



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

JUN 29 2012

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Jaime Maliszewski
Elite Finishing, LLC
3270 South 3rd Street
Milwaukee, Wisconsin 53207

Re: In the Matter of: Elite Finishing, LLC
Docket No.

Dear Mr. Maliszewski:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves *In the Matter of Elite Finishing, LLC*, CAA Docket No. CAA-05-2012-0038. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on JUN 29 2012.

Pursuant to paragraph 21 of the CAFO, Elite Finishing, LLC must pay the civil penalty within 30 days of JUN 29 2012. Your check must display the case name Elite Finishing, LLC, the docket number, CAA-05-2012-0038, and the billing document number, 2751203A040

Please direct any questions regarding this case to Louise Gross, Associate Regional Counsel, (312) 886-6844

Sincerely,

Sara Breneman

Sara Breneman
Chief
Air Enforcement and Compliance Assurance Branch, MI/WI Section

Enclosure

cc: Ann Coyle, Regional Judicial Officer
Regional Hearing Clerk
Daniel Schramm, Wisconsin Department of Natural Resources

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No.
)	
Elite Finishing, LLC)	Proceeding to Assess a Civil Penalty
Milwaukee, Wisconsin,)	Under Section 113(d) of the Clean Air Act
)	42 U.S.C. § 7413(d)
Respondent.)	
_____)	

**RECEIVED
REGIONAL HEARING CLERK
U.S. EPA REGION 5
2022 JUN 29 AM 9:41**

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at 40 C.F.R. Part 22.

2. Complainant is the Director of the Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 5.

3. Respondent is Elite Finishing, LLC (Elite or Respondent), a corporation doing business in Wisconsin.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO.

Statutory and Regulatory Background

9. Under Section 112 of the Act, EPA promulgated the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks at 40 C.F.R. §§ 63.340 through 63.348 (the Chrome Plating NESHAP).

10. The owner or operator of an existing affected facility was required to comply with the requirements of the Chrome Plating NESHAP by January 25, 1996.

11. The Chrome Plating NESHAP applies to decorative chromium electroplating tanks.

12. The Chrome Plating NESHAP, at 40 C.F.R. § 63.342(d)(2), requires the owner or operator of Elite Finishing, LLC to control chromium emissions by not allowing the surface tension of the bath contained within the affected tank to exceed 35 dynes/cm as measured by a tensiometer at any time during the operation of the tank.

13. The Administrator of EPA (the Administrator) may assess a civil penalty of up to \$32,500 per day of violation up to a total of \$270,000 for NESHAP violations that occurred after March 15, 2004 through January 12, 2009 under Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

14. Section 113(d)(1) limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and the Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

15. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

Factual Allegations and Alleged Violations

16. Elite owns and operates a decorative chromium electroplating tank at 3270 South 3rd Street in Milwaukee, Wisconsin. The tank is identified as P24 in Operating Permit 01-RSG-206-RP.

17. Elite's tank identified as P24 is a receptacle in which decorative chromium electroplating occurs; it is, therefore, subject to the Chrome Plating NESHAP.

18. As required by Operating Permit 01-RSG-206-RP condition D.2, Elite uses a chemical fume suppressant containing a wetting agent to control chromium emissions.

19. As reported by Elite in its semi-annual compliance report submitted to the Wisconsin Department of Natural Resources, between July 1, 2007 and December 31, 2007 the surface tension at P24 exceeded the limit of 35 dynes/cm on 22 occasions. These exceedances totaled 100 hours, and accounted for 21 percent of the total operating time.

Civil Penalty

20. Based on analysis of the factors specified in Section 113(e) of the Act, 42 U.S.C. § 7413(e), including the economic impact of the penalty on Elite's business, the facts of this

case, and the company's cooperation with EPA Complainant has determined that an appropriate civil penalty to settle this action is \$15,000.

21. Within 30 days after the effective date of this CAFO, Respondent must pay a \$15,000 civil penalty by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

The check must note Respondent's name, docket number of this CAFO and the billing document number.

22. Respondent must send a notice of payment that states Respondent's name, the docket number of this CAFO and the billing document number to the Compliance Tracker, Air Enforcement and Compliance Assurance Branch and to Louise Gross at the following addresses when it pays the penalty:

Attn: Compliance Tracker, (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

Louise Gross (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

23. This civil penalty is not deductible for federal tax purposes.

24. If Respondent does not pay timely the civil penalty, EPA may request the Attorney General of the United States to bring an action to collect any unpaid portion of the

penalty with interest, nonpayment penalties and the United States enforcement expenses for the collection action under Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

25. Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621(a)(2). Respondent must pay the United States enforcement expenses, including but not limited to attorneys fees and costs incurred by the United States for collection proceedings. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue. This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter. 42 U.S.C. § 7413(d)(5).

General Provisions

26. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in this CAFO.

27. The CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

28. This CAFO does not affect Respondent's responsibility to comply with the Act and other applicable federal, state and local laws. Except as provided in paragraph 26, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

29. Respondent certifies that it is complying fully with the Chrome Plating NESHAP.

30. This CAFO constitutes an “enforcement response” as that term is used in EPA’s Clean Air Act Stationary Civil Penalty Policy to determine Respondent’s “full compliance history” under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

31. The terms of this CAFO bind Respondent, its successors and assigns.


32. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

33. Each party agrees to bear its own costs and attorneys fees in this action.

34. This CAFO constitutes the entire agreement between the parties.


Elite Finishing, LLC, Respondent

6/18/12
Date


Jaime Maliszewski
General Manager
Elite Finishing, LLC

United States Environmental Protection Agency, Complainant

6/28/12
Date


George T. Czerniak
Acting Director
Air and Radiation Division
U.S. Environmental Protection Agency
Region 5

**Consent Agreement and Final Order
In the Matter of: Elite Finishing, LLC
Docket No.**

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

6-28-12

Date



Susan Hedman
Regional Administrator
U.S. Environmental Protection Agency
Region 5

**Consent Agreement and Final Order
In the Matter of: Elite Finishing, LLC
Docket No.**

Certificate of Service

I certify that I filed the original and one copy of the Consent Agreement and Final Order (CAFO), docket number _____ with the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, Illinois 60604, and that I mailed the second original copy to Respondent by first-class, postage prepaid, certified mail, return receipt requested, by placing it in the custody of the United States Postal Service addressed as follows:

Mr. Jaime Maliszewski
Elite Finishing, LLC
P.O. Box 210500
Milwaukee, Wisconsin 53221

I certify that I delivered a correct copy of the CAFO by intra-office mail, addressed as follows:

Ann Coyle
Regional Judicial Officer
U.S. Environmental Protection Agency
77 W. Jackson Boulevard / Mail Code C-14J
Chicago, Illinois 60604

I also certify that I mailed a correct copy of the CAFO by first-class mail to:

Mr. Daniel Schramm
Southeast Region Headquarters
Wisconsin Department of Natural Resources
2300 N Dr. Martin Luther King, Jr. Drive
Milwaukee, Wisconsin 53212-3128

RECEIVED
REGIONAL HEARING CLERK
U.S. EPA REGION 5
2012 JUN 29 AM 9:40

On the 29 day of June 2012.

Josetta Shaffi
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER:

7009 1680 0000 7672 9628