

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:	Docket HWCA 2011-4569
Felipe Estrada dba: J. E. Metal 3261 ½ Main Street Chula Vista, California 91911	CONSENT ORDER Health and Safety Code Section 25187
ID No. None	

Respondent.

1. INTRODUCTION

1.1. Parties. The California Department of Toxic Substances Control (Department) and Felipe Estrada dba: J. E. Metal (Respondent) enter into this Consent Order (Order) and agree as follows:

1.2. Site. Respondent is a scrap metal broker who acted as the Importer of Record for a shipment of brass powder, a hazardous waste, imported into California at the United States Customs and Border Protection (USCBP), Otay Mesa Port of Entry at 9495 Customhouse Plaza, San Diego, San Diego County (Site).

1.3. Inspection. The Department conducted an inspection of the Respondent's shipment of three small bundles of brass powder destined for recycling, and presented for import on March 1, 2012 at the Site.

1.4. Authorization Status. Consent to conduct inspections at the USCBP, Otay Mesa Port of Entry that involves taking photographs, reviewing and copying records, questioning personnel and inspecting hazardous waste transporters is a condition of entering the United States. The Department in cooperation with the USCBP at the Otay

Mesa Port of Entry regularly conducts inspection of trucks for compliance with Federal and State hazardous waste laws and regulations. The Department exercises its authority to inspect transporters and generators of hazardous waste.

1.5. Jurisdiction. Health and Safety Code, section 25187, authorizes the Department to order action necessary to correct violations and to assess a penalty when the Department determines that any person has violated specified provisions of the Health and Safety Code or any permit, rule, regulation, standard, or requirement issued or adopted pursuant thereto.

1.6. Full Settlement. This Order shall constitute full settlement of the violations alleged below. The Parties, and each of them, agree that this Order, and all of the terms contained herein, are fair, reasonable, and in the public interest. By agreeing to this Order, the Department does not waive any right to take other enforcement actions except as specifically provided in this Order.

1.7. Hearing. Respondent waives any and all rights to a hearing in this matter.

1.8. Admissions. Respondent admits the violations as alleged in Section 2 below.

2. VIOLATIONS ALLEGED

2.1. The Department alleges the following violations:

2.1.1. Respondent violated California Code of Regulations, Title 22, section 66262.11(a) in that on or about March 1, 2012, Respondent imported brass powder, a California hazardous waste, without first making a hazardous waste determination.

2.1.2. Respondent violated California Code of Regulations, Title 22, section

66262.60(a) in that, on or about March 1, 2012, Respondent imported brass waste powder, a California hazardous waste, without following the requirements for imports of hazardous waste.

2.1.3. Respondent violated California Health and Safety Code section 25163(a) in that, on or about March 1, 2012, Respondent transferred custody of brass waste powder, a California hazardous waste, to a transporter who does not hold a valid registration issued by DTSC.

3. SCHEDULE FOR COMPLIANCE

3.1. Respondent shall comply with the following:

3.1.1. Respondent shall not import hazardous waste without first making a hazardous waste determination.

3.1.2. Respondent shall not import hazardous waste without following the requirements for imports of hazardous waste.

3.1.3. Respondent shall not transfer custody of brass waste powder, a California hazardous waste, to a transporter who does not hold a valid registration issued by DTSC.

3.1.4. Respondent shall make all payments at the time(s) and in accord with any other conditions set forth in Section 5 (Penalty) below.

4. OTHER PROVISIONS

4.1. Liability. Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of

past, current, or future operations of Respondent, except as provided in this Order. Notwithstanding compliance with the terms of this Order, Respondent may be required to take such further actions as are necessary to protect public health or welfare or the environment.

4.2. Penalties for Noncompliance. Failure to comply with the terms of this Order may subject Respondent to costs, penalties and/or damages, as provided by Health and Safety Code, section 25188, and other applicable provisions of law.

4.3. Parties Bound. This Order shall apply to and be binding upon Respondent and its officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Order.

4.4. Integration. This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this Order.

5. PENALTY

5.1. Respondent shall pay the Department a total penalty of \$2,000.00 dollars, of which \$1,000.00 dollars is a monetary penalty and \$1,000.00 dollars is a credit for attending and completing California Compliance School Modules I-IV.

5.2. The penalty shall be paid in two installments of \$500.00 dollars respectively.

The first installment payment must be paid within 30 days of the effective date of this Order. The second installment payment must be paid within 60 days of the effective date of this Order.

5.3. Respondent's check(s) shall be made payable to Department of Toxic Substances Control, shall identify the Respondent and Docket Number, as shown in the caption of this case, and shall be delivered together with the attached Payment

Voucher to:

Department of Toxic Substances Control

Accounting Office
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check(s) shall be sent to:

Alfredo Rios
Supervising Hazardous Substances Scientist I
Emergency Response and Enforcement Program
Department of Toxic Substances Control
9174 Sky Park Court Suite 150
San Diego California 92123

5.4. If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code, section 25360.1, and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

5.5. Respondent hereby agrees to attend and complete the California Compliance School (Modules I-IV). Attendance must be completed and the Respondent must submit a Certificate of Satisfactory Completion issued by the

California Compliance School to the Department within 180 days of the date of this Order. In recognition of this educational investment, Respondent has received a credit of \$1,000.00, if Respondent satisfactorily completes the specified modules. If Respondent fails to submit the certificate as required, the penalty is due and payable within 30 days after the 180-day period expires.

6. EFFECTIVE DATE

6.1. The effective date of this Order is the date it is signed by the Department.

Dated: 9/7/2012 original signed by Felipe Estrada
Felipe Estrada, Owner
J.E. Metal

Dated: 9/12/2012 original signed by Alfredo Rios
Alfredo Rios
Supervising Hazardous Substances Scientist I
Emergency Response and Enforcement Program
Department of Toxic Substances Control