UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:	)	
	)	**FINDING OF VIOLATION**
Craftmasters Division of	)	**EPA-5-99-OH-6**
Evert Plating, Inc.	)	
Cleveland, Ohio	)	**AND**
	)	
Proceedings Pursuant to	)	**ADMINISTRATIVE ORDER**
Sections 112, 113 and 114 of the	)	**EPA-5-99-OH-113(a)-3**
Clean Air Act, 42 U.S.C. §§ 7412,	)	
7413 and 7414.	)	
	)	

STATUTORY AUTHORITY

Pursuant to Section 113(a)(3) and 114(a) of the Clean Air Act (the Act), 42 U.S.C. § § 7413(a)(3) and 7414(a), the United States Environmental Protection Agency (EPA) hereby notifies the State of Ohio and Craftmasters Division of Evert Plating, Inc. (Craftmasters) that the EPA, by authority duly delegated to the undersigned, finds Craftmasters' facility, located at 16700 Westfield Avenue, Cleveland, Ohio (the Facility) to be in violation of Section 112 of the Clean Air Act, 42 U.S.C. § 7412, and the regulations promulgated thereunder at 40 C.F.R. Part 63, Subpart N, which set forth the National Emission Standards for Hazardous Air Pollutants for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks, 40 C.F.R. Part 63.340-347 (Chrome Plating NESHAP) and further Orders that Craftmasters comply with the Chrome Plating NESHAP as directed herein.

DEFINITIONS

1. For purposes of 40 C.F.R. Part 63 (National Emission Standards For Hazardous Air Pollutants For Source Categories) and pursuant to 40 C.F.R. § 63.2, "affected source" is defined, in relevant part as, "the stationary source, the group of stationary sources, or the portion of a stationary source that is regulated by a relevant standard or other requirement established pursuant to section 112 of the Act."

2. Pursuant to 40 C.F.R. § 63.2, "compliance date" means "the date by which an affected source is required to be in compliance with a relevant standard, limitation, prohibition, or any federally enforceable requirement established by the Administrator (or a State with an approved permit program) pursuant to section 112 of the Act."

3. Pursuant to 40 C.F.R. § 63.2, "existing source" means "any affected source that is not a new source."

4. Pursuant to 40 C.F.R. § 63.341, "facility" means "the major or area source at which chromium electroplating or chromium anodizing is performed."

5. Pursuant to 40 C.F.R. § 63.341, "hard chromium electroplating" or "industrial chromium electroplating" means "a process by which a thick layer of chromium (typically 1.3 to 760 microns) is electrodeposited on a base material to provide a surface with functional properties such as wear resistance, a low coefficient of friction, hardness, and corrosion resistance. In this process, the part serves as the cathode in the electrolytic cell and the solution serves as the electrolyte. The hard chromium electroplating process is performed at current densities typically from 1,600 to 6,500 A/m^2 for total plating times ranging from 20 minutes to 36 hours, depending upon the desired plate thickness."

6. Pursuant to 40 C.F.R. § 63.2, "owner or operator" means "any person who owns, leases, operates, controls, or supervises a stationary source."

7. "Person" has the same meaning as set forth in Section 302(e) of the Act, 42 U.S.C. § 7602(e), and includes an individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency, department, or instrumentality of the United States and any officer, agent or employee thereof.

8. Pursuant to 40 C.F.R. § 63.2, "stationary source" means any building, structure, facility or installation which emits or may emit any air pollutant.

REGULATORY BACKGROUND

9. Section 112 of the Act, 42 U.S.C. § 7412, requires the Administrator of EPA to publish a list of air pollutants determined to be hazardous and to promulgate regulations establishing emission standards or, where necessary, design, equipment, work practice, or operational standards for each listed hazardous air pollutant.

10. EPA has listed "chromium compounds" as a hazardous air pollutant under the authority of Section 112 of the Act, 42 U.S.C. § 7412. Pursuant to Section 112 of the Act, 42 U.S.C. § 7412, EPA adopted a Chrome Plating NESHAP, codified at 40 C.F.R. Part 63, Subpart N.

11. Pursuant to 40 C.F.R. § 63.340(a), the affected source to which the provisions of the Chrome Plating NESHAP apply is each chromium electroplating or chromium anodizing tank at facilities performing hard chromium electroplating, decorative chromium electroplating or chromium anodizing.

12. The Chrome Plating NESHAP requires, among other things, that owners and operators of chromium electroplating and anodizing tanks subject to Subpart N, control emissions, perform work practice standards and keep certain records.

13. Pursuant to 40 C.F.R. § 63.340(b), owners or operators of affected sources subject to the provisions of the Chrome Plating NESHAP,

40 C.F.R. Part 63, Subpart N, must also comply with the requirements of 40 C.F.R. Part 63, subpart A, according to the applicability of subpart A to such sources, as identified in Table 1 of 40 C.F.R. Part 63, Subpart N.

14. Pursuant to 40 C.F.R. § 63.342(a), the owner or operator of an affected source subject to the Chrome Plating NESHAP shall comply with the requirements therein on and after the compliance dates specified in 40 C.F.R. § 63.343(a).

15. 40 C.F.R. § 63.343(a) specifies a compliance date of January 25, 1997, for any affected source which is a hard chromium electroplating tank or a chromium anodizing tank.

16. Pursuant to 40 C.F.R. § 63.347(c)(1), "[t]he owner or operator of an affected source that has an initial startup before January 25, 1995, shall notify the Administrator in writing that the source is subject to [the Chrome Plating NESHAP]. The notification shall be submitted no later than 180 calendar days after January 25, 1995. . . ."

17. 40 C.F.R. § 63.343(b) provides the following:

> Methods to demonstrate initial compliance. (1) Except as provided in paragraphs (b)(2) and (b)(3) of this section, an owner or operator of an affected source subject to the requirements of this Subpart 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.

18. Pursuant to 40 C.F.R. § 63.347(d)(1), "[t]he owner or operator of an affected source shall notify the Administrator in writing of his or her intention to conduct a performance test at least 60 calendar days before the test is scheduled to begin to allow the Administrator to have an observer present during the test. Observation of the performance test by the Administrator is optional."

19. Pursuant to 40 C.F.R. § 63.7(a)(2)(iii), a performance test must be conducted, "[w]ithin 180 days after the compliance date specified in an applicable subpart of this part for an existing source subject to an emission standard established pursuant to section 112(d) of the Act, or within 180 days after startup of an existing source if the source begins operation after the effective date of the relevant emission standard. . . ."

20. Hard chromium electroplating or chromium anodizing tanks with a compliance date of January 25, 1997, as specified in 40 C.F.R. § 63.343(a), were required to conduct an initial performance test by July 24, 1997.

21. Pursuant to 40 C.F.R. § 63.347(a), "the owner or operator of each affected source subject to these standards shall fulfill all reporting

requirements outlined in this section and in the General provisions to 40 C.F.R. part 63, according to the applicability of subpart A as identified in Table 1 of this subpart."

22. Pursuant to 40 C.F.R. § 63.344(a), a "[p]erformance test shall be conducted using the test methods and procedures in this section and § 63.7. Performance test results shall be documented in complete test reports that contain the information required by paragraphs (a)(1) through (a)(9) of this section."

23. Pursuant to 40 C.F.R. § 63.347(e), a notification of compliance status is required each time that an affected source becomes subject to the requirements of the Chrome Plating NESHAP.

24. Pursuant to 40 C.F.R. § 63.347(f)(1) and (2), the owner or operator of an affected source must report to the Administrator the results of any performance test and such "[r]eports of performance test results shall be submitted no later than 90 days following the completion of the performance test, and shall be submitted as part of the notification of compliance status required by paragraph (e) of this section."

25. Section 114(a) of the Act, 42 U.S.C. § 7414(a), as amended, Public Law 101-549, 104 Stat. 2680, authorizes the Administrator of the EPA to require any person who, among other things, owns or operates an emission source or who is subject to any requirement of the Act, or any State Implementation Plan (SIP) required by the Act, to make reports, install monitoring equipment and provide such other information as the Administrator may reasonably require for the purpose of (inter alia) determining whether a violation of any standard of performance, any emission standard, or any implementation plan has occurred.

FINDINGS OF FACT

26. At all times relevant hereto, Craftmasters has been doing business as an electroplating facility in Cleveland, Ohio.

27. Craftmasters engages in hard chromium electroplating at the Facility and employs two hard chrome electroplating tanks for its hard chromium electroplating operations.

28. In accordance with 40 C.F.R. § 63.347(c), on July 28, 1995, by facsimile, EPA received Craftmasters' Initial Notification Report indicating that the Facility was subject to the 40 C.F.R. Part 63, Subpart N.

29. In July, 1997, EPA mailed information regarding the Chrome Plating NESHAP to facilities that were suspected of performing chromium electroplating or anodizing and were therefore, subject to provisions of the Chrome Plating NESHAP.

30. On July 14, 1997, EPA received a letter from John J. Zodrow, Esq. of

Zodrow et al. Professional Corporation, on behalf of various electroplaters in Region 5, including Craftmasters, seeking an extension of time for the performance test required pursuant to 40 C.F.R. § 63.343(a) of the Chrome Plating NESHAP.

31. On July 30, 1997, EPA received a letter from John J. Zodrow, Esq. on behalf of Craftmasters, indicating that Craftmasters had not yet filed its Initial Notification of Performance Testing as required by 40 C.F.R. § 63.347(d)(1) and requesting an extension of time to file the required form. Mr. Zodrow wrote that the required form would be filed within a week or so.

32. By letter dated September 4, 1997, George T. Czerniak, Chief of the Air Enforcement and Compliance Assurance Branch at EPA, Region 5, notified Mr. Zodrow that because Craftmasters had not requested an extension prior to the July 25, 1996, submission deadline, EPA could not grant an extension of the compliance date.

33. On November 21, 1997, pursuant to Section 114(a) of the Act, 42 U.S.C. § 7414(a), EPA issued an Information Request (Information Request) to Craftmasters regarding Craftmasters' compliance with the Chrome Plating NESHAP. The Information Request directed Craftmasters to submit, among other things, operating records dating from January 25, 1997, through the present, as well as emission testing results, for Craftmasters' hard chrome plating tanks. An initial response to the Information Request was due within fifteen (15) days of Craftmasters' receipt of the Request. Craftmasters received the Information Request on December 1, 1997.

34. On January 23, 1998, Mr. Czerniak sent a letter to Mr. Phillip D. Sterrett, President of Craftmasters, following up a January 6, 1998, phone conversation between Mr. Sterrett and Julie Brandt of EPA and reminding Mr. Sterrett that Craftmasters' response to the Information Request was overdue.

35. In a March 3, 1998, phone conversation between Mr. Sterrett and Ms. Brandt, Ms. Brandt again told Mr. Sterrett that Craftmasters' response to the Information Request was overdue.

36. On March 4, 1998, EPA received a report drafted by ELTek and dated November 17, 1997, titled "Report on Emission Tests Performed for Craftmasters" (ELTek Report). The report documented only a single test run, and failed to include any description of Craftmasters' plating process, a complete description of the sampling location, a complete documentation of quality assurance procedures and results, or records of operating conditions during the test.

37. On June 30, 1998, counsel for EPA contacted Mr. Zodrow by telephone and informed him that Craftmasters had still not responded to the Information Request issued on November 25, 1997, and that the ELTek Report did not comply with the requirements of the Chrome Plating

NESHAP. Mr. Zodrow indicated that he would talk with his client and get back to EPA.

38. On July 30, 1998, counsel for EPA sent a letter to Mr. Zodrow repeating the information imparted in the June 30, 1998 telephone call and indicating that Craftmasters may be subject to penalties for its failure to comply with the requirements of the Act, including responding to the Information Request.

39. On August 12, 1998, Mr. Zodrow replied to the July 30, 1998, letter indicating that the ELTek Report demonstrated Craftmasters' compliance with the performance testing requirement of the Chrome Plating NESHAP. However, Craftmasters also offered to perform additional testing to demonstrate its compliance with the Chrome Plating NESHAP.

CONCLUSIONS OF LAW

40. Paragraphs 1 through 39 are incorporated herein by reference.

41. Craftmasters is a "person" within the meaning of Section 302(e) of the Act, 42 U.S.C. § 7602(e).

42. At all times relevant hereto, Craftmasters has been an "owner and operator" as that term is defined in 40 C.F.R. § 63.2, of the chromium electroplating facility located at 16700 Westfield Avenue, Cleveland, Ohio, 44110.

43. Craftmasters' chromium electroplating operation is a "facility", which engages in "hard chromium electroplating" and which contains a "stationary source" as those terms are defined at 40 C.F.R. §§ 63.2 and 63.341.

44. Craftmasters is an "owner and operator" of a stationary source as that term is defined at 40 C.F.R. § 63.2.

45. Each of Craftmasters' hard chromium electroplating tanks is both an "affected source" and an "existing source", as those terms are defined at 40 C.F.R. § 63.2.

46. As the owner and operator of a "stationary source" that is both an "affected source" and an "existing source" within the meaning of 40 C.F.R. § 63.2, Craftmasters is subject to the requirements of the Chrome Plating NESHAP, 40 C.F.R. Part 63, Subpart N.

47. Craftmasters violated the requirements of the Chrome Plating NESHAP, 40 C.F.R. Part 63, Subpart N, by failing to:

    a. Notify the Administrator in writing of its intention to conduct a performance test at least sixty (60) calendar days before the test was scheduled to begin, in order to allow the Administrator to have an observer present during the test. Craftmasters claims to

have conducted a performance test on September 26, 1997. No notification of the performance of this test was received by EPA as required under 40 C.F.R. § 63.347(d)(1). Craftmasters' failure to submit the required sixty (60) days advance notification constitutes a violation of the reporting requirements set forth in 40 C.F.R. § 63.347(d)(1) and of Section 112 of the Act;

b. Conduct the initial performance test by July 24, 1997 as required by 40 C.F.R. § 63.7(a)(2)(iii) and 40 C.F.R. § 63.343(a)(1)(ii). In accordance with 40 C.F.R. § 63.7(a)(2)(iii), Craftmasters was required to conduct its initial performance test within one hundred and eighty days (180) of the January 25, 1997 compliance date for hard chromium electroplating tanks, as established under 40 C.F.R. § 63.343(a)(1)(ii). Craftmasters claims that it conducted its initial performance test on September 26, 1997, 244 days after the compliance date. Craftmasters' failure to conduct an initial performance test within 180 days of the January 25, 1997 compliance date for hard chromium electroplating tanks constitutes a violation of the testing deadline established under 40 C.F.R. § 63.7(a)(2)(iii) and of Section 112 of the Act;

c. Conduct the initial performance test in the manner set forth in 40 C.F.R. § 63.343(b)(1). Craftmasters was required to conduct an initial performance test as required under 40 C.F.R. § 63.343(b)(1), using the procedures and test methods listed in § 63.7 and § 63.344. Under 40 C.F.R. § 63.7(e)(3), Craftmasters was required to conduct an initial performance test consisting of three separate runs using the applicable test method. On September 26, 1997, Craftmasters conducted a performance test consisting of one individual run. In addition, Craftmasters applied EPA Analytical Method 218.1 which does not constitute an acceptable lab analysis under the test methods listed in § 63.344. Craftmasters' failure to conduct an initial performance test consisting of three separate runs and the failure to use the required lab method constitute violations of the testing requirements at 40 C.F.R. § 63.343(b)(1) and of Section 112 of the Act;

d. Notify the Administrator of its compliance status as required by 40 C.F.R. § 63.347(e). In accordance with 40 C.F.R. § 63.347(e), Craftmasters was required to submit to the Administrator a notification of compliance status certifying compliance with the Chrome Plating NESHAP and providing the list of information required by 40 C.F.R. § 63.347(e)(2)(i)-(ix). Craftmasters failed to submit a notification of its compliance status. Craftmasters' failure to submit a notification of its compliance status constitutes a violation of the reporting requirements of 40 C.F.R. § 63.347(e) and of Section 112 of the Act;

e. Report performance test results in the time and manner prescribed by 40 C.F.R. § 63.347(f)(2). In accordance with 40 C.F.R.

§ 63.347(f)(2), Craftmasters was required to submit its performance test results no later than 90 days following completion of the test. Craftmasters conducted a test on September 26, 1997, but failed to submit its test results until March 4, 1998. Craftmasters' failure to submit its test results within the 90 days following the performance of the test constitutes a violation of the reporting requirements of 40 C.F.R. § 63.347(f)(2) and of Section 112 of the Act; and

f. Report performance test results in the manner prescribed by 40 C.F.R. § 63.344(a). Craftmasters was required to document the results of its September 26, 1997, performance test in a complete test report containing the following information:

i. A brief process description;
ii. Sampling location description(s);
iii. Description of sampling and analytical procedures and any modifications to the standard procedures;
iv. Test results;
v. Quality assurance procedures and results;
vi. Records of operating conditions during the test, preparation of standards, and calibration procedures;
vii. Raw data sheets for field sampling and field and laboratory analyses;
viii. Documentation of calculations; and
ix. Any other information required by the test method.

The ELTek report of the September 26, 1997, performance test sent by Craftmasters and received by EPA on March 4, 1998, did not include any description of Craftmasters' plating process, a complete description of the sampling location, a complete documentation of quality assurance procedures and results, or records of operating conditions during the test. Craftmasters' failure to submit a complete report of performance test results constitutes a violation of the reporting requirements at 40 C.F.R. § 63.344(a) and of Section 112 of the Act.

48. Craftmasters violated the requirements of Section 114(a) of the Act, 42 U.S.C. § 7414(a), by failing to:

a. Provide an initial response to the Information Request within fifteen (15) days of December 1, 1997, the date Craftmasters received the Information Request. EPA did not receive a response to the Information Request until the March 4, 1998, submittal of the ELTek Report. Craftmasters' failure to respond to the Information Request within 15 days of December 1, 1997, constitutes a violation of Section 114 of the Act; and

b. Provide a complete response to the Information Request. Appendix A of the Information Request required, among other things,

submittal of operating records dating from January 25, 1997, through the present for Craftmasters' hard chrome plating tanks. To date, Craftmasters has not submitted such documents. Craftmasters' failure to submit information required by the November 21, 1997, Information Request constitutes a violation of Section 114 of the Act.

FINDING OF VIOLATION

49. For the reasons stated in the Paragraphs above, the Director of EPA Region 5's Air and Radiation Division finds that Craftmasters failed to meet the requirements of 40 C.F.R. Part 63, Subpart N, Section 112(d) of the Act, 42 U.S.C. § 7412(d), and Section 114(a) of the Act, 42 U.S.C. § 7414(a). Therefore, Craftmasters is in violation of 40 C.F.R. Part 63, Subpart N, Section 112(d) of the Act, 42 U.S.C. § 7412(d), and Section 114(a) of the Act, 42 U.S.C. § 7414(a).

ORDER

50. EPA has been granted the authority, under Section 113(a)(3)(B) of the Act, 42 U.S.C. Section 7413(a)(3)(B), to issue administrative orders to enforce compliance with the requirements of Section 112(d) of the Act.

51. Pursuant to Sections 113(a)(3)(B) and 114(a) of the Act, 42 U.S.C. §§ 7413(a)(3)(B) and 7414(a), the Director of Region 5's Air and Radiation Division hereby issues an Order requiring Craftmasters to do the following:

(1) Upon receipt of this Administrative Order, comply with all applicable provisions 40 C.F.R. Part 63, Subpart N and all applicable requirements of 40 C.F.R. Part 63, subpart A;

(2) Within 14 calendar days after receipt of this Administrative Order, notify EPA of the performance test date (optional form enclosed) as required by 40 C.F.R. § 63.347(d)(1);

(3) Within 60 calendar days of notifying EPA of the performance test date, conduct the performance test to demonstrate compliance as required by 40 C.F.R. § 63.7 in the manner prescribed by 40 C.F.R. § 63.343(b)(1);

(4) Within 90 days of conducting the initial performance test, submit a notification of compliance status (optional form enclosed) and a copy of the performance test report with all of the required information for each and every performance test conducted at the Facility as required by 40 C.F.R. § 63.347(e) and (f) and 40 C.F.R. § 63.344(a); and

(5) Within 15 calendar days after receipt of this Administrative Order, provide operating records for the tested hard chrome plating tanks(s) from January 25, 1997, to the present as

employees, assignees and any successors in interest. Craftmasters shall give notice of this Order to any successors in interest, prior to transfer of ownership, and shall simultaneously verify to EPA, Region 5, at the above address, that such notice has been given.

55. This request is not subject to the Paperwork Reduction Act of 1980, 44 U.S.C. § 3501 et seq., because it seeks collection of information by an agency from specific individuals or entities as part of an administrative action or investigation.

56. Any information collected pursuant to this Order can be used for civil, criminal, and administrative enforcement purposes.

57. Section 113(a)(4) of the Act provides that an order (other than an order relating to a violation of section 7412 of this title) shall not take effect until the person to whom it is issued has had an opportunity to confer with the Administrator concerning the alleged violation. Therefore, Craftmasters has the opportunity to confer with EPA concerning the Order requirements relating to Craftmasters' failure to completely respond to EPA's Information Request. If EPA is not contacted within 15 days of Craftmasters' receipt of this Order, the Order shall become effective on such date. The requirements of the Order relating to Craftmasters' compliance with the Chrome Plating NESHAP are effective upon receipt of the Order. This Order will expire one year from the effective date, provided that Craftmasters has complied with all terms of the Order.

QUESTIONS REGARDING THE FINDING OF VIOLATION AND ADMINISTRATIVE ORDER

For any questions regarding this Finding of Violation and Administrative Order, or if you wish to confer with EPA regarding this Finding of Violation or Order, please contact Ms. Julie Brandt at (312) 886-6768.

1-22-99

Date

Richard C Karl

Richard C. Karl, Acting Director
Air and Radiation Division
U.S. EPA, Region 5

CERTIFICATE OF MAILING

I, Shwanda Mayo, do hereby certify that a Notice of Violation, Finding of Violation, and Administrative Order was sent by Certified Mail, Return Receipt Requested, to:

Phillip D. Sterrett, President
Craftmasters Division of Evert Plating, Inc.
16700 Westfield Avenue
Cleveland, Ohio 44110

I also certify that a copy of the Notice of Violation, Finding of Violation, and Administrative Order was sent by first class mail to the following addresses:

Robert Hodanbosi, Chief
Division of Air Pollution Control
Ohio Environmental Protection Agency
Lazarus Government Center
P.O. Box 1049
Columbus, Ohio 43216-1049

Eric Myles, Commissioner
Division of the Environment
Cleveland Department of Public Health
1925 Saint Claire
Cleveland, Ohio 44114

John J. Zodrow, Esq.
Zodrow et al. P.C.
Independence Plaza, Suite 1700
1050 Seventeenth Street
Denver, Colorado 80265

on the 25th day of January, 1999.

Shwanda Mayo

Shwanda Mayo, Secretary
ARD/AECAB/AECAS (MN-OH)

P 300 759 698

Certified Mail Article Number