Section 3010(a) of RCRA and its use of EPA ID No. TXR000066720 for its operations, including acting as an importer of record for hazardous wastes entering the United States; or
- B. When the Respondent believes that it has complied with all the requirements of this CAFO, including compliance with the Compliance Order and the payment of the civil penalty, Respondent shall so certify in writing and in accordance with the certification language set forth in Section IV, (Compliance Order), Paragraph 32.

iv. Effective Date of Settlement

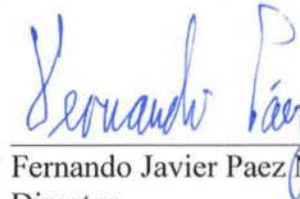
40. This CAFO shall become effective upon filing with the Regional Hearing Clerk.

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**THE UNDERSIGNED PARTIES CONSENT TO THE ENTRY OF THIS CONSENT
AGREEMENT AND FINAL ORDER:**

FOR THE RESPONDENT:

Date: September 9th, 2014



Fernando Javier Paez Moreno
Director
Environmental Health & Safety
Residuos Industriales
Multiquim, S.A. de C.V

FOR THE COMPLAINANT:

Date: 9.16.14



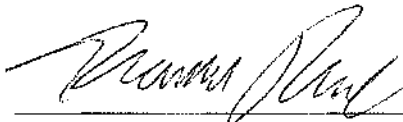
John Blevins
Director
Compliance Assurance and
Enforcement Division

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FINAL ORDER

Pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 CFR Part 22, the foregoing CAFO is hereby ratified. This Final Order shall not in any case 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 Final Order shall resolve only those causes of action alleged herein. Nothing in this Final Order shall be construed to waive, extinguish or otherwise affect Respondent's (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. The Respondent is ordered to comply with the terms of settlement and the civil penalty payment instructions as set forth in the CAFO. Pursuant to 40 CFR § 22.31(b) this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Date: 9/18/14



Thomas Rucki
Regional Judicial Officer

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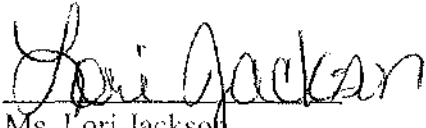
CERTIFICATE OF SERVICE

I hereby certify that on the 18 day of Sept, 2014, the original of the foregoing Consent Agreement and Final Order was hand delivered to the Regional Hearing Clerk, U.S. EPA - Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, and that a true and correct copy of the CAFO was sent to the following by the method identified below:

CERTIFIED MAIL - RETURN RECEIPT REQUESTED 7014 050 00002453 8752

Residuos Industriales Multiquim, S.A. de C.V
929 E. Esperanza Ave. Suit 12
McAllen, TX 78501

Copies to:
Ms. Aileen Hooks
Attorney for RIMSA
Baker and Botts L.L.P
98 San Jacinto Blvd, Suite 1500
Austin, TX 78701


Ms. Lori Jackson
Paralegal