

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3
BEFORE THE ADMINISTRATOR**

In the Matter of:

Industraplate Corp.,

Respondent.

Administrative

Compliance Order on Consent

Docket No. CAA-03-2023-0052DA

ADMINISTRATIVE COMPLIANCE ORDER

A. PRELIMINARY STATEMENT

1. This Administrative Compliance Order (Order) is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 113(a) of the Clean Air Act (CAA), 42 U.S.C. § 7413(a).
2. On the EPA's behalf, the Director of EPA Region 3's Enforcement & Compliance Assurance Division is delegated the authority to issue this Order under Section 113(a) of the CAA.
3. Respondent is Industraplate Corp., a corporation doing business in the State of Delaware. Respondent is a "person" as defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
4. Respondent signs this Order on consent.
5. In satisfaction of the notice requirements of Section 113(a)(1) of the CAA, on September 20, 2022, the EPA issued to Respondent a notice of violation (NOV) and provided a copy of the NOV to the State of Delaware, providing notice to both of alleged violations committed by Respondent, including violations of the Delaware state implementation plan described in Section C. of this Order, and providing Respondent an opportunity to confer with the EPA. On October 25, 2022, representatives of Respondent and the EPA discussed the September 20, 2022 NOV.

B. STATUTORY AND REGULATORY BACKGROUND

6. Section 101 of the CAA, 42 U.S.C. § 7401, declares that the purpose of the Clean Air Act is to protect and enhance the quality of the nation's air resources so as to promote the public health and welfare and the productive capacity of its population.

Delaware SIP Approved Regulations, Minor Source Permits and Registrations

7. Section 108(a) of the CAA requires the Administrator of the EPA to identify and prepare air quality criteria for each air pollutant, emissions of which may endanger public health or welfare, and the presence of which results from numerous or diverse mobile or stationary sources (criteria pollutants). 42 U.S.C. § 7408(a).
8. For each criteria pollutant, Section 109 of the CAA requires the EPA to promulgate national ambient air quality standards (NAAQS) requisite to protect the public health and welfare. 42 U.S.C. § 7409.
9. Section 110(a) of the CAA, 42 U.S.C. § 7410(a), requires each state to adopt and submit to the Administrator of EPA for approval a plan which provides for implementation, maintenance, and enforcement, for each promulgated NAAQS, in each air quality control region (or portion thereof) within the state (SIP).
10. Each SIP must include enforceable emission limitations, among other control measures, and regulate the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that NAAQS are attained and maintained. 42 U.S.C. § 7410(a)(2)(A).
11. Upon EPA approval, SIP requirements, including permits issued pursuant to SIP regulations approved by EPA, are federally enforceable under Section 113 of the CAA. 42 U.S.C. § 7413(a) and (b). 40 C.F.R. § 52.23.
12. Pursuant to Title 7, Chapter 60 of the Delaware Administrative Code, 7 Del.C. Ch. 60, and Section 110 of the CAA, 42 U.S.C. § 7410, the State of Delaware adopted regulations that comprise the SIP for Delaware (DE SIP), which were approved by EPA as set forth in 40 C.F.R. § 52.420(c).
13. At all times relevant to the violations identified herein, state regulations governing the construction, installation, alteration or operation of any equipment, facility or control device that will emit or prevent the emission of an air contaminant and that is not subject to the State of Delaware's major source preconstruction review regulations were approved by EPA as part of the DE SIP. 65 Fed Reg. 2,048 (January 13, 2000). These regulations are currently codified at 7 DE Admin. Code 1102 Permits (DE SIP 1102 Permit regulations). *See also* 40 C.F.R. § 52.420(c).
14. The DE SIP 1102 Permit regulations allow certain equipment to be registered instead of permitted if actual emissions of any air contaminant, or contaminants in the aggregate, during any day are equal to or greater than 0.2 pounds per day, and during each and every day are less than 10 pounds per day. 7 DE Admin. Code 1102.2.1.1.
15. For equipment that is registered, the DE SIP 1102 Permit regulations require records to be maintained at the facility that document that the equipment has actual emissions of any air contaminant, or contaminants in the aggregate, during any day that are equal to or greater than 0.2 pounds per day, and during each and every day that are less than 10 pounds per day, and for such records to be made available upon request. 7 DE Admin. Code 1102.9.3.1.

16. For equipment that has actual emissions below the thresholds for registration, the DE SIP 1102 Permit regulations require actual emissions to be quantified and documented, and for records to be maintained and provided upon request, that demonstrate that the equipment qualifies for the exemption from permitting and registration. 7 DE Admin. Code 1102.2.2.1 and 1102.2.2.2.

17. The DE SIP 1102 Permit regulations clarify that the submittal of a registration form does not relieve the registrant from the requirement to comply with all State and Federal requirements, including, but not limited to, monitoring, record keeping and reporting requirements, as well as any requirement to consider actual emissions or the potential to emit of all equipment when determining the applicability of or compliance with certain State and Federal requirements. 7 DE Admin. Code 1102.9.4.

National Emissions Standards for Hazardous Air Pollutants

18. Section 112(d) of the CAA, 42 U.S.C. § 7412(d), requires EPA to establish National Emission Standards for Hazardous Air Pollutants (NESHAP) for both major and area sources of hazardous air pollutants (HAP)¹ that are listed for regulation under Section 112(c) of the CAA, 42 U.S.C. § 7412(c).

19. Section 112(k)(3)(B) of the CAA, 42 U.S.C. § 7412(k)(3)(B), calls for EPA to identify at least 30 HAP which, as the result of emissions from area sources, pose the greatest threat to public health in the largest number of urban areas. EPA implemented this provision in 1999 in the Integrated Urban Air Toxics Strategy (64 FR 38715, July 19, 1999). Specifically, in the Strategy, EPA identified 30 HAP that pose the greatest potential health threat in urban areas, and these HAP are referred to as the “30 urban HAP.”

20. Section 112(c)(3) of the CAA, 42 U.S.C. § 7412(c)(3), requires EPA to list sufficient categories or subcategories of area sources to ensure that area sources representing 90 percent of the emissions of the 30 urban HAP are subject to regulation. EPA implemented these requirements through the Integrated Urban Air Toxics Strategy (64 FR 38715, July 19, 1999). A primary goal of the Strategy is to achieve a 75 percent reduction in cancer incidence attributable to HAP emitted from stationary sources.

21. Pursuant to section 112(d)(5), 42 U.S.C. § 7412(d)(5), EPA, may elect to promulgate standards or requirements for area sources “which provide for the use of generally available control technologies (GACT) or management practices by such sources to reduce emissions of hazardous air pollutants.”

22. EPA added plating and polishing operations to the Integrated Urban Air Toxics Strategy Area Source Category List on June 26, 2002 (67 FR 43113). EPA listed this source category for regulation pursuant to Section 112(c)(3) of the CAA, 42 U.S.C. § 7412(c)(3), based on emissions of compounds of five HAP metals: cadmium, chromium, lead, manganese, and nickel. These five

¹ 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 HAP. An area source is a stationary source that is not a major source.

metal HAP represent part of the 90 percent of those urban HAP emissions in the 1990 inventory to be regulated.

23. On July 1, 2008, EPA promulgated national emission standards for the control of HAP for the plating and polishing area source category, codified at 40 C.F.R Part 63, Subpart WWWW. These national emission standards include *inter alia* management practices for new and existing tanks, thermal spraying equipment, and mechanical polishing equipment in certain plating and polishing operations, and reflect EPA's determination of GACT and/or management practices for the plating and polishing area source category.

24. After the effective date of any emissions standard, limitation or regulation promulgated under Section 112 of the CAA, 42 U.S.C. § 7412, and applicable to a source, no person may operate such source in violation of such standard, limitation or regulation except, in the case of an existing source, which shall comply pursuant to the compliance dates set forth by EPA in the standard, limitation or regulation. Section 112(i)(3) of the CAA, 42 U.S.C. § 7412(i)(3).

Area Source Standards for Plating and Polishing Operations
40 C.F.R. Part 63, Subpart WWWW

25. Effective July 1, 2008, EPA promulgated National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Plating and Polishing Operations, found at 40 C.F.R. Part 63, Subpart WWWW, 73 Fed. Reg. 37,741 (July 1, 2008) (NESHAP Subpart WWWW).

26. NESHAP Subpart WWWW applies to an owner or operator of a plant site that is engaged in electroplating (other than chromium electroplating), electroless or non-electrolytic plating, dry mechanical polishing of finished metals and formed products after plating, electroforming, and/or electropolishing processes; that is an area source of HAP emissions; and that uses one or more plating and polishing metal HAP, including (except for lead) any of these metals in elemental form. 40 C.F.R. § 63.11504.

27. NESHAP WWWW applies, in relevant part, to the following affected sources: each tank that contains one or more of the plating and polishing metal HAP, and is used for non-chromium electroplating; electroforming; electropolishing; electroless plating or other non-electrolytic metal coating operations, such as chromate conversion coating, nickel; acetate sealing, sodium dichromate sealing, and manganese phosphate coating. 40 C.F.R. § 63.11505(a)(1).

28. NESHAP WWWW does not apply, in relevant part, to any plating or polishing process that does not use any material that contains cadmium, chromium, lead or nickel in amounts of 0.1 percent or more by weight, or that contains manganese in amounts of 1.0 percent or ore by weight, as reported on the Material Safety Data Sheet for the material. 40 C.F.R. § 63.11505(d)(6).

29. NESHAP Subpart WWWW defines terms as follows:

- (a) *Dry mechanical polishing* means a process used for removing defects from and smoothing the surface of finished metals and formed products after plating with any of

the plating and polishing metal HAP, as defined in this section, using hard-faced abrasive wheels or belts and where no liquids or fluids are used to trap the removed metal particles.

- (b) *Electroforming* means an electrolytic process using or emitting any of the plating and polishing metal HAP, as defined in this section, that is used for fabricating metal parts. This process is essentially the same as electroplating except that the plated substrate (mandrel) is removed, leaving only the metal plate. In electroforming, the metal plate is self-supporting and generally thicker than in electroplating.
- (c) *Electroless plating* means a nonelectrolytic process that uses or emits any of the plating and polishing metal HAP, as defined in this section, in which metallic ions in a plating bath or solution are reduced to form a metal coating at the surface of a catalytic substrate without the use of external electrical energy. Electroless plating is also called non-electrolytic plating. Examples include, but are not limited to, chromate conversion coating, nickel acetate sealing, sodium dichromate sealing, and manganese phosphate coating.
- (d) *Electroplating* means an electrolytic process that uses or emits any of the plating and polishing metal HAP, as defined in this section, in which metal ions in solution are reduced onto the surface of the work piece (the cathode) via an electrical current. The metal ions in the solution are usually replenished by the dissolution of metal from solid metal anodes fabricated of the same metal being plated, or by direct replenishment of the solution with metal salts or oxides; electroplating is also called electrolytic plating.
- (e) *Electropolishing* means an electrolytic process that uses or emits any of the plating and polishing metal HAP, as defined in this section, in which a work piece is attached to an anode immersed in a bath, and the metal substrate is dissolved electrolytically, thereby removing the surface contaminant; electropolishing is also called electrolytic polishing.
- (f) *HAP* means hazardous air pollutant as defined from the list of 188 chemicals and compounds specified in the CAA Amendments of 1990; HAP are also called “air toxics.” The five plating and polishing metal HAP, as defined in this section, are on this list of 188 chemicals.
- (g) *Non-electrolytic plating* means a process that uses or emits any of the plating and polishing metal HAP, as defined in this section, in which metallic ions in a plating bath or solution are reduced to form a metal coating at the surface of a catalytic substrate without the use of external electrical energy. Non-electrolytic plating is also called electroless plating. Examples include chromate conversion coating, nickel acetate sealing, sodium dichromate sealing, and manganese phosphate coating.
- (h) *Plating and polishing metal HAP* means any compound of any of the following metals: cadmium, chromium, lead, manganese, and nickel, or any of these metals in the elemental form, with the exception of lead. Any material that does not contain cadmium, chromium, lead, or nickel in amounts greater than or equal to 0.1 percent by weight, and does not contain manganese in amounts greater than or equal to 1.0 percent by weight, as reported on the Material Safety Data Sheet for the material, is not considered to be a plating and polishing metal HAP.

40 C.F.R. § 63.11511.

30. NESHAP WWWW requires an owner or operator of an affected source to submit an Initial Notification, including a description of the compliance method (e.g., use of wetting agent/fume suppressant) for each affected source, as specified at 40 C.F.R. § 63.11509(a).

31. NESHAP WWWWWW requires an owner or operator of an affected source to submit a Notification of Compliance Status, including a list of affected sources and the plating and polishing metal HAP used in, or emitted by, those sources; the methods used to comply with the applicable management practices and equipment standards; a description of the capture and emission control systems used to comply with the applicable equipment standards; and a statement by the owner or operator of the affected source as to whether the source is in compliance with the applicable standards or other requirements, as specified at 40 C.F.R. § 63.11509(b).

32. NESHAP WWWWWW requires an owner or operator of an affected source to prepare an annual certification of compliance report according to paragraphs 40 C.F.R. § 63.11509(c)(1)-(7), no later than January 31 of the year following the reporting year, as specified at 40 C.F.R. § 63.11509(c).

33. NESHAP WWWWWW requires an owner or operator of an affected source to keep records, including copies of Initial Notifications and Notifications of Compliance Status with all supporting documentation and records showing continuous compliance with each management practice and equipment standard that applies as specified in 40 C.F.R. § 63.11508(d), for a minimum of 5 years as specified at 40 C.F.R. §§ 63.11509(e) and (f).

C. FINDINGS

34. At all times relevant to the violations identified herein, Industraplate was a corporation registered in the State of Delaware. Industraplate has a principal place of business located at 5 James Court in Wilmington, Delaware.

35. At all times relevant to the violations identified herein, Industraplate owned and operated a metal coating facility located at 5 James Court in Wilmington, Delaware.

36. On February 5, 2007, the Delaware Department of Natural Resources & Environmental Control (DNREC) registered Industraplate's Sulfuric Anodizing Bath plating operation pursuant to the DE SIP 1102 Permit regulations (Registration Number: APC-2006/0190-R).

37. Prior to issuing Registration Number: APC-2006/0190-R, DNREC prepared a Technical Memorandum dated January 31, 2007 which documented its efforts to obtain emissions and other information from Industraplate; its observations of various facility operations during an August 22, 2006 site visit; its potential to emit calculations for Industraplate's anodizing bath, nickel, cadmium, copper and sulfuric etch plating operations, based on data collected for 2005 and 2006, AP-42 emission factors (where available) and information collected during the site visit; and its conclusion that Industraplate's anodizing bath process has the potential to emit 0.63 lbs of sulfuric acid/day and therefore subject to registration, and that each of its other plating operations has the potential to emit less than 0.2 lbs of air contaminants per day and therefore not subject to registration.

38. Pursuant to Registration Number: APC-2006/0190-R, records which document that the equipment meets the registration requirements shall be maintained at the facility and made available upon request.

39. As part of its investigation, EPA requested and received copies of Registration Number: APC-2006/0190-R as well as the supporting January 31, 2007 Technical Memorandum prepared by DNREC.

40. On March 25, 2021, EPA issued an information request letter pursuant to Section 114(a) of the CAA, 42 U.S.C. § 7414(a), requiring Industraplate to, among other things, to:

- (a) “[p]rovide a narrative on [its] current operations, including but not limited to, a description of all process vessels in use, storage tanks, electroplating operations, and whether there are any thermal spraying operations, or any batch electrolytic processes containing cadmium, chromium, lead, manganese or nickel”;
- (b) “[p]rovide a facility site plan which identifies each process unit, storage tank, and emission point.”;
- (c) “[p]rovide records of actual emissions in lbs/day and tons/year” and “cumulative hours of operation per day” associated with its various processes, including the sulfuric anodizing bath and cadmium plating operations;
- (d) “[p]rovide potential to emit for each emission source and the total facility in lb/day and ton/yr for volatile organic compounds (VOC), hazardous air pollutants (HAP) and nitrogen oxides (NOx)” as well as “examples of detailed calculations documenting how emission rates are obtained for each pollutant, include any emission factors used and the source of said factors”;
- (e) “[s]tate if there are any material stored or handles on site that contain 0.1% or greater by weight of cadmium, chromium, or lead as reported on the respective MSDS sheets”;
- (f) “[i]nclude a description of all management or work practices, including but not limited to, wet suppression systems, fume suppressants, and tank covers implemented to reduce fugitive emissions of any hazardous air pollutants (HAPS)”;
- (g) “[p]rovide . . . a copy of the initial notification that was submitted within 120 days of commencing operations per 40 CFR § 63.11509 and § 63.9(b)(2)(i) through (iv)”, and “copies of the annual compliance certificates for hazardous air pollutants or any Notification of Compliance Status per 40 CFR § 63.11509(a)-(c).”

41. On or about May 7, 2021, Industraplate provided its response to the March 25, 2021 information request letter:

- (a) providing a narrative stating that it is “qualified and approved to provide Anodize, Chromate/Non-chromate coating, Cadmium and Passivation” processes; and that its electrolytic processes are “Anodize and Cadmium (“Industraplate’s plating and polishing operations”);
- (b) providing a site plan and tank list which identify the facility’s storage tanks, some of which are used as part of Industraplate’s plating and polishing operations and contain one or more of the plating and polishing metal HAP;
- (c) failing to provide actual emission or cumulative hours of operation records for its various processes, including its sulfuric anodizing bath and cadmium plating operations;
- (d) providing a single calculation from 2007 for its sulfuric anodizing emissions (lbs/hr);
- (e) stating that the “Lead cathode inside anodize tank, Cadmium balls in cathodes inside the cad tank. Any extra material is stored in 5 gallon bucket in the boiler room”

- contain 0.1% or greater by weight of cadmium, chromium, or lead as reported on the respective MSDS sheets;
- (f) including the following description of its management or work practices: “Specialty Ano-Fume for anodize processes. All of Industraplate tanks and processes are covered when not in production with custom lids to fit. With the exception of the Cadmium tank which is covered during production and when not in production (closed system)”;
 - (g) failing to provide any copies of initial certifications, annual compliance certificates for hazardous air pollutants or notifications of compliance status, and stating that based on its knowledge, Industraplate is a small job shop and does not have enough emissions to track.

42. In 2007, it was determined by DNREC that Industraplate’s anodizing bath process had the potential to emit 0.63 lbs of sulfuric acid/day and was required to be registered pursuant to the DE SIP 1102 Permit regulations. *See* Technical Memorandum.

43. Both the DE SIP 1102 Permit regulations and Registration Number: APC-2006/0190-R require Industraplate to maintain records which document that its anodizing bath process equipment meets the registration requirements (i.e., has actual emissions of any air contaminant, or contaminants in the aggregate, that are equal to or greater than 0.2 pounds per day, and that are less than 10 pounds per day during each and every) and to make them available upon request. 7 DE Admin. Code 1102.9.3.1.

44. In 2007, it was also determined by DNREC that Industraplate’s other operations – including nickel, cadmium, copper and sulfuric etch plating operations - had the potential to emit less than 0.2 lbs of air contaminants per day and were exempt from registration and permitting. *See* Technical Memorandum.

45. The DE SIP 1102 Permit regulations require Industraplate to quantify and document actual emissions, maintain records and provide upon request documentation that its unpermitted and unregistered equipment qualify for the exemption from permitting and registration (i.e., have actual emissions of any air contaminant, or contaminants in the aggregate, that are less than 0.2 pounds per day). 7 DE Admin. Code 1102.2.2.

46. By failing to maintain or to provide upon request records of actual emissions which document that its anodizing bath process equipment meets the registration requirements, or that its other unpermitted and unregistered equipment qualify for the exemptions from permitting and registration since at least 2018, Industraplate violated 7 DE Admin. Code 1102.9.3.1., Registration Number: APC-2006/0190-R, 7 DE Admin. Code 1102.2.2.1 and 1102.2.2.2., DE SIP, and 40 C.F.R. § 52.23.

47. Industraplate owns and operates a plant site that is an area source of HAP, and that is engaged in processes including Anodize and Cadmium electroplating, Chromate/Non-chromate coating and passivation electroless or non-electrolytic plating, some or all of which use or emit compounds of cadmium, chromium, lead, manganese, or nickel, including (except for lead) any of these metals in elemental form.

48. Industraplate's plating and polishing operations include operations that use compounds that contain cadmium, chromium, lead, or nickel in amounts of 0.1 percent or more by weight, or manganese in amounts of 1.0 percent or more by weight, as reported on the Material Safety Data Sheet for the material.

49. Industraplate is subject to NESHAP WWWWWW.

50. Industraplate's plating and polishing operations include tanks, some of which contain one or more of the plating and polishing metal HAP and are thus affected sources pursuant to 40 C.F.R. § 63.11505(a)(1).

51. By failing to submit an Initial Notification as specified at 40 C.F.R. § 63.11509(a); submit a Notification of Compliance Status as specified at 40 C.F.R. § 63.11509(b); prepare annual certifications of compliance as specified at 40 C.F.R. § 63.11509(c); or keep records as specified at 40 C.F.R. §§ 63.11509(e) and (f), Industraplate violated NESHAP WWWWWW, and Section 112(i)(3) of the CAA, 42 U.S.C. § 7412(i)(3).

D. ORDER

52. Respondent is ordered to conduct the compliance program described in this section of this Order.

53. Within 120 days of the effective date of this Order, Industraplate shall provide a written submission to EPA that identifies the parameters it proposes to monitor or describes other methods it proposes to use, along with sample calculations (collectively "proposed methods"), to demonstrate that actual emissions at its anodizing, cadmium plating, chromate/non chromate coating, passivation processes and other operations are either less than 10 lbs/day (e.g., anodizing processes) or less than 0.2 lbs/day in compliance with 7 DE Admin. Code 1102.9.3.1., Registration Number: APC-2006/0190-R, 7 DE Admin. Code 1102.2.2.1. and 1102.2.2.2., DE SIP, and 40 C.F.R. § 52.23.

54. Upon providing the written submission described above and until receiving written notification from EPA that its proposed methods are unacceptable for demonstrating compliance with 7 DE Admin. Code 1102.9.3.1., Registration Number: APC-2006/0190-R, 7 DE Admin. Code 1102.2.2.1. and 1102.2.2.2., DE SIP, and 40 C.F.R. § 52.23, Industraplate shall implement its proposed methods.

55. Within 10 days of receipt of written notification from EPA that its proposed methods are unacceptable for demonstrating compliance with 7 DE Admin. Code 1102.9.3.1., Registration Number: APC-2006/0190-R, 7 DE Admin. Code 1102.2.2.1. and 1102.2.2.2., DE SIP, and 40 C.F.R. § 52.23, Industraplate shall revise its proposed methods, and submit and implement its revised proposed methods as described in the preceding paragraph.

56. Within 120 days of the effective date of this Order, Industraplate shall submit an Initial Notification, including a description of the compliance method (e.g., use of wetting agent/fume suppressant) for each affected source, as specified at 40 C.F.R. § 63.11509(a).

57. Within 150 days of the effective date of this Order, Industraplate shall submit a Notification of Compliance Status, including a list of affected sources and the plating and polishing metal HAP used in, or emitted by, those sources; the methods used to comply with the applicable management practices and equipment standards; a description of the capture and emission control systems used to comply with the applicable equipment standards; and a statement by the owner or operator of the affected source as to whether the source is in compliance with the applicable standards or other requirements, as specified at 40 C.F.R. § 63.11509(b).

58. By January 15, 2024, Industraplate shall prepare and submit an annual certification of compliance report according to paragraphs 40 C.F.R. § 63.11509(c)(1)-(7), as specified at 40 C.F.R. § 63.11509(c).

59. Within 10 days of receipt of written notification from EPA that its Initial Notification, Notification of Compliance Status, or annual certification are unacceptable, Industraplate shall revise and resubmit.

60. Industraplate shall keep records, including copies of Initial Notifications and Notifications of Compliance Status with all supporting documentation, and records showing continuous compliance with each management practice and equipment standard that applies as specified in 40 C.F.R. § 63.11508(d), as specified at 40 C.F.R. §§ 63.11509(e) and (f).

E. OTHER TERMS AND CONDITIONS

61. Respondent admits the jurisdictional allegations contained in this Order.

62. Respondent neither admits nor denies the findings in Section C (Findings) of this Order.

F. GENERAL PROVISIONS

63. Any violation of this Order may result in a civil administrative or judicial action for an injunction or civil penalties of up to \$55,808 per day of violation, or both, as provided in Sections 113(b)(2) and 113(d)(1) of the Act, 42 U.S.C. §§ 7413(b)(2) and 7413(d)(1), as well as criminal sanctions as provided in Section 113(c) of the Act, 42 U.S.C. § 7413(c). The EPA may use any information submitted under this Order in an administrative, civil judicial, or criminal action.

64. Nothing in this Order shall relieve Respondent of the duty to comply with all applicable provisions of the Act or other federal, state or local laws or statutes, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.

65. Nothing herein shall be construed to limit the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

66. For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 162-21(b)(2), performance of

compliance program described in Section D. of the Order above is required to come into compliance with the law.

67. The provisions of this Order shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns. From the Effective Date of this Order until the Termination Date as set out in paragraph 73 below, Respondent must give written notice and a copy of this Order to any successors in interest prior to any transfer of ownership or control of any portion of or interest in the metal coating facility located at 5 James Court in Wilmington, Delaware. Simultaneously with such notice, Respondent shall provide written notice of such transfer, assignment, or delegation to the EPA. In the event of any such transfer, assignment, or delegation, Respondent shall not be released from the obligations or liabilities of this Order unless the EPA has provided written approval of the release of said obligations or liabilities.

68. Unless this Order states otherwise, whenever, under the terms of this Order, written notice or other document is required to be given, it shall be directed to the individuals specified at the addresses below unless those individuals or their successors give notice of a change of address to the other party in writing:

For EPA:

Jennifer M. Abramson, Senior Assistant Regional Counsel
Office of Regional Counsel, Region 3
Abramson.Jennifer@epa.gov

Stafford Stewart, Inspector
Enforcement & Compliance Assurance Division
Stewart.Stafford@epa.gov

For Respondent:

David K. Orr Jr., Vice-President
Industraplate Corp.
davejr@industraplate.com

All notices and submissions shall be considered effective upon receipt.

69. To the extent this Order requires Respondent to submit any information to the EPA, Respondent may assert a business confidentiality claim covering part or all of that information, but only to the extent and only in the manner described in 40 C.F.R. Part 2, Subpart B. The EPA will disclose information submitted under a confidentiality claim only as provided in 40 C.F.R. Part 2, Subpart B. If Respondent does not assert a confidentiality claim, the EPA may make the submitted information available to the public without further notice to Respondent.

70. Each undersigned representative of the Parties certifies that he or she is authorized to enter into the terms and conditions of this Order to execute and bind legally the Parties to this document.

G. EFFECTIVE DATE AND OPPORTUNITY FOR A CONFERENCE

71. Pursuant to Section 113(a)(4) of the Act, an Order does not take effect until the person to whom it has been issued has had an opportunity to confer with the EPA concerning the alleged violations. By signing this Order, Respondent acknowledges and agrees that it has been provided an opportunity to confer with the EPA prior to issuance of this Order. Accordingly, this Order will take effect immediately upon signature by the latter of Respondent or the EPA.

H. JUDICIAL REVIEW

72. Respondent waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this Order, including any right of judicial review under Section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1).

I. TERMINATION

73. This Order shall terminate on the earlier of the following (the “Termination Date”) at which point Respondent shall operate in compliance with the Act:
- a. One year after the Effective Date of this Order;
 - b. The effective date of any determination by the EPA that Respondent has achieved compliance with all terms of this Order; or
 - c. Immediately upon receipt by Respondent of notice from the EPA finding that an imminent and substantial endangerment to public health, welfare, or the environment has occurred.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3
BEFORE THE ADMINISTRATOR**

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Industraplate Corp.,

Respondent.

Administrative
Compliance Order on Consent

Docket No. CAA-03-2023-0052DA

For United States Environmental Protection Agency, Region 3:

[digitally signed and dated]

Karen Melvin, Director
Enforcement & Compliance Assurance Division

For Respondent:


Signature

2/27/2023
Date

David K. Orr, Jr., Vice-President
Industraplate Corp.
5 James Court
Wilmington, DE 19801

CERTIFICATE OF SERVICE

I certify that the foregoing “Administrative Compliance Order” in the Matter of Industraplate Corp., Docket No. CAA-03-2023-0052DA, was filed and copies of the same were mailed to the parties as indicated below via electronic mail:

For Respondent:

David K. Orr Jr., Vice-President
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For EPA:

Jennifer M. Abramson, Senior Assistant Regional Counsel
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[Digital Signature and Date]

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 3