

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III

Philadelphia, Pennsylvania 19103-2029

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In the Matter of:

Librandi's Plating  
93 Airport Drive  
Middletown, PA 17057

Respondent.  
\_\_\_\_\_

U.S. EPA-REGION 3-RHC  
FILED-25JUL2019AM8:52

Docket No. CWA-03-2019-0090DN

**ADMINISTRATIVE COMPLIANCE  
ORDER ON CONSENT**

**I. PRELIMINARY STATEMENT**

1. The United States Environmental Protection Agency ("EPA") has made the following findings of fact and issues this Administrative Compliance Order on Consent ("Order") pursuant to the authority vested in the Administrator of EPA under Section 309(a) of the Clean Water Act ("CWA" or "Act"), 33 U.S.C. § 1319(a). This authority has been delegated by the Administrator to the Regional Administrator of EPA Region III, and further delegated to the Director, Enforcement & Compliance Division, Region III.
2. Section 309(a) of the Act, 33 U.S.C. § 1319(a), provides, *inter alia*, that whenever on the basis of any information available to him the Administrator finds that any person is in violation of any condition or limitation implementing certain sections of the Act, including Section 307, 33 U.S.C. § 1317, he shall issue an order requiring such person to comply with such section or requirement.
3. Librandi's Plating ("Respondent" or "Librandi's") is a "person" within the meaning of Section 502(5) of the Act, 33 U.S.C. § 1362(5).
4. Respondent has agreed to the issuance of this Order.

## II. STATUTORY AND REGULATORY BACKGROUND

5. Section 301(a) of the Act, 33 U.S.C. § 1311(a) prohibits the discharge of any pollutant by any person, except in compliance with the Act, including Section 307 of the Act.
6. Sections 307(b) and (c) of the Act, 33 U.S.C. § 1317(b) and (c), direct the EPA Administrator to promulgate regulations establishing pretreatment standards for the introduction of pollutants into publicly-owned treatment works (POTWs).
7. Section 307(d) of the Act, 33 U.S.C. § 1317(d), prohibits the operation of a source of pollutants in violation of the pretreatment standards.
8. Sections 403.3(i) and (j) of Title 40 of the Code of Federal Regulations (“C.F.R.”) define industrial user as a non-domestic source that introduces pollutants into a POTW.
9. Section 403.3(m) of Title 40 of the C.F.R. defines a new source as a building, structure, or facility from which there is or may be a discharge of pollutants, where the construction of which commenced after the publication of proposed Pretreatment Standards under Section 307(c) of the Act.
10. Section 433.17 of Title 40 of the C.F.R. establishes Pretreatment Standards for new source metal finishing operations discharging process wastewater into POTWs.
11. The Pretreatment Standards for new source metal finishing operations were first proposed on August 31, 1982 (47 Federal Register 38462).
12. The Pretreatment Standards for new source metal finishing operations, 40 C.F.R. § 433.17, set limits for the following pollutants, among others:

Pollutant	Daily Maximum (mg/l)	Monthly Average (mg/l)
Chromium	2.77	1.71
Nickel	3.98	2.38
Zinc	2.61	1.48
Cyanide	1.20	0.65

13. Sections 403.12(e) and (g) of Title 40 of the C.F.R. require that any industrial user subject to Pretreatment Standards submit reports twice a year on the nature and concentrations of the pollutants in its effluent and to include the results of any sampling.
14. Section 403.12(g)(2) of Title 40 of the C.F.R. requires that if sampling by an industrial user indicates a violation of the Pretreatment Standards, the industrial user must notify the Control Authority within 24 hours of becoming aware of the violation.

15. Section 403.12(g)(2) of Title 40 of the C.F.R. also requires that the industrial user repeat sampling and analysis within 30 days after becoming aware of the violation.
16. Where process effluent subject to Pretreatment Standards is mixed with wastewaters other than those from the regulated process, the Control Authority may derive alternative discharge limits that account for dilution. The industrial user must comply with the alternative limits fixed by the Control Authority. 40 C.F.R. § 403.6(e).
17. The Control Authority for industrial users discharging to POTWs without approved POTW pretreatment programs, in a state without an approved state pretreatment program, is the appropriate Regional Administrator. 40 C.F.R. § 403.3(d) and (f).
18. Only POTWs with a total design flow greater than 5 million gallons per day are required to establish a POTW pretreatment program. 40 C.F.R. § 403.8(a).

### **III. FINDINGS**

19. The Susquehanna Area Regional Airport Authority (SARAA) owns and operates a wastewater treatment works at or near the Harrisburg Airport.
20. SARAA is a municipality as defined in Section 502(4) of the Act, 33 U.S.C § 1362(4), and thus its treatment works is a POTW as defined in Section 403.3(q) of Title 40 of the C.F.R.
21. The SARAA POTW discharges to an unnamed tributary of the Susquehanna River, which is a water of the United States.
22. The SAARA POTW discharges less than 1 million gallons per day.
23. The SAARA POTW does not have an approved POTW pretreatment program.
24. Pennsylvania does not have an approved state pretreatment program.
25. The Regional Administrator of EPA Region III is the Control Authority for the SAARA POTW.
26. At the times relevant to this matter, the authority to act as the Control Authority in Region III when the POTW does not have an approved pretreatment program had been delegated to the Associate Director of the Office of NPDES Permits and Enforcement, of the Water Protection Division.
27. Librandi's owns and/or operates a metal finishing facility located on or near 93 Airport Drive, Middletown, Pennsylvania.

28. Librandi's is an industrial user as defined in Section 403.3 of Title 40 of the C.F.R., because its facility discharges pollutants into the collection system of the SARAA POTW.

29. Librandi's facility began operations on or about 1995.

30. Librandi's facility is subject to the new source pretreatment standards for metal finishing facilities.

31. On May 30, 2007, the Control Authority set pollutant discharge limits for Librandi's for the pollutants listed in Section 433.17 of Title 40 of the C.F.R., including for cyanide, nickel, silver and zinc as follows:

Pollutant	Daily Maximum (mg/l)	Monthly Average (mg/l)
Chromium	1.42	0.88
Nickel	2.04	1.22
Zinc	1.34	0.76
Cyanide	0.61	0.33

32. The Control Authority set the discharge limits based on information provided by Librandi's and on the combined waste formula specified in Section 403.6(e). of Title 40 of the C.F.R.

33. The Control Authority required that Librandi's sample its effluent for cyanide, nickel, and chromium every three months, and zinc every six months.

34. The Control Authority also required Librandi's to notify EPA within 24 hours of becoming aware of any violations, and to resample for those pollutants and resubmit the results within 30 days of becoming aware of the violation.

#### **Count I: Discharge of pollutants exceeding applicable limits**

35. From at least January 2015 to the present, Librandi's has sampled its effluent and submitted reports to the Control Authority regularly.

36. Based on the reports submitted by Librandi's, its effluent exceeded the applicable discharge limits as specified in Table A below:

**Table A**

Date of collection	Pollutant	Reported amount	Other measurements in the same month	Limit(s) Exceeded
1/13/2015	Nickel	2.4	no	daily maximum and monthly average
7/15/2015	Zinc	1.5	no	daily maximum and monthly average
7/20/2016	Chromium	1.1	no	monthly average
"	Zinc	2.1	no	daily maximum and monthly average
8/23/2016	Zinc	1.3	no	monthly average
11/16/2016	Cyanide	1.9	no	daily maximum and monthly average
1/25/2017	Cyanide	1.7	no	daily maximum and monthly average
"	Zinc	1.5	no	daily maximum and monthly average
3/1/2017	Cyanide	1.4	0.054	daily maximum and monthly average (monthly average=0.727)
"	Zinc	0.88	no	monthly average
5/17/2017	Chromium	0.9	no	monthly average
7/20/2017	Zinc	1	no	monthly average
10/13/2017	Chromium	4	no	daily maximum and monthly average
"	Nickel	2.1	no	daily maximum and monthly average
11/29/2017	Chromium	5.1	no	daily maximum and monthly average

37. These exceedances are violations of Section 307 of the Act, 33 U.S.C. § 1317, specifically 10 instances of daily maximum violations and 15 instances of monthly average violations, in the dates specified in the table.

**Count II: Failure to notify EPA of discharge limit exceedances**

38. Librandi's failed to notify EPA within 24 hours of becoming aware of violations of the Pretreatment Standard for each of the violations in the date of collection listed in Table B below.

39. EPA first learned of the violations when the Respondent submitted the analysis reports to EPA. Table B lists the dates in which or about Librandi's notified EPA of the exceedances:

**Table B**

<b>Date of collection</b>	<b>Date of Analytical Report</b>	<b>Date of Submittal of Report to EPA</b>
1/13/2015	1/22/2015	3/6/2015
7/15/2015	7/30/2015	9/25/2015
7/20/2016	8/12/2016 (2 exceedances)	9/16/2016
11/16/2016	11/29/2016	1/10/2017
1/25/2017	2/14/2017 (2 exceedances)	4/14/2017
10/13/2017	11/15/2017 (2 exceedances)	1/5/2018

40. Respondent's failures to notify EPA within 24 hours of learning of the exceedances are violations of Section 307 of the Act, 33 U.S.C §1317, specifically 9 instances of violations.

**Count III: Failure to repeat sampling and analysis within 30 days after exceedances**

41. Librandi's failed to repeat sampling and analysis, and submit those results to EPA, within 30 days after becoming aware of an exceedance on at least the following occasions:

**Table C**

<b>Parameter Exceeded</b>	<b>Date of Original Collection</b>	<b>Date of Analytical Report Showing an Exceedance</b>	<b>Date of Next Collection for Sampling</b>
Chromium	7/20/16	8/20/16	11/16/16
Zinc	8/23/16	9/14/16	1/25/17
Zinc	3/1/2017	3/16/2017	7/20/17
Chromium	5/17/17	5/25/17	7/20/17
Zinc	7/20/17	8/2/2017	1/24/18

42. Respondent's failures to repeat sampling of a parameter within 30 days of becoming aware of an exceedance of the limits are violations of Section 307 of the Act, 33 U.S.C. §1317, specifically 5 instances of violations.

#### IV. ORDER

Pursuant to section 309(a) of the Act, 33 U.S.C. § 1319(a), having taken into account the seriousness of the violations and good faith efforts by Respondent to comply with section 301(a) of the Act, Respondent is hereby ORDERED to do the following:

43. The Respondent shall take all actions necessary to comply with Sections 403 and 433 of Title 40 of the C.F.R., including actions necessary to comply with any alternative discharge limits or local limits imposed by the Control Authority in accordance with the pretreatment regulations. These actions will include:

- a. Within 90 days from the effective date of this Order, Respondent shall develop and implement a standard operating procedure (“SOP”) in response to any exceedance of any pretreatment daily maximum or monthly average limit applicable to its facility.
- b. The SOP shall include, at a minimum, the following steps:
  - i. Upon becoming aware of an exceedance of a daily maximum or a monthly average, Librandi’s will evaluate its treatment process within 60 days. This evaluation will include a root cause analysis, wherein Librandi’s will determine the cause of the exceedance. This evaluation will also include any remedial measures necessary to ensure no further exceedances.
  - ii. Librandi’s will notify EPA via by email or phone within 24 hours upon becoming aware of an exceedance.
  - iii. Librandi’s will sample and reanalyze for any parameter for which there is daily maximum or monthly average limit exceedance within 30 days of becoming aware of the exceedance(s).
  - iv. Librandi’s will request that the laboratory conducting the analyses inform Librandi’s within 24 hours when the results indicate exceedances of the Pretreatment Standard limits applicable to its facility.
  - v. For two years from the effective date of this Order, Librandi’s will mail a copy of the results and conclusions of evaluation conducted pursuant to Paragraph 43.b.i. to:

Ryan Stuart  
Water Division (3WD41)  
US EPA Region III  
1650 Arch St.  
Philadelphia, PA 19103

- c. Librandi's shall mail a copy of the SOP to EPA for review and comment within 90 days of the effective date of this Order to:

Michael Greenwald  
Enforcement & Compliance Assurance Division (3ED32)  
US EPA Region III  
1650 Arch St.  
Philadelphia, PA 19103

#### **V. OTHER TERMS AND CONDITIONS**

44. For the purpose of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Order.
45. Except as provided in Paragraph 44, Respondent neither admits nor denies the specific findings set forth in this Order.

#### **VI. GENERAL PROVISIONS**

46. Issuance of this Order is intended to address the violations described herein. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. Further, EPA reserves any existing rights and remedies available to it under the CWA, 33 U.S.C. §1311, et seq., the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction. Further, EPA reserves any rights and remedies available to it under the CWA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this Order, following its effective date (as defined below).
47. Nothing in this Order shall relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law and ordinance, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit.
48. 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 Consent Order, including any right of judicial review pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.
49. EPA reserves all existing inspection authority otherwise available to EPA pursuant to Section 308 of the CWA, 33 U.S.C. § 1318, or pursuant to any other statute or law.

50. The undersigned representative of Respondent certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this Order and to execute and legally bind the party.

51. The provisions of this Order shall apply to and be binding upon the Respondent and its officers, directors, employees, contractors, agents, trustees, successors and assigns of Respondent.

52. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Order are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

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

**VII. EFFECTIVE DATE**

This ORDER is effective after receipt by Respondent of a fully executed document.

SO ORDERED:

Date: JUN 28 2019



Karen Melvin  
Director, Enforcement  
& Compliance Assurance Division  
U.S. EPA Region III

AGREED TO:

For Librandi's Plating

Date: May 7, 2019



Name            Todd A. Librandi

President  
Title

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III

Philadelphia, Pennsylvania 19103-2029

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**CERTIFICATE OF SERVICE**

I certify that the enclosed Administrative Order on Consent was delivered to:

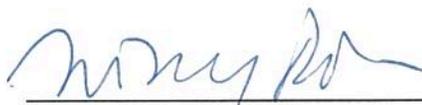
Delivery by Certified Mail Return Receipt Requested

Mitchell E. Burack  
Burack Environmental Law Office  
Two Bala Plaza Suite 300  
Bala Cynwyd, PA 19004

Delivery by hand:

Regional Hearing Clerk (3RC00)  
U.S. Environmental Protection Agency, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029

Date: 7/25/19

  
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Nina Rivera

Senior Assistant Regional Counsel