



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

JUN 21 2013

REPLY TO THE ATTENTION OF.

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Anthony Macaluso, President & Co-Owner  
Shelbyville Plating and Polishing Company, LLC  
1010 St. Joseph Street  
Shelbyville, Indiana 46176

Re: Administrative Consent Order No. EPA-5-13-IN-03

Dear Mr. Macaluso,

Enclosed is Administrative Consent Order (ACO) pertaining to the Notice and Finding of Violation (NOV/FOV) No. EPA-5-13-IN-01 issued to Shelbyville Plating and Polishing Company, LLC (SP&P) on December 5, 2012. This is the same ACO you read and signed on May 28, 2013 to resolve the NOV/FOV. Note that several minor grammar, spelling and punctuation changes have been made to the document since that time. Please retain this ACO for your records. It is your obligation to comply with the Compliance Program on pages 8 and 9.

You may contact Gregory Gehrig at (312) 886-4434 with any questions or concerns.

Sincerely,

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

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

Enclosures: ACO

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

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In the Matter of:	)	EPA-5-13-113(a)-IN-03
	)	
Shelbyville Plating & Polishing Company, LLC	)	Proceeding Under Sections 113(a)(3) and 114(a)(1) of the Clean Air Act, 42 U.S.C.
Shelbyville, Indiana	)	§§ 7413(a)(3) and 7414(a)(1)

**Administrative Consent Order**

1. The Director of the Air and Radiation Division, U.S. Environmental Protection Agency, Region 5, is issuing this Order to Shelbyville Plating & Polishing Company, LLC (SP&P) under Sections 113(a)(3) and 114(a)(1) of the Clean Air Act (the Act), 42 U.S.C. §§ 7413(a)(3) and 7414(a)(1); and 42 U.S.C. §§ 7661a(a) and 7661a(b).

**Statutory and Regulatory Background**

**Subpart WWWWWW**

2. Under Section 112(d) of the Act, 42 U.S.C. § 7412(d), EPA promulgated the National Emission Standards for Hazardous Air Pollutants (NESHAP): Area Source Standards for Plating and Polishing Operations at 40 C.F.R. Part 63, Subpart WWWWWW (Subpart WWWWWW).
3. Subpart WWWWWW applies to any owner and/or operator of a plating and polishing facility that: 1) is an area source of hazardous air pollutant (HAP) emissions; 2) uses or has emissions of compounds of one or more plating and polishing metal HAPs; and 3) among other things, is engaged in non-chromium electroplating.
4. Subpart WWWWWW, at 40 C.F.R. § 63.11507(a), in part, requires the owner or operator of an affected existing non-cyanide electroplating tank that contains one or more of the

plating and polishing metal HAPs, and operates at a pH less than 12, to do one of the following:

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- a. Use a wetting agent/fume suppressant in the bath of the affected tank;
  - b. Capture and exhaust emissions from the affected tank to a composite mesh pad, a packed-bed scrubber, or a mesh pad mist eliminator; **or**
  - c. For a batch electrolytic process tank, use a tank cover over all of the effective surface area of the tank for at least 95 percent of the electrolytic process operating time.

5. Initial Notification. The owner or operator of an affected source must submit an Initial Notification that includes:

- a. The information specified in 40 C.F.R. § 63.9(b)(2)(i) through (iv); **and**
- b. A description of the compliance method for each affected source. 40 C.F.R. § 63.11509(a),

6. Notification of Compliance Status. The owner or operator of an affected source must submit a Notification of Compliance Status that includes:

- a. A list of affected sources and the plating and polishing metal HAP used in, or emitted by, those sources;
- b. The methods used to comply with the applicable management practices and equipment standards;
- c. A description of the capture and emission control systems used to comply with the applicable equipment standards; **and**

- d. 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.

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40 C.F.R. § 63.11508(a).

- 7. Initial Compliance Demonstration. Affected electroplating tanks subject to the requirements in 40 C.F.R. § 63.11507(a), which use a wetting agent/fume suppressant to comply with this subpart, must demonstrate initial compliance by:
  - a. Adding wetting agent/fume suppressant to the bath of the affected tank according to manufacturer's specifications and instructions; **and**
  - b. Stating in the Notification of Compliance Status that a wetting agent/fume suppressant is added to the bath according to manufacturer's specifications and instructions. 40 C.F.R. 63.11508(c)(1).
- 8. Continuous Compliance Demonstration. Facilities demonstrating compliance by the method identified in paragraph 7, above, must demonstrate continuous compliance by:
  - a. Adding the wetting agent/fume suppressant in proportion to the other bath chemistry ingredients that are added to replenish the tank bath, as in the original make-up of the tank; or in proportion such that the bath is brought back to the original make-up of the tank;
  - b. Recording each addition of wetting agent/fume suppressant to the tank bath; **and**
  - c. Stating in an annual certification of compliance report that a wetting agent/fume suppressant was added to the bath according to the manufacturer's specifications and instructions. 40 C.F.R. § 63.11508(d)(3).
- 9. Annual Certification of Compliance. The owner or operator of an affected source must prepare an annual certification of compliance report that includes, in part:

- a. A list of tanks subject to the requirements in 40 C.F.R. § 63.11507(a)(1), include a statement that a wetting agent/fume suppressant was added to the bath according to the manufacturer's specifications and instructions; **and**
- b. A list of tanks subject to the management practices in 40 C.F.R. § 63.11507(g) include a statement that the applicable management practices have been implemented, as practicable.

The annual certification of compliance report must be prepared no later than January 31 of the year immediately following the reporting period and kept in a readily-accessible location for inspector review. With the exception of paragraph 40 below, these reports do not need to be submitted unless a deviation from the requirements of this subpart has occurred during the reporting year, in which case, the report must be submitted along with the deviation report and postmarked or delivered no later than January 31 of the year immediately following the reporting period. 40 C.F.R. §§ 63.11508(d)(2) and 63.11509(c).

10. Record Keeping Requirements. The owner or operator of an affected source must keep the following records:

- a. A copy of the Initial Notification and Notice of Compliance Status and all documentation supporting those notifications;
- b. The records specified in 40 C.F.R. § 63.10(b)(2)(i) through (iii) and (xiv); **and**
- c. The records required to show continuous compliance with each applicable management practice and equipment standard, as specified in 40 C.F.R. § 63.11508(d). 40 C.F.R. § 63.11509(e).

### Other Relevant Regulations

11. The Administrator of EPA may issue an order requiring compliance to any person who has violated or is violating the NESHAP regulations. Under Section 113(a)(3) of the Act, 42 U.S.C. § 7413(a)(3), the Administrator has delegated this authority to the Director of the Air and Radiation Division.
12. The Administrator of EPA may require any person who owns or operates an emission source to make and submit reports under Section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1). The Administrator has delegated this authority to the Director of the Air and Radiation Division.
13. Section 502(a) of the Act, 42 U.S.C. § 7661a(a), states that it shall be unlawful for any person to violate any requirement of a Title V permit or to operate a major source without a Title V permit. Section 502(b) of the Act, 42 U.S.C. § 7661a(b), requires the Administrator of EPA to promulgate regulations establishing the minimum elements of a Title V permit program.
14. On July 21, 1992, EPA promulgated regulations required by the Act for Title V state operating permit programs. 57 Fed. Reg. 32295. These regulations are codified at 40 C.F.R. Part 70.
15. 40 C.F.R. § 70.1(b) provides that all sources subject to the regulations at Part 70 shall have a permit to operate that assures compliance by the source with all applicable requirements.
16. EPA promulgated final interim approval of the Indiana Title V program on November 14, 1995 (60 Fed. Reg. 57188), and the program became effective on December 14, 1995.

The Indiana Title V program was granted final full approval by EPA, effective November 30, 2001. See 40 C.F.R. Part 70, Appendix A.

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17. A smaller source can be exempt from Title V review if it applies for and obtains a Federally Enforceable State Operating Permit (FESOP) which limits emissions below major source thresholds.
18. EPA approved Indiana's FESOP program on April 19, 1995. 60 Fed. Reg. 43008.
19. The Indiana SIP incorporates Subpart WWWW by reference. 326 Indiana Administrative Code 20-1-1.
20. On April 5, 2011, The Indiana Department of Environmental Management (IDEM) issued Minor Source Operating Permit M145-30038-00052 (Permit) to SP&P pursuant to 40 C.F.R. § 52.780.
21. Permit condition B.9 requires the development and implementation of a Preventative Maintenance Plan (PMP).
22. Permit condition E.1.1(a) incorporates Subpart WWWW for the affected nickel electroplating tank.

#### **Findings**

23. SP&P owns and operates a plating facility at 1010 St. Joseph St. Shelbyville, Indiana, where it conducts nickel "electroplating" (as that term is defined at 40 C.F.R. § 63.11511) of aluminum, steel, and stainless steel.
24. The facility is an "area source of HAP emissions," as that term is defined at 40 C.F.R. § 63.11504(a)(2).
25. Nickel is a "plating and polishing metal HAP," as that term is defined at 40 C.F.R. § 63.11504(a)(3) and 63.11511.

26. The facility consists of one “existing” (as that term is defined at 40 C.F.R. § 63.11505(b)) electrolytic nickel tank subject to Subpart WWWW, which operates at a pH of less than 12.
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27. SP&P owns or operates an “emission source” within the meaning of Section 114 (a)(1) of the Act, 42 U.S.C. § 7414(a)(1). Therefore, SP&P is subject to the requirements of Section 114(a)(1).
28. EPA inspected the facility on July 18, 2012, for compliance with Subpart WWWW, and sent a follow-up Information Request to the facility on July 23, 2012.
29. During the inspection, the EPA observed that SP&P was using the nickel electroplating tank without implementing any of the four required controls detailed in Subpart WWWW, at 40 C.F.R. § 63.11507(a).
30. During the inspection, SP&P could not provide EPA with a PMP per Permit condition B.9.
31. SP&P submitted its response to the Information Request on August 13, 2012.
32. SP&P did not provide a PMP in response to the EPA information request sent to SP&P on July 23, 2012.
33. On August 30, 2012, EPA issued to SP&P a Finding of Violation alleging that it failed to control emissions from its six electrolytic nickel tanks in accordance with Subpart WWWW and that SP&P has failed to prepare and implement a PMP pursuant to Permit condition B.9.
34. In subsequent correspondence with the company, SP&P stated to EPA that it uses a wetting agent/fume suppressant to comply with Subpart WWWW but failed to keep the records and submit the notifications and reports required by the subpart.

35. SP&P violated Subpart WWWW at 40 C.F.R. §§ 63.11508(a), 63.11508(c)(1), 63.11508(d)(2), 63.11508(d)(3), 63.11509(a), 63.11509(b), 63.11509(c), and 63.11509(e).

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**Compliance Program**

36. On April 15 and 29, 2013, SP&P submitted a PMP to EPA that complies with Section B.9 of the Permit.

37. On April 15, 2013 SP&P submitted an Initial Notification to EPA in accordance with 40 C.F.R. § 63.11509(a).

38. SP&P must keep a copy of the Initial Notification and all documents supporting it at the facility.

39. On April 15, 2013 SP&P submitted a Notification of Compliance Status to EPA in accordance with 40 C.F.R. §§ 63.11508(a) and 63.11509(b). A copy of the Notification of Compliance Status and all documents supporting it must be kept at the facility.

40. By January 31, 2014 (and by January 31 of each year thereafter), SP&P must prepare an annual Certification of Compliance Report in accordance with 40 C.F.R. § 63.115089(d)(2) and 63.11509(c) and keep it in a readily-accessible location at the facility. Additionally, as a term of this order, SP&P must submit a copy of this annual certification to EPA. In accordance with 40 C.F.R. § 63.11508(d)(3), SP&P must state in the annual certification of compliance report that it adds a wetting agent/fume suppressant to the bath of its affected electrolytic nickel tanks according to the manufacturer's specifications and instructions. With the exception of this paragraph, SP&P is not required to submit the annual certification of compliance report to EPA unless a deviation from the requirements of Subpart WWWW has occurred during

the reporting year, in which case, the report must be submitted along with the deviation report and postmarked or delivered no later than January 31 of the year immediately following the reporting period.

41. SP&P must keep a log of the addition of wetting agent/fume suppressant added to the affected electrolytic nickel tanks in accordance with 40 C.F.R. § 63.346(13), which shall include date, time, amount, name and manufacturer of each wetting agent/fume suppressant.
42. By the effective date of this Order, SP&P must begin recording each addition of wetting agent/fume suppressant to the bath of its affected electrolytic nickel tanks in accordance with 40 C.F.R. § 63.11508(d)(3).
43. By the effective date of this Order, SP&P must begin keeping the records specified in 40 C.F.R. § 63.10(b)(2)(i) through (iii) and (xiv) and the records required to show continuous compliance with each applicable management practice and equipment standard, as specified in 40 C.F.R. § 63.11508(d), in accordance with 40 C.F.R. § 63.11509(e).
44. SP&P must send all reports required by this Order to:

Attention: Compliance Tracker (AE-17J)  
Air Enforcement and Compliance Assurance Branch  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

#### **General Provisions**

45. This Order does not affect SP&P's responsibility to comply with other federal, state, and local laws.
46. This Order does not restrict EPA's authority to enforce Section 112 of the Act, 42 U.S.C. § 7412, or any other section of the Act.

47. Nothing in this Order limits the EPA's authority to seek appropriate relief, including penalties, under Section 113 of the Act, 42 U.S.C. § 7413, for SP&P's violation of Subpart WWWW.
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48. Failure to comply with this Order may subject SP&P to penalties of up to \$37,500 per day for each violation under Section 113 of the Act, 42 U.S.C. § 7413, and 40 C.F.R. Part 19.
49. The terms of this Order are binding on SP&P, its assignees, and its successors. SP&P must give notice of this Order to any successors in interest prior to transferring ownership and must simultaneously verify to EPA, at the above address, that it has given the notice.
50. SP&P may assert a claim of business confidentiality under 40 C.F.R. Part 2, Subpart B, for any portion of the information it submits to EPA. Information subject to a business confidentiality claim is available to the public only to the extent allowed by 40 C.F.R. Part 2, Subpart B. If SP&P fails to assert a business confidentiality claim, EPA may make all submitted information available, without further notice, to any member of the public who requests it. Emission data provided under Section 114 of the Act, 42 U.S.C. § 7414, is not entitled to confidential treatment under 40 C.F.R. Part 2, Subpart B. "Emission data" is defined at 40 C.F.R. § 2.301.
51. This order is not subject to the Paperwork Reduction Act, 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. To aid in our electronic recordkeeping efforts, please furnish an electronic copy on physical media such as compact disk, flash drive or other similar item. If it is not possible to submit the

information electronically, submit the response to this Order without staples; paper clips and binder clips, however, are acceptable.

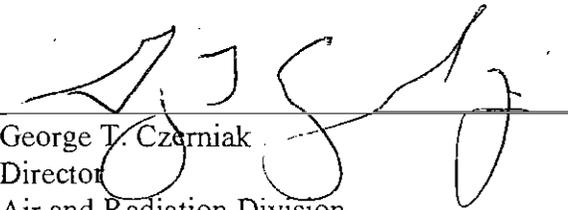
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52. EPA may use any information submitted under this Order in an administrative, civil judicial, or criminal action.
53. SP&P agrees to the terms of this Order.
54. This Order is effective on the date of signature by the Director of the Air and Radiation Division. This Order will terminate two years from the effective date, provided that SP&P has complied with all terms of the Order throughout its duration.

5-28-13  
Date

  
Anthony Macaluso  
President & Co-Owner  
Shelbyville Plating & Polishing Company, LLC

6/21/13  
Date

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

CERTIFICATE OF MAILING

I, Loretta Shaffer, certify that I sent the Administrative Consent Order, EPA-5-13-113(a)-IN-03,  
by certified-mail, return-receipt-requested, to:

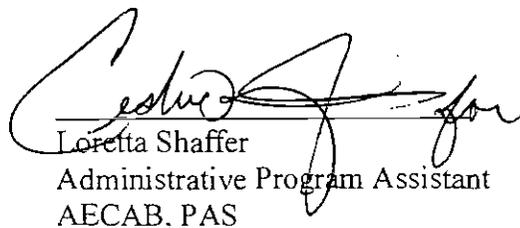
Anthony Macaluso  
President & Co-owner  
Shelbyville Plating & Polishing Company, LLC  
1010 St. Joseph Street  
Shelbyville, Indiana 46176

I also certify that I sent a copy of the Administrative Consent Order, EPA-5-13-113(a)- IN-03,  
by first-class mail to:

cc: David R. Rice  
Environmental Manager  
Office of Air Quality  
Indiana Dept. of Environmental Management  
100 North Senate Avenue, Room IOCN 1003  
Indianapolis, Indiana 46206-6015

Phil Perry, Chief  
Compliance and Enforcement Branch  
Office of Air Quality  
Indiana Dept. of Environmental Management  
100 North Senate Avenue, Room IOCN 1003  
Indianapolis, Indiana 46206-6015

on the 24<sup>th</sup> day of June, 2013.

  
Loretta Shaffer  
Administrative Program Assistant  
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER: 7009 1680 0000 7676 0591