



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

AUG - 6 2014

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Howard Kirby
Plant Manager
Empire Hard Chrome, Inc.
1537 South Wood Street
Chicago, Illinois 60608

Dear Mr. Kirby:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves Empire Hard Chrome, Inc., Docket No. CAA-05-2014-0039. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on AUG - 6 2014.

Pursuant to paragraph 40 of the CAFO, Empire Hard Chrome, Inc. must pay the civil penalty in four installments with interest as follows: \$11,250 within 30 days of AUG - 6 2014, \$11,250 within 120 days of AUG - 6 2014, \$11,250 within 210 days of AUG - 6 2014, and \$11,250 within 300 days of AUG - 6 2014. Your check or electronic funds transfer must display the case name, the docket number CAA-05-2014-0039, and the billing document number N/A.

Please direct any questions regarding this case to James Morris, Associate Regional Counsel, at (312) 886-6632.

Sincerely,

Sarah Marshall
Air Enforcement and Compliance Assurance Branch
MI/WI

Enclosure

cc: Ann Coyle, Regional Judicial Officer/C-14J
Regional Hearing Clerk/E-19J
James Morris/C-14J
Eric Jones/IEPA

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:

Empire Hard Chrome, Inc.
Chicago, Illinois,

Respondent.



) Docket No. CAA-05-2014-0039

) Proceeding to Assess a Civil Penalty
) Under Section 113(d) of the Clean Air Act
) 42 U.S.C. § 7413(d)

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 ("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 Empire Hard Chrome, Inc., a company doing business in Chicago, Illinois.

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 obtain judicial review of this CAFO under Section 113(d)(4) of the Act, 42 U.S.C. § 7413(d)(4), 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. Pursuant to Section 112(b) of the Act, 42 U.S.C. § 7412(b), EPA designates hazardous air pollutants (HAPs) that present or may present a threat of adverse effects to human health or the environment.

10. Sections 112(c) and (d) of the Act, 42 U.S.C. § 7412(c) and (d), require EPA to publish a list of categories of sources that EPA finds present a threat of adverse effects to human health or the environment due to emissions of HAPs, and to promulgate emission standards for each source category. These standards are known as “national emission standards for hazardous air pollutants” or NESHAPs. EPA codifies these requirements at 40 C.F.R. Part 63.

11. Section 112(d) of the Act requires EPA to establish NESHAPs for both major and area sources of HAPs that are listed for regulation under CAA section 112(c). A major source emits, or has the potential to emit, 10 tons per year (tpy) or more of any single HAP or 25 tpy or more of any combination of HAPs. An area source is a stationary source that is not a major source. Section 112(a) of the Act, 42 U.S.C. § 7412(a).

12. The NESHAPs are national technology-based performance standards for HAP sources in each category and become effective on specified dates. The purpose of these

standards is to ensure that all sources achieve the maximum degree of reduction in emissions of HAPs that EPA determines is achievable for each source category.

13. Section 112(i)(3) of the Act, 42 U.S.C. § 7412(i)(3), and 40 C.F.R. § 63.4, prohibit the owner or operator of any source from operating such source in violation of any NESHAP applicable to such source.

14. Pursuant to Section 112(d) of the Act, 42 U.S.C. § 7412(d), effective January 25, 1995, EPA promulgated the NESHAP for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks (“Chrome Plating NESHAP”). 60 Fed. Reg. 4948. These regulations are codified at 40 C.F.R. §§ 63.340-63.348.¹

15. The Chrome Plating NESHAP, at 40 C.F.R. § 63.340(a), provides that the affected source to which the NESHAP applies is each chromium electroplating or chromium anodizing tank at facilities performing hard chromium electroplating, decorative chromium electroplating, or chromium anodizing.

16. The Chrome Plating NESHAP, at 40 C.F.R. § 63.341(a), defines “chromium electroplating tank” as the receptacle or container along with the following internal and external components needed for chromium electroplating: rectifiers, anodes, heat exchanger equipment, circulation pumps, and air agitation systems.

17. The Chrome Plating NESHAP, at 40 C.F.R. § 63.341(a), defines “open surface hard chromium electroplating tank” as a chromium electroplating tank that is ventilated at a rate consistent with good ventilation practices for open tanks.

¹ Effective September 19, 2012, EPA amended the Chrome Plating NESHAP to include, among other things, revised emission limits for total chromium, with a compliance date for existing sources of September 19, 2014. 77 Fed. Reg. 58220.

18. The Chrome Plating NESHAP, at 40 C.F.R. § 63.342(c)(1), provides, *inter alia*, that, during tank operation, each owner or operator of an existing open surface hard chromium electroplating tank shall control emissions discharged to the atmosphere from that tank by:

...Not allowing the concentration of total chromium in the exhaust gas stream discharged to the atmosphere to exceed 0.015 milligrams of total chromium per dry standard cubic meter (mg/dscm) of ventilation air (6.6×10^{-6} grains per dry standard cubic foot (gr/dscf)) for all open surface hard chromium electroplating tanks that are affected sources other than those that are existing affected sources located at small hard chromium electroplating facilities.

19. The Chrome Plating NESHAP, at 40 C.F.R. § 63.343(a)(1), requires the owner or operator of an existing hard chromium electroplating or anodizing tank to achieve compliance with the applicable emission limitations of the NESHAP no later than two years after January 25, 1995.

20. The Chrome Plating NESHAP, at 40 C.F.R. § 63.343(c), provides that the owner or operator of an open surface hard chromium electroplating tank subject to the requirements of the Chrome Plating NESHAP is required to conduct an initial performance test as required under § 63.7, using the procedures and test methods listed in §§ 63.7 and 63.344.

21. The Chrome Plating NESHAP, at 40 C.F.R. § 63.343(c), provides that the owner or operator of an open surface hard chromium electroplating tank subject to the emission limitations of the Chrome Plating NESHAP shall conduct monitoring according to the type of air pollution control technique that is used to comply with the emission limitation.

22. The Chrome Plating NESHAP, at 40 C.F.R. § 63.343(c)(1)(i), provides that the owner or operator of an open surface hard chromium electroplating tank complying with the

emission limitations in 40 C.F.R. § 64.342 through the use of a composite mesh pad system shall determine the outlet chromium concentration using the test methods and procedures in § 63.344(c), and shall establish as a site-specific operating parameter the pressure drop across the system, setting the value that corresponds to compliance with the applicable emission limitation, using the procedures in § 63.344(d)(5). An owner or operator may conduct multiple performance tests to establish a range of compliant pressure drop values, or may set as the compliant value the average pressure drop measured over the three test runs of one performance test and accept ± 2 inches of water column from this value as the compliant range.

23. The Chrome Plating NESHAP, at 40 C.F.R. § 63.343(c)(1)(ii), provides that the owner or operator of an open surface hard chromium electroplating tank, on and after the date on which the initial performance test is required to be completed under § 63.7, shall monitor and record the pressure drop across the composite mesh-pad system once each day that any affected source is operating. To be in compliance with the standards, the composite mesh-pad system shall be operated within ± 2 inches of water column of the pressure drop value established during the initial performance test, or shall be operated within the range of compliant values for pressure drop established during multiple performance tests.

24. The Administrator of EPA (“Administrator”) may assess a civil penalty of up to \$32,500 per day of violation up to a total of \$270,000 for violations that occurred between March 15, 2004, and January 12, 2009, and may assess a civil penalty of up to \$37,500 per day of violation up to a total of \$295,000 for violations that occurred after 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.

25. 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.

26. 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.

U.S.EPA's Factual Allegations and Alleged Violations

27. EHC owns and operates a plating facility located at 1537 S. Wood Street, Chicago, Illinois ("facility").

28. EHC performs hard chromium electroplating at the facility. EHC owns and operates four "chromium electroplating tanks" as that term is defined at 40 C.F.R. § 63.341(a). EHC identifies these tanks as Chrome Tanks C1, C2, C3 and C4. The four tanks were installed at the facility in 1992, and the facility therefore is an "existing source" under the Chrome Plating NESHAP.

29. EHC's hard chromium electroplating tanks are subject to the requirements of the Chrome Plating NESHAP at 40 C.F.R. Part 63, Subpart N.

30. EHC controls chromium emissions from Chrome Tanks C1, C3, and C4 through the use of composite mesh pad systems designated S1 and S5.

31. Chrome Tanks C1, C3, and C4 are ventilated tanks and are therefore "open surface hard chromium electroplating tanks" as that term is defined in 40 C.F.R. § 63.341(a), and subject to the emission standards at 40 C.F.R. 63.342(c)(1).

32. On September 29-30, 1998, EHC completed a performance test on Chrome Tank C1 to establish compliance with the emission limit of 0.015 mg/dscm, as provided in 40 C.F.R. § 63.342(c)(1)(i). The resulting emission rate was of 0.013 mg/dscm.

33. The pressure drop parameter for the composite mesh-pad system S1 on Chrome Tank C1 during the stack test conducted on September 29-30, 1998, was 0.9" of water column.

34. The composite mesh-pad system S1 was operated outside of the pressure drop range established during the September 29-30, 1998, performance test for a period of 79 days during the time period from August 24, 2009, to June 10, 2010.

35. On July 23-24, 1998, EHC completed a performance test on Chrome Tanks C3 and C4 to establish compliance with the emission limit of 0.015 mg/dscm, as provided in 40 C.F.R. § 63.342(c)(1)(i). The resulting emission rate was of 0.013 mg/dscm. The pressure drop parameter for the composite mesh-pad system S5 was 1.6" of water column.

36. The composite mesh-pad system S5 was operated outside of the pressure drop range established during the July 23-24, 1998, performance test for a period of 76 days during the time period from August 10, 2009, to December 4, 2009.

37. On October 18, 2012, EPA conducted an inspection of the facility. On March 12, 2013, EPA issued a Request for Information to the facility under Section 114 of the Act, 42 U.S.C. § 7414. On April 29, 2013, Respondent responded to EPA's Section 114 request ("Response").

38. Based on information obtained by EPA through its Section 114 information request, EPA determined that, for a period of 79 days during the time period from August 10, 2009, to June 10, 2010, Respondent failed to operate composite mesh-pad systems S1 and S5—controlling Chrome Tanks C1, C3, and C4—in continuous compliance with the Chrome Plating

NESHAP, by not maintaining a pressure drop within ± 2 inches of water column of the pressure drop value established during the performance tests conducted on July 23-24, 1998, and September 29-30, 1998, in violation of 40 C.F.R. § 63.343(c)(1)(ii) and Section 112 of the Act, 42 U.S.C. § 7412.

39. As a consequence of the alleged violations delineated in paragraph 42, for a period of 79 days during the time period from August 10, 2009, to June 10, 2010, Respondent failed to adequately control chromium emissions discharged to the atmosphere from Chrome Tanks C1, C3, and C4 by allowing the concentration of total chromium in the exhaust gas stream discharged to the atmosphere to exceed 0.015 mg/dscm, in violation of 40 C.F.R. § 63.342(c)(1)(i) and Section 112 of the Act, 42 U.S.C. § 7412.

Civil Penalty

40. Based on analysis of the factors specified in Section 113(e) of the Act, 42 U.S.C. § 7413(e), the facts of this case and other factors such as cooperation and prompt return to compliance, EPA has determined that an appropriate civil penalty to settle this action is \$ 45,000.00.

41. Respondent must pay the \$ 45,000 civil penalty in four installments as follows: \$ 11,250 within thirty (30) days of the effective date of this CAFO; \$ 11,250 within 120 days of the effective date of this CAFO; and \$ 11,250 within 210 days of the effective date of this CAFO, and \$ 11,250 within 300 days of the effective date of this CAFO.

42. For payments made by regular U.S. Postal Service mail, Respondent must send 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, the docket number of this CAFO, and the billing document number.

For payments made by electronic funds transfer, Respondent must make the electronic funds transfer payable to "Treasurer, United States of America," and sent to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read:
"D68010727 Environmental Protection Agency"

The comment or description field of the electronic funds transfer must note Respondent's name, the docket number of this CAFO, and the billing document number.

For payments made online, Respondent must go to www.pay.gov. Use the Search Public Forms option on the tool bar, and enter SFO 1.1 in the search field. Open the form and complete the required fields.

43. Upon payment of each installment of the civil penalty pursuant to paragraph 42 of this CAFO, 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 James Morris, Office of Regional Counsel, at the following addresses:

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 60604-3590

James Morris
Associate Regional Counsel
Office of Regional Counsel (C-14J)
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604-3590

44. This civil penalty is not deductible for federal tax purposes.
45. If Respondent does not timely pay any installment of 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, plus nonpayment penalties and the United States's 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.
46. 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

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

48. 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.

49. This CAFO does not affect Respondent's responsibility to comply with the Act and other applicable federal, state, and local laws.

50. Respondent certifies that it is in compliance with the Chrome Plating NESHAP at 40 C.F.R. Part 63, Subpart N.

51. 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).

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

53. 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.

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

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

**Consent Agreement and Final Order
In the Matter of: Empire Hard Chrome, Inc.
Docket No.**

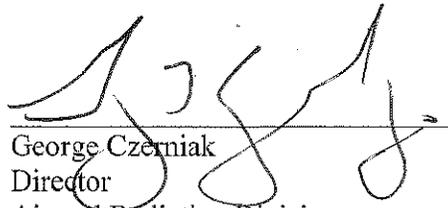
For Empire Hard Chrome, Inc.

7-2-14
Date


Steve Wallin
President
Empire Hard Chrome, Inc.

For United States Environmental Protection Agency

7/17/14
Date


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

Consent Agreement and Final Order
In the Matter of: Empire Hard Chrome, Inc.
Docket No. CAA-05-2014-0039

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.

7-28-2014
Date



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

Consent Agreement and Final Order
In the Matter of: Empire Hard Chrome, Inc.
Docket No. CAA-05-2014-0039

CERTIFICATE OF SERVICE

I certify that I filed the original and one copy of the Consent Agreement and Final Order (CAFO), docket number CAA-05-2014-0039 with the Regional Hearing Clerk (E-19J), U.S. Environmental Protection Agency, Region 5, 77 West 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:

Howard Kirby
Plant Manager
Empire Hard Chrome, Inc.
1537 South Wood Street
Chicago, Illinois 60608

7011 1150 000 2639 2796

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 West 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:

Eric Jones
Manager
Compliance Unit, Bureau of Air
Illinois Environmental Protection Agency
9511 West Harrison Street
Des Plaines, Illinois 60016

on the 06 day of August, 2014.


Loretta Shaffer
Administrative Program Assistant
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER: 7011 1150 000 2639 2796