



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

JUN - 4 2014

REPLY TO THE ATTENTION OF:

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

Beth S. Gotthelf  
Butzel Long  
Stoneridge West  
41000 Woodward Avenue  
Bloomfield Hills, Michigan 48304

Dear Ms. Gotthelf:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves Howard Finishing, LLC, Docket No. CAA-05-2014-0031. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on JUN - 4 2014.

Pursuant to paragraph 39 of the CAFO, Howard Finishing, LLC must pay the civil penalty by electronic funds transfer in two installments with interest, as follows: \$12,500 within 30 days of JUN - 4 2014, and \$12,531 within 90 days of JUN - 4 2014. Your electronic funds transfer must display the case name, the docket number CAA-05-2014-0031.

-----Please direct any questions regarding this case to Kris Vezner, Associate Regional Counsel, at-----  
(312) 886-6827.

Sincerely,

Sarah Marshall  
Air Enforcement and Compliance Assurance Branch  
MI/WI

Enclosure

cc: Regional Judicial Officer/C-14J  
Regional Hearing Clerk/E-19J  
Kris Vezner/C-14J  
Tom Hess/MDEQ  
Chris Ethridge/MDEQ

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

In the Matter of: )  
)  
Howard Finishing, LLC )  
Roseville, Michigan )  
Respondent. )  
\_\_\_\_\_ )

Docket No. CAA-05-2014-0031

Proceeding to Assess a Civil Penalty  
Under Section 113(d) of the Clean  
Act, 42 U.S.C. § 7413(d)



Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b), and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at 40 C.F.R. Part 22.

2. Complainant is the Director of the Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 5.

3. Respondent is Howard Finishing, LLC (Howard Finishing), a corporation doing business in Michigan.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a Consent Agreement and Final Order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

**Jurisdiction and Waiver of Right to Hearing**

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in the CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

**Statutory and Regulatory Background**

9. Section 112(d) of the Act, 42 U.S.C. § 7412(d), authorizes the 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 Act, 42 U.S.C. § 7412(b), in significant quantities.

10. Pursuant to Section 112(d) of the Act, 42 U.S.C. § 7412(d), the EPA promulgated the National Emissions Standards for HAPs: 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, 37741 (July 1, 2008).

11. Pursuant to 40 C.F.R. § 63.11504(a), Subpart WWWW applies to the owner or operator of a plating and polishing facility that: 1) among other things, is engaged in non-chromium electroplating; 2) is an area source of HAP emissions; and 3) uses or has emissions of compounds of one or more plating and polishing metal HAPs.

12. Subpart WWWW, 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.

13. 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 HAPs, in which metal ions in solution are reduced onto the surface of the work piece via an electrical current.

14. 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, or nickel, or any of these metals, other than lead, in the elemental form. Any material that does not contain cadmium, chromium, lead, or nickel in amounts greater than or equal to 0.1 percent by weight (as the metal), and does not contain manganese in amounts greater than or equal to 1.0 percent by weight (as the metal), as reported on the Material Safety Data Sheet for the material, is not considered to be a plating and polishing metal HAP.

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

16. Subpart WWWWWW, at 40 C.F.R. § 63.11505(b), states that an affected source is “existing” if construction or reconstruction of the source occurred on or before March 14, 2008.

17. Subpart WWWWWW, at 40 C.F.R. § 63.11506(a), requires the owner or operator of an existing affected source to achieve compliance with the applicable provisions of the subpart no later than July 1, 2010.

18. 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 of less than 12 to do one of the following: 1) use a wetting agent/fume suppressant in the bath of the affected tank; 2) capture and exhaust

emissions from the affected tank to a composite mesh pad, a packed-bed scrubber, or a mesh pad mist eliminator; or 3) 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.

19. Subpart WWWW, at 40 C.F.R. § 63.11511, defines a “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.

20. Subpart WWWW, at 40 C.F.R. § 63.11511, defines a “composite mesh pad,” a “packed-bed scrubber,” and a “mesh pad mist eliminator” as control devices that contain 1) multiple pads in series that are woven with layers of material with varying fiber diameters, producing a coalescing effect on the droplets or particulate matter (PM) that impinge upon the pads; 2) a single or double packed bed that contains packing media on which PM and droplets impinge and are removed from the gas stream; and 3) layers of interlocked filaments densely packed between two supporting grids that remove liquid droplets and PM from the gas stream through inertial impaction and direct interception, respectively.

21. Subpart WWWW, at 40 C.F.R. § 63.11511, defines a “batch electrolytic process tank” as a tank used for an electrolytic process in which a part or group of parts, typically mounted on racks or placed in barrels, is placed in the tank and immersed in an electrolytic process solution as a single unit for a predetermined period of time, during which none of the parts are removed from the tank and no other parts are added to the tank, and after which the part or parts are removed from the tank as a unit.

22. Subpart WWWW, at 40 C.F.R. § 63.11511, defines a “tank cover” for a batch process unit as a solid structure made of an impervious material that is designed to cover

the entire open surface of a tank or process unit that is used for plating or other metal coating processes.

23. Subpart WWWW, at 40 C.F.R. § 63.11507(a)(1)(i) and (ii), 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, operates at a pH of less than 12, and who chooses to comply with 40 C.F.R. § 63.11507(a) by using a wetting agent/fume suppressant in the bath of the affected tank must 1) initially add the wetting agent/fume suppressant in the amounts recommended by the manufacturer for the specific type of electrolytic process; and 2) add the wetting agent/fume suppressant in proportion to the other bath chemistry ingredients that are added to replenish the bath, as in the original make-up of the bath, or in proportions such that the bath contents are returned to that of the original make-up of the bath.

24. Subpart WWWW, at 40 C.F.R. § 63.11508(b), requires the owner or operator of an affected source to be in compliance with the applicable management practices and equipment standards in the subpart at all times.

25. The Administrator of the EPA (the Administrator) may assess a civil penalty of up to \$37,500 per day of violation, up to a total of \$295,000, for violations that occurred after January 12, 2009, under Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

26. Section 113(d)(1) limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and the Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

27. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

**Factual Allegations and Alleged Violations**

28. At all times relevant to this CAFO, Howard Finishing owned and operated a plating facility at 15765 Sturgeon Street, Roseville, Michigan (the facility).

29. At the facility, at all times relevant to this CAFO, Howard Finishing conducted nickel "electroplating" (as that term is defined at 40 C.F.R. § 63.11511) of parts primarily for the automotive industry.

30. At all times relevant to this CAFO, the facility was an "area source of HAP emissions," as that term is defined at 40 C.F.R. § 63.11504(a)(2).

31. 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.

32. At all times relevant to this CAFO, the facility included five "existing" (as that term is defined at 40 C.F.R. § 63.11505(b)) electrolytic nickel tanks subject to Subpart WWWW, each of which operated at a pH of less than 12.

33. At all times relevant to this CAFO, Howard Finishing referred to one of the existing electrolytic nickel tanks referenced in paragraph 32, above, as "microporous 19" (microporous nickel tank).

34. EPA inspected the facility on July 11, 2012 for compliance with Subpart WWWW.

35. At all times relevant to this CAFO, Howard Finishing did not capture and exhaust emissions from the microporous nickel tank to a composite mesh pad, a packed-bed scrubber, or a mesh pad mist eliminator, or cover the tank.

36. Howard Finishing did not begin measuring the surface tension of the microporous nickel tank until no earlier than October 1, 2012 to confirm that the surface tension was within the range recommended by the chemical supplier of the tank bath.

37. Until no earlier than October 1, 2012, Howard Finishing failed to control emissions from the microporous nickel tank in accordance with Subpart WWWW, in violation of 40 C.F.R. §§ 63.11506(a), 63.11507(a), and 63.11508(b).

#### Civil Penalty

38. Based on analysis of the factors specified in Section 113(e) of the Act, 42 U.S.C. § 7413(e), as well as the facts of this case, Complainant has determined that an appropriate civil penalty to settle this action is \$25,000.

39. Respondent must pay the \$25,000 civil penalty in two installments with interest, as follows: \$12,500 within 30 days of the effective date of this CAFO; and \$12,531 within 90 days of the effective date of this CAFO.

40. Respondent must pay the installments by electronic funds transfer, payable to "Treasurer, United States of America" to:

Federal Reserve Bank of New York  
ABA No. 021030004  
Account No. 68010727  
33 Liberty Street  
New York, NY 10045  
Field Tag 4200 of the Fedwire message should read:  
"D68010727 Environmental Protection Agency"

In the comment or description field of the electronic funds transfer, Respondent must state the case name, the docket number of this CAFO, and the billing document number.

41. Respondent must send a notice of payment that states Respondent's name, the docket number of this CAFO, and the billing document number to EPA at the following addresses when it pays each installment:

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

Kris Vezner, (C-14J)  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

Regional Hearing Clerk (E-19J)  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

~~42. This civil penalty is not deductible for federal tax purposes.~~

43. If Respondent does not pay timely any installment payment as set forth in paragraph 39, above, then the entire unpaid balance of the civil penalty and any amount required by paragraph 44, below, shall become due and owing upon written notice by EPA to Respondent of the delinquency. EPA may request the Attorney General of the United States to bring an action to collect any unpaid portion of the penalty with interest, nonpayment penalties and the United States enforcement expenses for the collection action under Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

44. Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621(a)(2). Respondent must pay the United States' enforcement expenses, including but not limited to attorney's fees and costs incurred by the United States for collection proceedings. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue. This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter. 42 U.S.C. § 7413(d)(5).

#### General Provisions

45. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in this CAFO.

46. The CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

47. This CAFO does not affect Respondent's responsibility to comply with the Act and other applicable federal, State, and local laws. Except as provided in paragraph 45, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

48. Respondent certifies that it is complying fully with the Act and Subpart  
WWWWW.

49. This CAFO constitutes an "enforcement response" as that term is used in the EPA's Clean Air Act Stationary Source Civil Penalty Policy to determine Respondent's "full compliance history" under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

50. The terms of this CAFO bind Respondent, its successors, and assigns.

51. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

52. Each party agrees to bear its own costs and attorneys' fees in this action.

53. This CAFO constitutes the entire agreement between the parties.

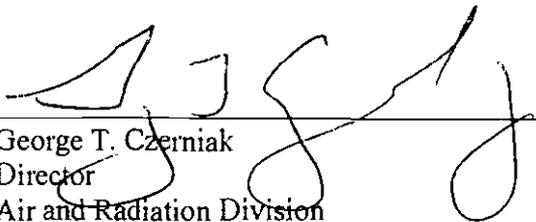
**Howard Finishing, LLC, Respondent**

4-3-14  
Date

  
James Grimes  
President  
Howard Finishing, LLC

**United States Environmental Protection Agency, Complainant**

5/28/14  
Date

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

**CONSENT AGREEMENT AND FINAL ORDER**

**In the Matter of: Howard Finishing, LLC**

**Docket No.**

**CAA-05-2014-0031**

**Final Order**

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

5-30-14  
Date

  
\_\_\_\_\_  
Susan Hedman  
Regional Administrator  
U.S. Environmental Protection Agency  
Region 5

**Consent Agreement and Final Order**  
**In the Matter of: Howard Finishing, LLC.**  
Docket No.      CAA-05-2014-0031

**CERTIFICATE OF SERVICE**

I certify that I filed the original and one copy of the Consent Agreement and Final Order (CAFO), docket number CAA 05 2014 0031 with the Regional Hearing Clerk (E-19J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, and that I mailed the second original copy to Respondent by first-class, postage prepaid, certified mail, return receipt requested, by placing it in the custody of the United States Postal service addressed as follows:

James Grimes  
President  
Howard Finishing, LLC  
15765 Sturgeon Street  
Roseville, Michigan 48066

I certify that I delivered a correct copy of the CAFO by intra-office mail, addressed as follows:

Regional Judicial Officer  
U.S. Environmental Protection Agency  
77 West Jackson Boulevard / Mail Code C-14J  
Chicago, Illinois 60604

I also certify that I mailed a correct copy of the CAFO by first-class mail to:

---

Tom Hess  
Chief  
Michigan Department of Environmental Quality  
Air Quality Division  
P.O. Box 30260  
Lansing, Michigan 48909

Chris Ethridge  
Supervisor  
Michigan Department of Environmental Quality  
Southeast Michigan District Office  
27700 Donald Court  
Warren, Michigan 48092-2793

**Consent Agreement and Final Order  
In the Matter of: Howard Finishing, LLC.  
Docket No.**

on the 4<sup>th</sup> day of June, 2014.



\_\_\_\_\_  
Loretta Shaffer  
Administrative Program Assistant  
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER: 7009 1680 0000 7676 3479