



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

AUG 21 2013

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Anthony Kuziel
Vice President
Imperial Plating Company
7030 West 60th Street
Chicago, Illinois 60638

Re: Imperial Plating Company
Administrative Consent Order EPA 5-13-113(a)-IL-07

Dear Mr. Kuziel:

Enclosed is an executed original of the Administrative Consent Order regarding the above captioned case.

If you have any questions about the Order, please contact Ray Cullen at (312) 886-0538 or Kasey Barton, Associate Regional Counsel, at (312) 886-7163.

Sincerely,

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

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

Enclosure

cc: Ray Pilapil, IEPA

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:)	EPA-5-13-113(a)-IL-07
)	
)	
Imperial Plating Company)	Proceeding Under Sections 113(a)(3) and
Chicago, Illinois)	114(a)(1) of the Clean Air Act, 42 U.S.C.
)	§§ 7413(a)(3) and 7414(a)(1)

Administrative Consent Order

1. The Director of the Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 5, is issuing this Order to Imperial Plating Company (Imperial) under Sections 113(a)(3) and 114(a)(1) of the Clean Air Act (CAA), 42 U.S.C. §§ 7413(a)(3) and 7414(a)(1).

Statutory and Regulatory Background

2. Section 112(d) of the CAA, 42 U.S.C. § 7412(d), authorizes EPA to promulgate regulations for particular industrial sources that emit one or more of the hazardous air pollutants (HAPs) listed in Section 112(b) of the CAA, 42 U.S.C. § 7412(b), in significant quantities. EPA codifies these regulations at 40 C.F.R. Part 63.

3. Pursuant to Section 112(d) of the CAA, 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 WWWW (Subpart WWWW) on July 1, 2008. *73 Fed. Reg.* 37728 (July 1, 2008).

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

5. Pursuant to 40 C.F.R. § 63.11504(a), Subpart WWWWWW applies to the owner or operator of a plating and polishing facility that: 1) is an area source of 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.

6. Subpart WWWWWW, at 40 C.F.R. § 63.11504(a)(2), defines an “area source of HAP emissions” as any stationary source or group of stationary sources within a contiguous area under common control that does not have the potential to emit any single HAP at a rate of 10 tons per year (tpy) or more and any combination of HAPs at a rate of 25 tpy or more.

7. Subpart WWWWWW, at 40 C.F.R. §§ 63.11504(a)(3) and 63.11511, defines a “plating and polishing metal HAP” as any compound of cadmium, chromium, lead, manganese, and nickel, or any of these metals, other than lead, in the elemental form, with exceptions not relevant here.

8. Subpart WWWWWW, at 40 C.F.R. § 63.11511, defines “electroplating” as an electrolytic process that uses or emits any of the plating and polishing metal HAP, in which metal ions in solution are reduced onto the surface of the work piece (the cathode) via an electrical current.

9. Pursuant to 40 C.F.R. § 63.11505(a), Subpart WWWWWW applies, in part, to each new affected source, which includes each tank at a subject facility that contains one or more of the plating and polishing metal HAPs and is used for non-chromium electroplating.

10. Subpart WWWWWW, at 40 C.F.R. § 63.11507(a), requires the owner or operator of, among other things, an affected existing non-cyanide electroplating tank that contains one or more of the plating and polishing metal HAPs and operates at a pH of less than 12 to comply

with one of three emission standards, including the use of a wetting agent/fume suppressant in the bath of the affected tank.

11. Subpart WWWWWW, at 40 C.F.R. § 63.11511, defines "wetting agent/fume suppressant" as any chemical agent that reduces or suppresses fumes or mists from a plating and polishing tank by reducing the surface tension of the tank bath.

12. Subpart WWWWWW, at 40 C.F.R. § 63.11509(a), requires the owner or operator of an affected source to submit an Initial Notification that includes the information specified in 40 C.F.R. § 63.9(b)(2)(i) through (iv) of the General Provisions of the NESHAP and a description of the compliance method for the affected source.

13. Subpart WWWWWW, at 40 C.F.R. § 63.11509(a)(4), requires the owner or operator of a new affected source with a startup date after July 1, 2008 to submit an Initial Notification when the source becomes subject to this subpart.

14. Subpart WWWWWW, at 40 C.F.R. §§ 63.11505 and 63.11511, defines "new source" as any affected source for which the owner or operator commenced construction or reconstruction after March 14, 2008.

15. Subpart WWWWWW, at 40 C.F.R. § 63.11506(c), requires the owner or operator of a new affected source with a startup date after July 1, 2008 to achieve compliance with the provisions of Subpart WWWWWW upon initial startup of the affected source.

16. Subpart WWWWWW, at 40 C.F.R. §§ 63.11508(a) and 63.11509(b), requires the owner or operator of an affected source to submit a Notification of Compliance Status before the close of business on the compliance date specified in 40 C.F.R. § 63.11506 and that includes 1) a list of affected sources and the plating and polishing metal HAPs used in, or emitted by, those sources; 2) the methods used to comply with the applicable management practices and

equipment standards; 3) a description of the capture and emission control systems used to comply with the applicable emission standards; and 4) 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.

17. Subpart WWWW, at 40 C.F.R. § 63.11508(c)(1)(ii) and (iv), in part, requires the owner or operator of an affected electroplating tank subject to the requirements in 40 C.F.R. § 63.11507(a) and that uses a wetting agent/fume suppressant to comply with Subpart WWWW, to demonstrate initial compliance by stating in the Notification of Compliance Status that the owner or operator: 1) adds a wetting agent/fume suppressant to the bath according to manufacturer's specifications and instructions; and 2) has implemented the applicable management practices specified in 40 C.F.R. § 63.11507(g), as practicable.

18. Subpart WWWW, at 40 C.F.R. §§ 63.11509(e) and (f), require the owner or operator of an affected source to keep: 1) copies of the Initial Notification and Notification of Compliance Status that it submitted and all documentation supporting these notifications; 2) the records specified in 40 C.F.R. § 63.10(b)(2)(i) through (iii) and (xiv); and 3) the records required to show continuous compliance with each applicable management practice, as specified in 40 C.F.R. § 63.11508(d). These records must be kept for a minimum of five years following the date of each occurrence, measurement, maintenance, corrective action, report, or record.

19. Subpart WWWW, at 40 C.F.R. § 63.11508(d)(2), requires the owner or operator of an affected source to prepare an annual compliance certification to demonstrate continuous compliance, in accordance with the requirements of 40 C.F.R. § 63.11509(c).

20. Subpart WWWW, at 40 C.F.R. § 63.11508(d)(3), requires the owner or operator of, among other things, an affected electroplating tank that contains one or more of the

plating and polishing metal HAP and is subject to the requirements in 40 C.F.R. § 63.11507(a), and that uses a wetting agent/fume suppressant to comply with Subpart WWWW to demonstrate continuous compliance according to 40 C.F.R. § 63.11508(d)(3)(i) through (iii), by, among other things, stating in the annual compliance certification that it has added wetting agent/fume suppressant to the bath according to the manufacturer's specifications and instructions.

21. Subpart WWWW, at 40 C.F.R. § 63.11509(c), requires the owner or operator of an affected source to prepare an annual certification of compliance report in accordance with 40 C.F.R. § 63.11509(c)(1) through (7).

22. Subpart WWWW, at 40 C.F.R. § 63.11509(c)(1), requires the owner or operator of, among other things, an affected electroplating tank that is subject to the requirements in 40 C.F.R. § 63.11507(a)(1) to state in the annual compliance certification that it has added the wetting agent/fume suppressant to the bath according to the manufacturer's specifications and instructions.

23. Subpart WWWW, at 40 C.F.R. § 63.11509(c)(6), requires the owner or operator of an affected source to state in its annual compliance certification that it has implemented the applicable management practices specified in 40 C.F.R. § 63.11507(g), as practicable.

24. Subpart WWWW, at 40 C.F.R. § 63.11509(c)(7), requires the owner or operator of an affected source to prepare each annual compliance report no later than January 31 of the year immediately following the reporting period, and requires that each annual compliance report must be kept in a readily-accessible location for inspector review. The owner or operator is not required to submit these reports unless a deviation from the requirements of Subpart

WWWWW has occurred during the reporting year, in which case, the annual compliance report must be submitted along with the deviation report, and postmarked no later than January 31 of the year immediately following the reporting period.

25. Under Section 113(a)(3) of the CAA, 42 U.S.C. § 7413(a)(3), the Administrator of EPA may issue an order requiring compliance to any person who has violated or is violating the NESHAP regulations. The Administrator has delegated this authority to the Director of the Air and Radiation Division.

26. 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 CAA, 42 U.S.C. § 7414(a)(1). The Administrator has delegated this authority to the Director of the Air and Radiation Division.

Findings

27. Imperial owns and operates a plating facility located at 7030 West 60th Street, Chicago, Illinois (the Facility), where it conducts, among other things, zinc and nickel “electroplating,” as that term is defined at 40 C.F.R. § 63.11511.

28. The Facility: 1) is an “area source of HAP emissions,” as that term is defined at 40 C.F.R. § 63.11504(a)(2); 2) uses or has emissions of compounds of one or more “plating and polishing metal HAP,” as that term is defined at 40 C.F.R. §§ 63.11504(a)(3) and 63.11511; and 3) among other things, is engaged in non-chromium electroplating, and therefore, Imperial is subject to the requirements of Subpart WWWWWW. See 40 C.F.R. § 63.11504(a).

29. Imperial owns and operates an “emission source” within the meaning of Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1). Therefore, Imperial is subject to the requirements of Section 114(a)(1).

30. On February 6, 2013, EPA inspected the Facility to assess Imperial's compliance with the CAA.

31. On April 12, 2013, EPA issued an information request to Imperial under Section 114(a) of the CAA, 42 U.S.C. § 7414(a), with regard to determining compliance with, among other things, Subpart WWWW. On April 25, 2013, EPA received Imperial's response to the information request, which was submitted by Accu-Labs, Inc., Imperial's consultant.

32. Imperial operates tanks subject to Subpart WWWW at the Facility, including a zinc/nickel-electroplating tank.

33. Imperial began operating the zinc/nickel-electroplating tank in May 2012, and therefore the zinc/nickel-electroplating tank is a "new source," as that term is defined at 40 C.F.R. §§ 63.11505(c) and 63.11511.

34. Imperial adds a "wetting agent/fume suppressant," as that term is defined at 40 C.F.R. § 63.11511, to the bath of the zinc/nickel-electroplating tank.

35. Imperial failed to submit the Initial Notification required under 40 C.F.R. § 63.11509(a)(4) for the zinc/nickel-electroplating tank upon initial startup of the tank.

36. Imperial failed to submit the Notification of Compliance Status required under 40 C.F.R. §§ 63.11508(a) and 63.11509(b) for the zinc/nickel-electroplating tank upon initial startup of the tank.

37. For the year 2012, Imperial has not demonstrated continuous compliance with the applicable management practices and equipment standards of Subpart WWWW because Imperial failed to prepare an annual compliance certification required under 40 C.F.R. § 63.11508(d)(2) for the zinc/nickel-electroplating tank that includes the information described

in 40 C.F.R. § 63.11509(c). Imperial was required to prepare the annual certification of compliance report no later than January 31, 2013.

Compliance Program

38. By September 3, 2013, Imperial must submit an Initial Notification to EPA for the zinc/nickel-electroplating tank at the Facility in accordance with 40 C.F.R. § 63.11509(a) and keep a copy of the Initial Notification and all documents supporting it at the Facility.

39. By September 3, 2013, Imperial must submit a Notification of Compliance Status to EPA for the zinc/nickel-electroplating tank at the Facility in accordance with 40 C.F.R. §§ 63.11508(a) and 63.11509(b) and keep a copy of the Notification of Compliance Status and all documents supporting it at the Facility.

40. By January 31 of each year, Imperial must prepare an annual certification of compliance report that includes the zinc/nickel-electroplating tank at the Facility in accordance with 40 C.F.R. §§ 63.11508(d)(2) and 63.11509(c) and keep it in a readily-accessible location at the Facility. In accordance with 40 C.F.R. § 63.11508(d)(8)(ii), Imperial must certify in each annual certification of compliance report that it has implemented the applicable management practices of 40 C.F.R. § 63.11507(g), as practicable, and, in accordance with 40 C.F.R. §§ 63.11508(d)(3)(iii) and 63.11509(c)(1), certify in the report that Imperial has added the wetting agent/fume suppressant to the bath of the zinc/nickel-electroplating tank according to the manufacturer's specifications and instructions. By February 28, 2014, Imperial must submit the annual certification of compliance report to EPA that it had prepared for reporting year 2013. For succeeding reporting years, Imperial 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, Imperial shall submit the report to EPA along

with the deviation report, which shall be postmarked or delivered no later than January 31 of the year immediately following the reporting period.

41. By the effective date of this Order, in accordance with 40 C.F.R. § 63.11509(e), Imperial shall keep the records specified in 40 C.F.R. § 63.10(b)(2)(i) through (iii) and (xiv), which relate to the general recordkeeping requirements for affected sources subject to the NESHAP, and the records required to show continuous compliance with each applicable management practice, as specified in 40 C.F.R. § 63.11508(d), for the zinc/nickel-electroplating tank at the Facility.

42. By the effective date of this Order, in accordance with 40 C.F.R. § 63.11508(b), Imperial shall be in compliance at all times with the applicable management practices in 40 C.F.R. § 63.11507(g) and all other applicable requirements of Subpart WWWW and the CAA.

43. Imperial must send all documents and 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

44. Imperial agrees to the terms of this Order and further agrees that it will not contest the basis or validity of this Order. Imperial waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Imperial may have with respect to any issue of fact or law set forth in this Order, including any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

45. This Order does not affect Imperial'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 CAA, 42 U.S.C. § 7412, or any other section of the CAA.

47. Nothing in this Order limits the EPA's authority to seek appropriate relief, including penalties, under Section 113 of the CAA, 42 U.S.C. § 7413, for Imperial's violations of Subpart WWWW or any other violations of the CAA.

48. Failure to comply with this Order may subject Imperial to penalties of up to \$37,500 per day for each violation under Section 113 of the CAA, 42 U.S.C. § 7413, and 40 C.F.R. Part 19.

49. The terms of this Order are binding on Imperial, its assignees, and successors. Imperial 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. Imperial 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 Imperial 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 CAA, 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.

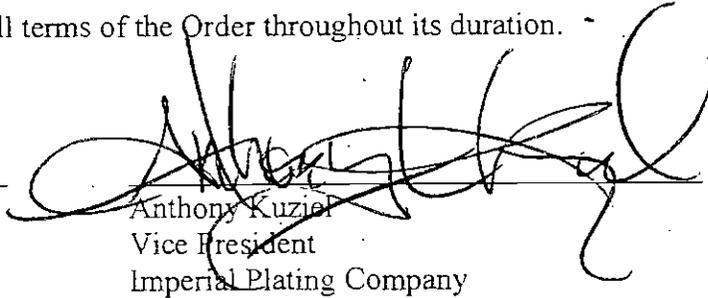
51. This Order is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 *et seq.*, because it seeks collection of information by an agency from specific individuals or entities

as part of an administrative action or investigation. Submit the response to this Order without staples; paper clips and binder clips, however, are acceptable.

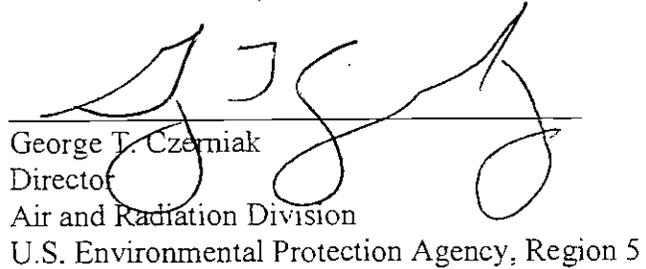
52. EPA may use any information submitted under this Order in an administrative, civil judicial, or criminal action.

53. 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 Imperial has complied with all terms of the Order throughout its duration.

8/12/13
Date


Anthony Kuziel
Vice President
Imperial Plating Company

8/19/13
Date


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

CERTIFICATE OF MAILING

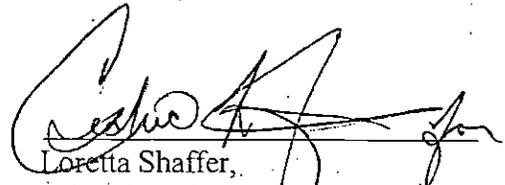
I, Loretta Shaffer, certify that I sent the Administrative Consent Order, EPA-5-13-113(a)-IL-07, by certified mail, return receipt requested, to:

Anthony Kuziel
Vice President
Imperial Plating Company
7030 West 60th Street
Chicago, Illinois 60638

I also certify that I sent a copy of the Administrative Consent Order, EPA-5-13-113(a)-IL-07, by first-class mail to:

Ray Pilapil
Manager
Bureau of Air, Compliance and Enforcement Section
Illinois Environmental Protection Agency
P.O. Box 19506
Springfield, Illinois 62794

on the 20th day of AUGUST, 2013.


Loretta Shaffer,
Administrative Program Assistant

CERTIFIED MAIL RECEIPT NUMBER: 7009 1680 0000 7676 1000