



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

MAR - 5 2014

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Douglas Graf
Environmental Manager
Perlick Corporation
8300 W. Good Hope Road
Milwaukee, Wisconsin 53223

Dear Mr. Graf:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves Perlick Corporation. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on MAR - 5 2014.

Pursuant to paragraph 22 of the CAFO, Perlick Corporation must pay the civil penalty within 30 days of MAR - 5 2014. Your check must display the case name Perlick Corporation and the docket number CAA-05-2014-0013.

Please direct any questions regarding this case to Robert Guenther, Associate Regional Counsel, at 312-886-0566.

Sincerely,

A handwritten signature in black ink, appearing to read "Sarah Marshall".

Sarah Marshall
Air Enforcement and Compliance Assurance Section Chief (MI/WI)

Enclosure

cc: Marcy Toney, Regional Judicial Officer, C-14J
Regional Hearing Clerk, E-19J
Cynthia King/C-14J
Michael Griffin, Wisconsin Department of Natural Resources

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5



IN THE MATTER OF:)
)
PERLICK CORPORATION, INC.,)
MILWAUKEE, WISCONSIN,)
)
RESPONDENT.)
_____)

Docket No.: CAA-05-2014-0013
Proceeding to Assess a Civil
Penalty Under Section 113(d) of
the Clean Air Act, 42 U.S.C.
§ 7413(d)

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U.S. EPA-REGION 5
2014 MAR -5 PM 2:01

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), 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 Perlick Corporation, Inc., a Wisconsin corporation.
4. According to 40 C.F.R. § 22.13(b), where the parties agree to settle one or more causes of action before the filing of a complaint, an administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO).
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 terms of this CAFO and to the assessment of the civil penalty specified herein.

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 provided in 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): Area Source Standards for Plating and Polishing Operations at 40 C.F.R. §§ 63.11504 through 63.11512, or subpart WWWWW of part 63.

10. Subpart WWWWW, at 40 C.F.R. § 63.11508(d)(3)(i), requires owners and operators of existing nickel electroplating tanks to prepare and maintain records of the amount and frequency of wetting agent or fume suppressant added to the tanks pursuant to 40 C.F.R. § 63.11507(a).

11. Subpart WWWWW, at 40 C.F.R. § 63.11508(d)(3)(iii), requires owners and operators of existing nickel electroplating tanks to report the use of wetting agent or fume suppressant according to the manufacturer's specifications and instructions in the annual compliance certification required by 40 C.F.R. § 63.11508(d)(2).

12. Pursuant to section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. part 19, the Administrator of EPA may assess a civil penalty of up to \$37,500 per day of violation to a maximum of \$295,000 for violations of the NESHAP requirements occurring after January 12, 2009, through December 6, 2013.

13. Section 113(d)(1) of the Act 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 Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

Allegations of Fact and Liability

14. Respondent owns and operates a beverage service system manufacturing facility at 8300 West Good Hope Road, Milwaukee, Wisconsin.

15. Respondent's facility operates a nickel electroplating bath to coat metal beverage delivery devices it manufactures. Nickel and its compounds are hazardous air pollutants (HAPs) according to section 112(b)(1) of the Act, 42 U.S.C. § 7412(b)(1).

16. Respondent commenced operation of its nickel electroplating bath prior to July 1, 2010.

17. Between July 1, 2010, and the present, Respondent has regularly operated the nickel plating bath at its Milwaukee facility.

18. Between July 1, 2010, and the present, Respondent's facility did not have the potential to emit more than 10 tons per year (tpy) of any single HAP or more than 25 tpy of any combination of HAPs.

19. Between July 1, 2010, and September 26, 2012, Respondent failed to record that it added a wetting agent or fume suppressant to its nickel coating tank at its Milwaukee facility, as required by 40 C.F.R. § 63.11508(d)(3)(i).

20. Respondent's failure to record its additions of wetting agent or fume suppressant as required by 40 C.F.R. § 63.11508(d)(3)(i) is a violation of a requirement promulgated pursuant to section 112 of the Act, 42 U.S.C. § 7412.

Civil Penalty

21. Based on analysis of the factors specified in section 113(e) of the Act, 42 U.S.C. § 7413(e), and the facts of this case, Complainant has determined that an appropriate civil penalty to settle this action is \$30,000.

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

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

23. Respondent must send a notice of payment that states the case title *In the Matter of Perlick Corporation, Inc.*, and the docket number of this document to 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 West Jackson Boulevard
Chicago, Illinois 60604

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

Regional Hearing Clerk (E-19J)
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

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

25. If Respondent does not pay timely the civil penalty, EPA may 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.

26. 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. According to 42 U.S.C. § 7413(d)(5), 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.

General Provisions

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

28. 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.

29. 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 29, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

30. Respondent certifies that it is complying fully with subpart WWWW of subpart WWWW of 40 C.F.R. part 63.

31. 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).

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

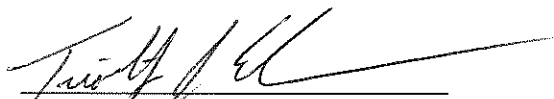
33. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

34. Each party agrees to bear its own costs and attorney's fees in this action.

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

Perlick Corporation, Inc., Respondent


30 Jan 2014
Date



Timothy Elmer
Vice-President, Marketing and Business
Development

United States Environmental Protection Agency, Complainant

2/27/14
Date



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


Consent Agreement and Final Order
In the Matter of: Perlick Corporation, Inc., Milwaukee, Wisconsin
Docket No. CAA-05-2014-0013



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.

3/3/2014
Date



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

**Consent Agreement and Final Order
In the Matter of: Perlick Corporation
Docket No. CAA-05-2014-0013**



Certificate of Service

I certify that I filed the original and one copy of the Consent Agreement and Final Order (CAFO), docket number CAA-05-2014-0013 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:

Douglas Graf
Perlick Corporation
8300 W. Good Hope Road
Milwaukee, Wisconsin 53223

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

Marcy Toney
Regional Judicial Officer (C-14J)
U.S. Environmental Protection Agency
77 W. Jackson Boulevard
Chicago, Illinois 60604

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

Michael Griffin
Wisconsin Department of Natural Resources
2300 N. Dr. Martin Luther King, Jr. Dr.
Milwaukee, Wisconsin 53212

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On the 5 day of March 2014.

**Loretta Shaffer
Program Technician
AECAB, PAS**

CERTIFIED MAIL RECEIPT NUMBER:

7009 1680 0000 7670 0436