

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY

In the matter of administrative proceedings
against Electro-Plating Service, Inc., a corporation
organized under the laws of the State of
Michigan, and Mr. Gary Sayers, an individual,
doing business at 945 East 10 Mile Road, Madison Heights,
County of Oakland, State of Michigan

OWMRP Order No. 111-06-2016

Site ID No. MID 042 444 687

ORDER TO CEASE AND DESIST OPERATIONS

This unilateral administrative Order to Cease and Desist Operations ("Order") is issued to Electro-Plating Service, Inc., a corporation organized under the laws of the State of Michigan, and Mr. Gary Sayers, an individual, (collectively referred to hereafter as the "Respondents") regarding property located at 945 East 10 Mile Road, Madison Heights, Michigan (the "EPS Facility"), and having a mailing address of 945 East 10 Mile Road, Madison Heights, Michigan 48071. The Respondents are jointly and severally liable for the actions directed to be performed under the terms of this Order.

I. JURISDICTION

- 1.1 Pursuant to Part 111, Hazardous Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended ("NREPA"), Michigan Compiled Laws ("MCL") 324.101 *et seq.*, and Executive Reorganization Order Number 2011-1, MCL 324.99921 ("ERO No. 2011-1"), the Director of the Department of Environmental Quality ("DEQ") is the state official, and the DEQ is the state agency, charged with the administration and enforcement of Part 111 and the administrative rules promulgated pursuant to Part 111, set forth in the Michigan Administrative Code ("MAC"), R 299.9101 *et seq.*
- 1.2 Pursuant to the authorities established under ERO No. 2011-1, the DEQ also regulates the identification, generation, treatment, storage, disposal, and transportation of liquid

industrial waste pursuant to Part 121, Liquid Industrial By-Products, of the NREPA, MCL 324.12101 *et seq.*

1.3 MCL 324.11148 reads as follows:

(1) Subject to subsection (2), upon receipt of information that the storage, transportation, treatment, or disposal of hazardous waste may present an imminent and substantial hazard to the health of persons or to the natural resources, or is endangering or causing damage to public health or the environment, the department, after consultation with the director of public health or a designated representative of the director of public health, shall take one (1) or more of the following actions:

(a) Issue an order directing the owner or operator of the treatment, storage, or disposal facility, the generator, the transporter, or the custodian of the hazardous waste that constitutes the hazard, to take the steps necessary to prevent the act or eliminate the practice that constitutes the hazard. The order may include permanent or temporary cessation of the operation of a treatment, storage, or disposal facility, generator, or transporter. An order issued under this subdivision may be issued without prior notice or hearing and shall be complied with immediately. An order issued under this subdivision shall not remain in effect more than 7 days without affording the owner or operator or custodian an opportunity for a hearing. In issuing an order calling for corrective action, the department shall specify the precise nature of the corrective action necessary and the specific time limits for performing the corrective action. If corrective action is not completed within the time limit specified and pursuant to the department's requirements, the department shall issue a cease and desist order against the owner or operator of the treatment, storage, or disposal facility, generator, or transporter and initiate action to revoke the operating license and take appropriate action.

(b) Request that the attorney general commence an action to enjoin the act or practice and obtain injunctive relief upon a showing by the department that a person has engaged in the prohibited act or practice.

(c) Revoke a permit, license, or construction permit after reasonable notice and hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, if the department finds that a treatment, storage, or disposal facility is not, or has not been, constructed or operated pursuant to the approved plans or this part and the rules promulgated under this part, or the conditions of a license or construction permit.

(2) A determination of an instance of imminent and substantial hazard to the health of persons shall be made by the director of community health.

1.4 This Order is issued pursuant to the authority vested in the Director of the DEQ under MCL 324.11148.

- 1.5 This Order is issued in response to information currently available to the DEQ regarding the unlawful generation, storage and/or disposal of hazardous waste by Respondents, set forth in detail below.

II. PARTIES BOUND

- 2.1 This Order shall apply to and be binding upon the Respondents and their agents, servants, employees, heirs, successors, and assigns, as well as any person, firm, association, foundation, corporation, or other entity who is, or will be, acting in concert or participation with the Respondents, whether or not such person has notice of this Order.
- 2.2 No change in ownership of any property covered by this Order, or in the corporate status of Electro-Plating Service, Inc. shall in any way alter, diminish, or otherwise affect the Respondents' obligations and responsibilities under this Order.
- 2.3 The Respondents shall provide a copy of this Order to any prospective owner or operator of any property covered by this Order on or before the effective date of any sale, lease, or other transaction, including foreclosure, transferring operational control, or ownership of the property.
- 2.4 The Respondents shall provide a copy of this Order to all supervisory personnel, contractors, laboratories, consultants, and any other persons retained by the Respondents to perform work required under this Order on or before the date of retention. The Respondents shall require such persons to conduct the work to be performed in accordance with the requirements of this Order.
- 2.5 In the event of any change in operational control or ownership of the property, including foreclosure, covered by this Order, the Respondents shall notify the DEQ, in writing, seven (7) calendar days prior to such change. Such notification shall identify the prospective owner or operator, provide contact information for the prospective owner or operator, describe the nature of the transaction transferring operational control or ownership of the property, and certify that the prospective owner or operator received a copy of this Order pursuant to Paragraph 2.3 of this Order.

- 2.6 Nothing stated in Paragraphs 2.4 and 2.5 of this Order shall relieve the Respondents from the obligation to comply with the terms and conditions of this Order in the time and manner specified herein.

III. DEQ FINDINGS OF FACT

- 3.1 Electro-Plating Service, Inc. is a Michigan corporation doing business in the state of Michigan. Electro-Plating Service, Inc. is a person as defined under MCL 324.301(h) and the MAC, R 299.9106(i).
- 3.2 Electro-Plating Service, Inc. last filed a profit corporation annual report for 2013. Effective July 15, 2016, Electro-Plating Service, Inc., became subject to an automatic dissolution for failure to submit an annual report for the past two years.
- 3.3 Mr. Gary Sayers is a person as defined under MCL 324.301(h) and MAC, R 299.9106(i). Mr. Gary Sayers is president and owner of Electro-Plating Service, Inc. and is its resident agent.
- 3.4 The address of the registered office for Electro-Plating Service, Inc. is 945 East 10 Mile Road, Madison Heights, Michigan 48071.
- 3.5 Electro-Plating Service, Inc. is the owner of the real property where the EPS Facility is located. The EPS Facility is a facility as the term is defined at MAC, R 299.9103(q).
- 3.6 Electro-Plating Service, Inc. is the owner of the EPS Facility as the term is defined at MAC, R 299.9106(g).
- 3.7 The EPS Facility is a property where the generation, as the term is defined at MCL 324.11103(1), of hazardous waste, as defined at MCL 324.11103(3), has occurred.
- 3.8 Mr. Gary Sayers is responsible for the overall operations and the day-to-day operations at the EPS Facility. Mr. Gary Sayers personally directs and controls the operation of the equipment at the EPS Facility and, together with Electro-Plating Service, Inc., is responsible for the operation of the EPS Facility.

- 3.9 Electro-Plating Service, Inc., and Mr. Gary Sayers are each an operator of the EPS Facility as the term is at MCL 324.11104(1) and MAC, R 299.9106(f).
- 3.10 Electro-Plating Service, Inc. and Mr. Gary Sayers are each a generator, as the term is defined at MCL 324.11103(2) and MAC, R 299.9104(b), of hazardous waste and a generator, as the term is defined at MCL 324.12101(m), of liquid industrial by-products, as the term is defined at MCL 324.12101(n).
- 3.11 The Respondents, as persons that generate hazardous wastes and liquid industrial by-products, are subject to the all of the requirements of Part 111 and Part 121, respectively, and any rules promulgated thereunder.
- 3.12 Pursuant to MCL 324.11115a, the Respondents are required to perform corrective action in response to the Respondents' release of contaminants, including hazardous waste and hazardous constituents, to the environment.
- 3.13 The EPS Facility occupies a parcel approximately one acre in size located on the north side of 10 Mile Road in the city of Madison Heights. The property is bound by Interstate 696 to the north, where 350,000 vehicles travel each day and commercial/industrial property to the east, west, and south. The nearest residential properties are located approximately 500 feet to the north and south of the EPS Facility. Nine daycares, schools, and senior living facilities are located within an one-mile radius of the property. A map that depicts the general vicinity surrounding the EPS Facility is attached as Exhibit 1.
- 3.14 The Respondents conduct various types of electro-plating at the EPS Facility, including copper, tin, bronze, cadmium, nickel, chrome, gold, silver, zinc, and lead plating. A variety of chemicals are stored at the EPS Facility for purported use in the electro-plating process, and includes, but is not limited to corrosive chemicals (strong acids and bases including hydrochloric and sulfuric acid), chlorinated solvents for degreasing (trichloroethylene), and cyanide. The known primary hazardous wastes generated from the processes at the EPS Facility include chromium waste(s), including chromium(VI); cyanide waste(s); waste acids and base(s); and waste trichloroethylene. The human health and environmental hazards posed by these wastes when improperly managed are set forth in Paragraphs 3.20 through 3.26 of this Order.

- 3.15 On May 13, 2016, DEQ, Office of Waste Management and Radiological Protection ("OWMRP") staff inspected the EPS Facility to evaluate the Respondents' compliance with Part 111 and Part 121. OWMRP staff observed numerous open, unlabeled, leaking containers, containers improperly stacked, and excessive accumulation of materials at the EPS facility. Staff also observed the EPS facility to be in a significant state of disrepair with questionable structural integrity. On May 13, 2016, OWMRP staff found Respondents in substantial non-compliance with the Consent Order, WHMD Order No. 111-03-10, entered between Electro-Plating Service, Inc. and the Department of Natural Resources and Environment (now the DEQ) on April 13, 2010.
- 3.16 On June 6, 2016, in response to the May 13, 2016, inspection observations, OWMRP staff issued a Violation Notice alleging, among other things, that the Respondents were failing to operate the facility in a manner that minimized the potential for accidental releases of hazardous wastes to the environment and illegal storage of hazardous waste. OWMRP requested that the Respondents submit by June 20, 2016, a complete inventory of wastes and chemicals on site and by June 27, 2016, a work plan for removing all non-compliant hazardous wastes and liquid industrial by-product. Despite intermittent verbal contact from EPS's attorney throughout the summer of 2016, a formal response to the Violation Notice was not received. A copy of the June 6, 2016, Violation Notice is attached as Exhibit 2.
- 3.17 On November 15, 2016, OWMRP staff again inspected the EPS Facility. OWMRP staff observed the EPS Facility to be significantly dilapidated with many doors, windows, and roof areas missing or only covered by plastic sheeting, resulting in unrestricted access. The plating bath floor consisted of unstable and makeshift flooring. The facility was extremely cluttered and filled with numerous containers (estimated over 5,000) of liquid and solid waste, chemicals, equipment, and debris. The number and extreme clutter of containers, equipment, and debris has resulted in blocked exits and impassible portions of the facility. Numerous leaking, unlabeled, open, improperly stored, and/or badly corroded containers with contents are present. Known waste and chemicals on site include, but were not limited to, acids, bases, metal oxides, cyanide, and chlorinated solvents; however, many of the container contents are unknown. There was no discernable system for storage of waste and chemicals based on chemical compatibility. Liquids leaking from the plating bath floor are accumulating in the basement "pit," a depression in the floor

approximately 20 feet wide by 20 feet long, that appears to allow contaminants to seep directly into the soil beneath the building (see Exhibit 4, Photograph Numbers 11 and 12).

- 3.18 On December 2, 2016, in response to the November 15, 2016, inspection, OWMRP staff issued a Second Violation Notice citing, among other things, illegal storage of hazardous waste, failure to operate the facility in a manner which minimized the potential for accidental releases of hazardous wastes to the environment, failure to properly containerize and store hazardous waste and/or liquid industrial by-product. The Second Violation Notice requested a response by December 16, 2016, to include all actions take to achieve compliance with Part 111 and Part 121, or otherwise submit a Work Plan and schedule to address the outstanding violations. A copy of the December 2, 2016, Second Violation Notice is attached as Exhibit 3.
- 3.19 The condition of the Respondents' materials observed during the November 15, 2016, inspection is described herein and depicted in photos attached as Exhibit 4. The Exhibit 4 photos depict:
- (a) Significant amounts of waste materials, industrial chemicals, or unknown materials that are in containers, totes, or tanks that are in poor condition and are either rusting, corroded, leaking, or broken. See Exhibit 4, Photograph Numbers 4, 16, 17, 18, 19, 20, 32, 33, 36, 37, 39, 43, 46, and 49.
 - (b) Significant amounts of waste or unknown material uncontained or in containers, totes or tanks that are not maintained upright, closed, stacked two or three high, on unmaintained or uneven surface; thus maintained in a manner that is unsafe for access and use. See Exhibit 4, Photograph Numbers 1, 5, 7, 14, 16, 17, 18, 22, 24, 30, 31, 32, 36, 37, 43, 44, 45, 46, 47, 50, 51, and 57.
 - (c) Significant amounts of waste or unknown material uncontained or in containers, totes, or tanks that are not identifiable as the containers, totes or tanks are not labeled (as hazardous waste or with information identifying the material contained therein) or are mislabeled. See Exhibit 4, Photograph Numbers 1, 6, 12, 16, 17, 18, 19, 22, 24, 30, 32, 35, 36, 38, 45, 47, and 50.

- (d) Significant amounts of waste or unknown material in containers, totes, or tanks located in areas of the property that have limited protection from weather and have no secondary containment. See Exhibit 4, Photograph Numbers 1, 15, 41, and 55.
- (e) Significant amounts of waste or unknown material uncontained or in containers, totes, or tanks that is leaking or is broken and releasing their contents inside the building, which has no secondary containment. See Exhibit 4, Photograph Numbers 7, 12, 13, 15, 21, 32, 33, 50, and 51.
- (f) Significant amounts of waste or unknown material in containers, totes and tanks that are located in areas of the EPS Facility that are unsecured due to dilapidated building conditions and or nonexistent perimeter fencing, which allows unsuspecting children and vandals, among others, to enter the property and become exposed to the wastes, cause others to become exposed to the waste, and/or cause release to the environment. See Exhibit 4, Photograph Numbers 15 and 59, depicting the location of unsecured access points to the property; Exhibit 4, Photograph Number 15 depicting access points to inside waste material storage areas; and proximate access points to the storage areas and the proximity of the purported cyanide and cyanide waste.

3.20 Corrosive chemicals that exhibit high or low pH may be irritating to the skin, eyes, and mucous membranes and may cause reversible inflammatory changes in exposed tissues. If exposure to high or low pH corrosive chemicals is intermittent and allows for healing to take place between exposures, irritation and discomfort may be minimal; however, prolonged or intense exposure to chemicals with a high or low pH may lead to more chronic effects such as dermatitis or conjunctivitis. When the skin, eyes, or mucous membranes are exposed to highly corrosive chemicals exhibiting a pH above 11.5 or below 2, even a single exposure to the skin or eyes is expected to produce a chemical burn that results in irreversible tissue damage.

3.21 Corrosive chemicals released into the environment may cause groundwater contamination and may kill aquatic life in surface waters. Corrosive chemicals released to soil change the chemical composition of soil freeing up toxic metals that are then able to leach to groundwater. Corrosive chemicals, when released to surface water and changing the

surface water to a pH below 6.5 or above 9.0, may produce severe effects. When pH is outside the range of 6.5 to 9.0, aquatic organisms are increasingly not able to tolerate normal changes in water chemistry due to physical impacts to the organism and chemical toxicity changes resulting from the pH change.

- 3.22 Exposure to high levels of cyanide harms the brain and heart, and may cause coma and death. Exposure to lower levels may result in breathing difficulties, heart pains, vomiting, blood changes, headaches, and enlargement of the thyroid gland.
- 3.23 Cyanides are fairly mobile in soil. Once in soil, cyanide can be removed through several processes. Some cyanide compounds in soil can form hydrogen cyanide and evaporate, whereas some cyanide compounds will be transformed into other chemical forms by microorganisms in soil. At the high concentrations, cyanide becomes toxic to soil microorganisms. Because these microorganisms can no longer change cyanide to other chemical forms, cyanide is able to pass through soil into underground water.
- 3.24 Ingesting high levels of chromium(VI) may result in anemia or damage to the stomach or intestines. Breathing high levels of chromium(VI) can cause irritation to the lining of the nose, nose ulcers, runny nose, and breathing problems, such as asthma, cough, shortness of breath, or wheezing. Skin contact with certain chromium(VI) compounds can cause skin ulcers.
- 3.25 Exposure to moderate amounts of trichloroethylene may cause headaches, dizziness, and sleepiness; large amounts may cause coma and even death. Eating or breathing high levels of trichloroethylene may damage some of the nerves in the face. Exposure to high levels can also result in changes in the rhythm of the heartbeat, liver damage, and evidence of kidney damage. Skin contact with concentrated solutions of trichloroethylene can cause skin rashes. There is some evidence exposure to trichloroethylene in the work place may cause scleroderma (a systemic autoimmune disease) in some people.
- 3.26 When trichloroethylene is released to water, and soil it breaks down very slowly. It is expected to remain in groundwater for long time since it is not able to evaporate.

- 3.27 The conditions documented at the EPS Facility establish that Respondents are illegally storing and disposing of thousands of gallons and thousands of pounds of hazardous waste, hazardous substances, liquid industrial by-products at the EPS Facility, much of which is listed and characteristic hazardous waste because it is corrosive, flammable, toxic, and/or reactive. A large portion of the hazardous waste, hazardous substances, liquid industrial by-products are stored outside, in areas unprotected from the weather or trespassers, and in areas without secondary containment. Some of the hazardous substances and hazardous wastes are leaking from their containers or packages and being released into the environment.
- 3.28 On December 16, 2016, the DEQ consulted with the Director of the Department of Health and Human Services ("DHHS") pursuant to MCL 324.11148 regarding the Respondents' unpermitted and unlicensed storage and disposal of hazardous wastes; potential and/or actual releases of hazardous wastes, hazardous constituents, hazardous waste constituents, liquid industrial by-products, and hazardous substances to the environment; and the illegal storage and disposal of these wastes on unsecured property owned and/or controlled by the Respondents.
- 3.29 On December 16, 2016, the DHHS Environmental Public Health Director, designated representative of the Director of the DHHS, has made a determination pursuant to MCL 324.11148 that the conditions at Respondent's property are an imminent and substantial hazard to public health. Based on photographs and observations by DEQ staff, the designee of the Director of the DHHS found certain highly hazardous chemicals likely at the property and that the combination of these two chemicals or the addition of an excess amount of water, such as used in firefighting, can produce a highly toxic cloud of hydrogen cyanide. Further, the designee of the Director of the DHHS found that should such an incident occur, it would be very difficult to evacuate people quickly from this densely populated area around Respondent's property before they suffered serious health effects from such an exposure. A copy of the determination of the Director of the DHHS is attached as Exhibit 5.
- 3.30 On December 19, 2016, Mr. Paul Biliti, Fire Marshall, Madison Heights Fire Department ("MHFD"), made the finding after numerous inspections over the past year that Respondent's building at 945 East 10 Mile Road, Madison Heights, is not suited for

occupancy and operations must be discontinued. The MHFD Fire Marshall found that Respondent's building and its contents pose a significant and imminent threat to the community of Madison Heights and that in the event of a fire or chemical release occupants, employees, first responders, and residents within several miles from the facility could be impacted. In his December 19, 2016, finding, the MHFD Fire Marshall cited twenty-two current violations of the 2015 International Fire Code in reference to his action. A copy of the finding of the MHFD Fire Marshall is attached as Exhibit 6.

IV. DIRECTOR'S DETERMINATION AND ORDER

- 4.1 For the reasons set forth in this Order with respect to the generation, storage, and/or disposal of hazardous waste at the EPS Facility, the DEQ has determined that the Respondent's acts or practices, or its failure to cease the acts or eliminate the practices, that constitutes the hazard, present an imminent and substantial hazard to the health of persons or to the natural resources, or is endangering or causing damage to public health or the environment.
- 4.2 Pursuant to MCL 324.11148 and MCL 324.1115a, and for the reasons set forth in this Order, the DEQ hereby acts to protect public health, safety, welfare, and the environment. Pursuant to MCL 324.11148, this Order is issued without prior notice or hearing and shall be complied with immediately.
- 4.3 The DEQ hereby orders Respondents upon receipt of this Order to immediately cease all manufacturing operations occurring at the EPS Facility, including all plating operations, acceptance of additional chemical materials, wastes, or off-specification or recycled materials at the EPS Facility; and, thereby, the Respondents shall cease generating new wastes, including hazardous wastes, liquid industrial wastes, and solid wastes at the EPS Facility. The Respondents shall not resume any manufacturing operations as described above unless and until the DEQ terminates this Order.
- 4.4 The DEQ hereby orders Respondents upon receipt of this Order to immediately take all necessary steps to secure the property perimeter to prevent any unauthorized access to the EPS Facility property.

- 4.5 The DEQ hereby orders Respondents upon receipt of this Order to immediately take all necessary steps to prevent fire, explosion, or the release to the environment of any hazardous waste, hazardous constituent, hazardous waste constituent, liquid industrial waste, and hazardous substances at the EPS Facility.
- 4.6 Pursuant to MCL 324.11148, the Respondents may request an informal administrative hearing before the DEQ regarding this Order within seven (7) days of the effective date of this Order. "Days" as used herein shall mean "calendar" days unless specified otherwise.
- 4.7 A request for an informal administrative hearing before the DEQ regarding this Order shall be made by certified mail and sent to the following address:

Mr. John Craig, Chief
Enforcement Section
Office of Waste Management and Radiological Protection
Department of Environmental Quality.
P.O. Box 30241
Lansing, Michigan 48909-7741

- 4.8 At such hearing, the Respondents will have an opportunity to demonstrate compliance with Part 111, Part 121, and any rules promulgated thereunder, and Consent Order, WHMD Order No. 111-03-10, or that this Order is not otherwise warranted.

V. NOTIFICATIONS

- 5.1 Unless otherwise specified, all correspondence, notices, reports, or other submissions relating to or required under this Order shall be in writing and shall be sent as follows. Two copies of all such documents are to be submitted to each of the following DEQ staff:

Mr. John Craig, Chief
Enforcement Section
Office of Waste Management and Radiological Protection
Department of Environmental Quality
P.O. Box 30241
Lansing, Michigan 48909-7741

Ms. Tracy Kecskemeti, District Supervisor
Southeast Michigan District Office
Office of Waste Management and Radiological Protection
Department of Environmental Quality
27700 Donald Court
Warren, Michigan 48092-2793

- 5.2 Any document submitted by the Respondents pursuant to this Order shall be certified by Mr. Sayers or other person acting with authority and making decisions on behalf of a corporate entity.

VI. ENFORCEMENT OF THIS ORDER

- 6.1 If the Respondents violate this Order or any provision thereof, the DEQ may seek judicial enforcement of this Order in accordance with MCL 324.11148 and 324.11151.

VII. RESERVATION OF RIGHTS

- 7.1 The DEQ expressly reserves all rights and defenses that it may have, including the right to require that the Respondents to take additional steps or perform any work required to return to compliance with Part 111, Part 121, and any rules promulgated thereunder.
- 7.2 The DEQ hereby reserves all of its statutory and regulatory powers, authorities, rights, and remedies, both legal and equitable, including any that may pertain to the Respondents' failure to comply with any of the requirements of this Order and the NREPA. This Order shall not be construed as a covenant not to sue or as a release, waiver, or limitation of any rights, remedies, powers, and/or authorities, civil or criminal, which the DEQ has under the NREPA or any other statutory, regulatory, or common law authority.
- 7.3 The Respondents' compliance with the terms of this Order shall not relieve the Respondents of their obligations to comply with the NREPA or any other applicable local, state, or federal laws and regulations.
- 7.4 The Respondents' compliance with this Order shall not limit or otherwise preclude the DEQ from taking additional enforcement action pursuant to MCL 324.11151, or any other authority, should the DEQ determine that such action is warranted.

- 7.5 This Order is not intended to be, nor shall it be, construed as a permit or license. This Order does not relieve the Respondents of any obligation to obtain and comply with any local, state, or federal permit or approval.
- 7.6 The DEQ reserves the right to take any action it deems necessary to protect public health, welfare, the environment, or natural resources. The DEQ may exercise its authority under Part 111, Part 121, and/or Part 201 and the corresponding provisions of the federal Solid Waste Disposal Act of 1965, as amended by the Resource Conservation and Recovery Act of 1976, as amended by the Hazardous and Solid Waste Amendments of 1984, 42 USC 6901 *et seq.*, commonly known as the "Resource Conservation and Recovery Act" ("RCRA"), and the federal Comprehensive Environmental Response, Compensation, and Liability Act, 1980 Public Law 96-510 ("CERCLA"), or any other authority to undertake or require the performance of response actions at any time. The DEQ reserves the right to seek reimbursement from the Respondents for costs incurred by the State of Michigan in connection with the performance of any such response actions. Notwithstanding compliance with the terms of this Order, the Respondents are not released from liability, if any, for the costs of any response actions taken by the DEQ.
- 7.7 The DEQ reserves whatever rights it may have under Part 201 and the corresponding provisions of the CERCLA or any other law, or in equity, to recover from the Respondents any costs incurred by the DEQ or the United States Environmental Protection Agency ("U.S. EPA") in overseeing the implementation of this Order.
- 7.8 No informal advice, guidance, suggestions, or comments by the DEQ regarding this Order shall be construed as relieving the Respondents of their obligation to perform the actions required by this Order.

VIII. OTHER CLAIMS

- 8.1 Nothing in this Order shall constitute or be construed as a release from any claim, cause of action, or demand in law or equity against any person, firm, partnership, or corporation, or other entity for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any air

contaminant, contaminant, solid wastes, hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from the site.

IX. OTHER APPLICABLE LAWS

- 9.1 All actions required to be taken pursuant to this Order shall be undertaken in accordance with the requirements of all applicable local, state, and federal laws and regulations. The Respondents shall obtain or require their authorized representatives to obtain all permits and approvals necessary under such laws and regulations.

X. NOTICE OF NONLIABILITY OF THE DEQ

- 10.1 The DEQ shall not be deemed a party to any contract involving the Respondents and relating to activities at the EPS Facility. The DEQ shall not be liable for any claim or cause of action arising from, or on account of, any act or the omission of the Respondents, their officers, employees, contractors, receivers, trustees, agents, or assigns in carrying out the activities required by this Order.

XI. SEVERABILITY

- 11.1 If any provision or authority of this Order or the application of this Order to any party or circumstance is held by any judicial or administrative authority to be invalid, the application of such provision to other parties or circumstances and the remainder of this Order shall not be affected thereby and shall remain in full force.

XII. TERMINATION AND SATISFACTION

- 12.1 The provisions of this Order shall be deemed satisfied upon the Respondents' receipt of written notice from the DEQ that the Respondents have demonstrated, to the satisfaction of the DEQ, that the terms of this Order and the terms of Consent Order, WHMD Order No. 111-03-10, including any additional tasks determined by the DEQ to be required pursuant to this Order and the NREPA, have been satisfactorily completed. This notice shall not, however, terminate the Respondents' continuing obligation to comply with

Part 111 and the corresponding provisions of the RCRA or the Respondents' continuing obligation to comply with Part 201 and the corresponding provisions of CERCLA.

XIII. EFFECTIVE DATE

- 13.1 This Order is deemed issued on the date it is signed by the Director of the DEQ. This Order shall become effective upon receipt by Respondents or two (2) calendar days following the date on which it is issued, whichever occurs first.

XIV. NOTICE OF INTENT TO COMPLY

- 14.1 Within five (5) calendar days after the effective date of this Order, the Respondents shall provide notice to the DEQ, in writing, as specified under Section V, stating whether the Respondents intend to comply with all of the terms of this Order. If the Respondents do not respond, in writing, as required under this Paragraph 14.1, the DEQ will conclude that the Respondents have ceased operating as required under Paragraph 4.3, that Respondents have taken all necessary steps as required under Paragraphs 4.4 and 4.5, and that the Respondents have elected not to request an administrative hearing pursuant to Paragraph 4.6.
- 14.2 The Respondents' failure to comply with any of the requirements of this Order, including any notice requirement, is a violation of this Order. The absence of a response by the DEQ to any notice submitted by the Respondents shall not be deemed to be acceptance of the Respondents' assertions nor as a position taken by the DEQ with regard to those assertions. Failure to comply with this Order may result in a DEQ decision to file a judicial action to enforce the NREPA and/or in a DEQ recommendation for the U.S. EPA to perform the actions necessary to eliminate the imminent and substantial hazard.

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IT IS SO ORDERED:

DEPARTMENT OF ENVIRONMENTAL QUALITY

By: C. Heidi Grether
C. Heidi Grether
Director

Date: 12.21.16

APPROVED AS TO FORM:

Bill Schuette
Attorney General

By: Polly A. Synk
Polly A. Synk (P63473)
Assistant Attorney General
Environment, Natural Resources, and
Agriculture Division
Department of Attorney General
6th Floor, G. Mennen Williams Building
525 West Ottawa Street
Lansing, Michigan 48933

Date: 12-21-2016

Exhibit 1

Figure 1: The approximate one mile radius from EPS, Inc. 945 East 10 Mile Road, Madison Heights, Oakland County.

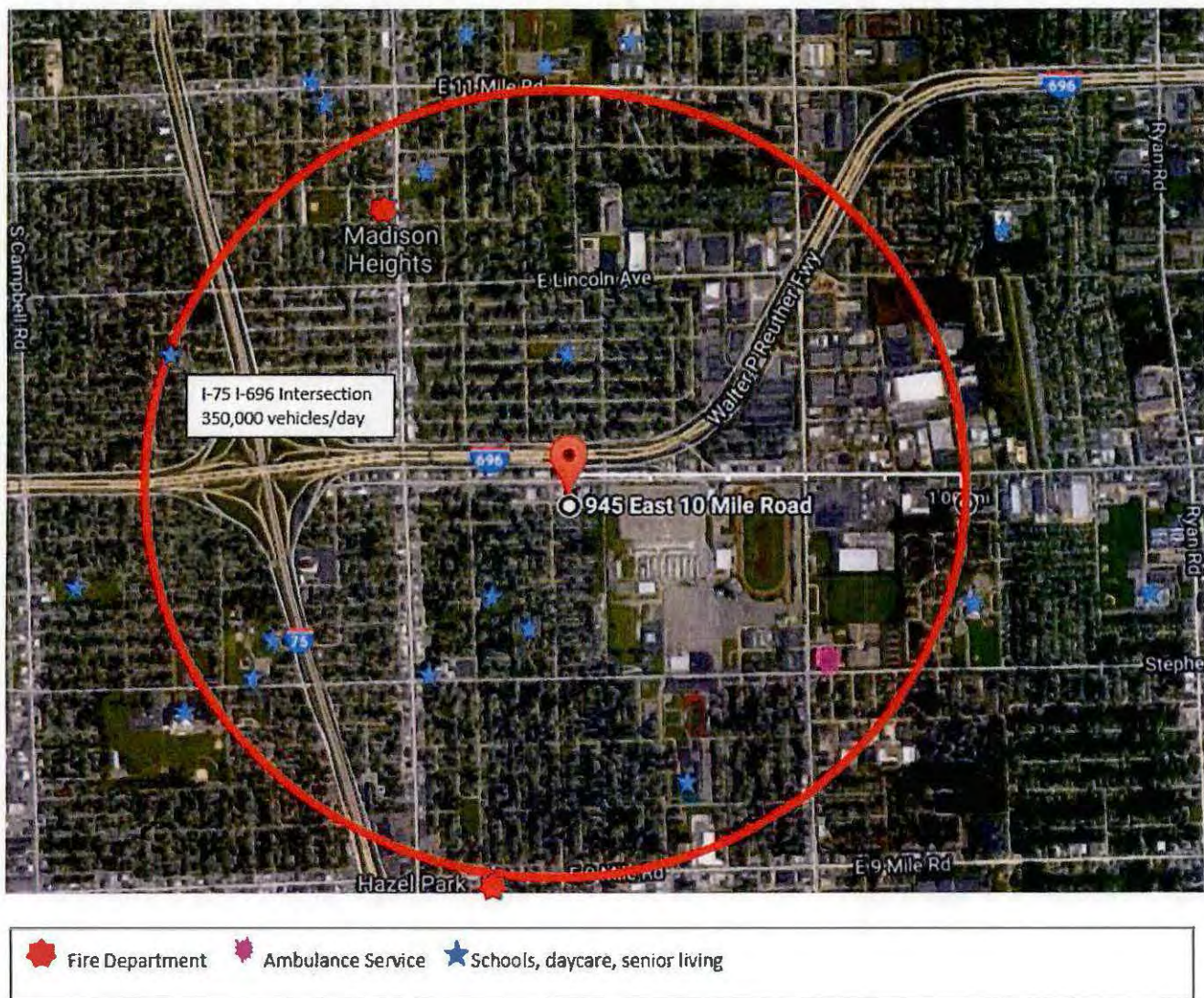


Exhibit 2



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
SOUTHEAST MICHIGAN DISTRICT OFFICE



KEITH CREAGH
DIRECTOR

June 6, 2016

Mr. Gary Sayers, President
Electro-Plating Service, Inc.
945 East Ten Mile Road
Madison Heights, Michigan 48071

Dear Mr. Sayers:

SUBJECT: Violation Notice, Electro-Plating Service, Inc.
Site Identification Number: MID 042 444 687

On May 13, 2016, Department of Environmental Quality (DEQ), Office of Waste Management and Radiological Protection (OWMRP) and Water Resources Division (WRD), staff conducted an abbreviated inspection of Electro-Plating Service, Inc. (EPS), located at 945 East Ten Mile Road, Madison Heights, Michigan. Due to hazardous conditions and safety considerations, DEQ staff were not able to conduct a full inspection to thoroughly evaluate compliance with applicable regulations. This Violation Notice will address issues related to waste management at EPS. Issues or violations relative to storm water management or water quality protection regulations will be addressed by WRD under separate cover.

This inspection was completed, in part, in response to a complaint filed with the DEQ on May 12, 2016, by the Madison Heights Fire Department which alleged that EPS was mismanaging hazardous materials, hazardous wastes, other liquid and solid wastes, and unidentified chemicals. Based on observations, photographs taken, and statements made by you during the inspection, the allegations in the complaint were substantiated.

During the inspection, OWMRP staff evaluated compliance with Part 111, Hazardous Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA); Part 121, Liquid Industrial By-Products, of the NREPA; the corresponding requirements under Subtitle C of the federal Resource Conservation and Recovery Act of 1976, as amended; any administrative rules or regulations promulgated pursuant to these acts, and Consent Order No. 111-03-10. Although the scope of the inspection was extremely limited, the following violations have been identified to date:

1. EPS shall not accumulate hazardous waste for more than 90 days if the site generates more than 1,000 kilograms of hazardous waste or more in a month, nor more than one hundred eighty days if the site generates more than 100 kilograms but less than 1,000 kilograms of hazardous waste in a month, as required by R 299.9306(1), R 299.306(3), and R 299.9306(4).

At the time of the inspection, you indicated that the wastewater treatment sludge (F006 listed hazardous waste) in the tanks had been accumulated for over one year and the crystallized nickel and copper sulfate wastes were several years old.

2. EPS shall evaluate all wastes generated in accordance with R 299.9302 to determine if the wastes are hazardous waste or liquid industrial byproduct as required by MCL 324.11138(1)(a), MCL 324.12103(1)(a) and R 299.9302(1).

At the time of the inspection, numerous unlabeled containers were observed, the contents of which you could not positively identify nor provide waste characterization.

3. EPS shall maintain and operate the facility such that EPS minimizes the possibility of a fire, explosion, or any unplanned sudden or nonsudden release of hazardous waste in accordance with 40 CFR, Section 265.31, and as required by R 299.9306(4)(e).

During the inspection, staff observed numerous leaking containers, containers improperly stacked, and the facility was generally impassable due to the excessive accumulation of materials throughout. In addition to the safety concerns that DEQ staff observed during the inspection, the DEQ understands that the City of Madison Heights condemned the property from May 11-27, 2016, for significant violations of the fire and building codes. The observed conditions do not minimize the risk of fire, explosion, or unanticipated releases.

4. EPS shall keep all containers of hazardous waste and liquid industrial byproduct closed except when it is necessary to add or remove waste as required by R 299.9306(1)(a)(i), MCL 324.12113(1), and the corresponding federal regulations under 40 CFR, Section 265.173(a).

Numerous open containers were observed during the inspection.

5. EPS shall inspect containers of hazardous waste at least weekly for leaks and deterioration in accordance with 40 CFR, Section 265.174; respond to detected leak(s) in accordance with 40 CFR, Section 265.171; document the inspections and any correction(s); maintain the documentation for at least three (3) years as required by R 299.9306(1)(a)(i).

Numerous leaking containers were observed during the inspection.

6. EPS shall store all liquid industrial byproduct protected from weather, fire, physical damage, and vandals in containers that are closed or covered, except when necessary to add or remove waste, to prevent the escape of liquid industrial byproduct to the environment.

Because many of the wastes observed could not be identified, staff could not differentiate between hazardous waste and liquid industrial by-products, as defined in Part 121. Liquid wastes, that were presumed to not be hazardous wastes, were observed in open containers, improperly stacked, and staged outdoors.

EPS is advised to take immediate action to correct the cited violations and attain compliance with all applicable regulations. The DEQ understands that EPS has contracted US Ecology to perform assessment services at the facility. In response to this Violation Notice, EPS is requested to provide the following:

1. **By June 20, 2016:** A report including a complete inventory of all hazardous wastes, liquid industrial by-products, and industrial chemicals on-site. This inventory shall encompass the seven contiguous properties owned by EPS on 10 Mile Road. The report shall document, narratively and by photograph, the current condition of all tanks

and containers. Relevant descriptors include: waste/product, open/closed, leaking/not-leaking, bulging, crystallized, labeled/unlabeled, accumulation dates, location, etc. The report shall also include a description of any actions taken between the time of the inspection and the submittal of this report to manage hazardous wastes or liquid industrial by-products; including any discharges to the sewer system, consolidating of waste materials, or removal of waste materials off-site.

2. **By June 27, 2016:** A work plan for the removal of all non-compliant hazardous wastes and liquid industrial by-products from the facility. This work plan shall identify high priority materials or areas and an aggressive timeline for proper disposal off-site.
3. **Beginning July 11, 2016 and continuing bi-weekly through the completion of the removal:** Progress reports detailing wastes removed from the site, including photographs and manifests.

Please be advised that compliance with this Violation Notice does not preclude, nor limit, the DEQ's ability to initiate any other enforcement action under state or federal law, as deemed appropriate for past, current, or continuing violations of the NREPA. EPS remains subject to the terms and conditions of Consent Order No. 111-03-10, including the provisions for stipulated penalties.

The DEQ anticipates and appreciates your cooperation in resolving this matter. If you have any questions, please feel free to contact Ms. Sue McDonald at mcdonalds3@michigan.gov or at 586-753-3844.

Sincerely,



Ms. Tracy Kecskemeti
District Supervisor
Southeast Michigan District Office
Office of Waste Management
and Radiological Protection
248-217-3080

cc: Mr. Philip J. Tannian, Attorney, Environmental Legal Service
Mr. Frank Hayward, Madison Heights Building Official
Mr. Sean Knight, Madison Height Fire Marshall
Mr. John Craig, DEQ
Mr. Lonnie Lee, DEQ
Ms. Sue McDonald, DEQ
Mr. Mark Daniels, DEQ

Exhibit 3



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
SOUTHEAST MICHIGAN DISTRICT OFFICE



C. HEIDI GREYER
DIRECTOR

December 2, 2016

Mr. Gary Sayers, President
Electro-Plating Service, Inc.
945 East Ten Mile Road
Madison Heights, Michigan 48071

Dear Mr. Sayers:

SUBJECT: 2nd Violation Notice, Electro-Plating Service, Inc.
Site Identification Number: MID 042 444 687

The Department of Environmental Quality (DEQ), Office of Waste Management and Radiological Protection (OWMRP) has determined that Electro-Plating Service, Inc. (EPS) is operating in significant violation of state and federal hazardous waste management regulations, including Part 111, Hazardous Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA); the corresponding requirements under Subtitle C of the federal Resource Conservation and Recovery Act of 1976, as amended; Part 121, Liquid Industrial By-Products, of the NREPA; any administrative rules or regulations promulgated pursuant to these acts, and Consent Order No. 111-03-10, entered into by yourself and this department on April 13, 2010. This 2nd Violation Notice addresses the continuing hazardous waste violations at EPS.

On November 15, 2016, Department of Environmental Quality (DEQ), Office of Waste Management and Radiological Protection (OWMRP) and Madison Heights Fire Department staff conducted a follow-up inspection of EPS, located at 945 East Ten Mile Road, Madison Heights, Michigan and the two affiliated building located to the west of 945 East Ten Mile Road (facility). This inspection was completed as a follow-up to an initial complaint inspection conducted on May 12, 2016. A violation notice was issued to EPS on June 6, 2016 as a result of the initial inspection. As of the date of this 2nd violation notice, no formal response to the initial violation notice has been received by DEQ, nor have any of the requested reports or work plans been provided by EPS.

Facility Conditions

The facility consists of a large building with four levels (main electroplating operations) and two smaller buildings located to the west on East Ten Mile Road. During the inspections, the facility was observed to be in a significant state of disrepair with many doors, windows and roof areas missing or only covered by plastic sheeting, resulting in unrestricted access. The facility was extremely cluttered and filled with numerous containers (estimated over 5,000) of liquid and solid waste, chemicals, equipment and debris. The volume and disorganization of containers, equipment and debris resulted in blocked exits and impassible portions of the facility. Numerous unlabeled, open, improperly stored and/or badly corroded containers were observed. Waste and chemicals on site included, but were not limited to, acids, bases, metal oxides, cyanide and chlorinated solvents.

Extensive staining and pooling of liquids, including oil staining, was observed on the floor throughout the facility. Liquids leaking from the plating bath floor were observed accumulating in the basement "pit". DEQ staff understands that EPS excavated this earthen pit, which is approximately 20 feet wide, 50 feet long, and 2 feet deep, in the basement to collect plating wastes. Mr. Sayers indicated he removed the sludge that was previously accumulated in the lower portion of the basement and moved the sludge to an elevated portion of the basement to dry out. The dried sludge was observed during the inspection. Mr. Sayers also indicated he used sludge from the on-site wastewater treatment plant (F006 listed hazardous waste) to dike the areas around the basement sludge.

Several areas of the main electroplating building were observed to have unstable flooring. Unstable and worn out flooring (the level underneath could be observed through the flooring) was observed throughout the plating bath floor. Metal plates are used to cover over worn-out portions of the flooring for walkways. Despite the use of metal plates, several areas of the flooring would sink when walked across. A cigarette ash tray was observed by the Madison Heights Fire Department Fire Marshal, indicating evidence of employees smoking on the plating bath floor. At least 3 employees were present during the time of inspection and none were observed to be wearing respiratory personal protective equipment.

The two buildings located to the west of the main electroplating building (includes 901-945 East Ten Mile Road) are completely full of miscellaneous containers with contents (including containers with hazard class labels), unused storage tanks, equipment and debris. A plastic and foam berm has been installed in the building west of the main electroplating building. Mr. Sayers indicated the containers stored in the bermed area mostly contain hydrochloric acid. However, many of the containers were observed to be unlabeled and/or badly corroded. Compatibility of all drum contents with hydrochloric acid is unknown.

Violations

Due to the extraordinary disorder of the facility and the significant safety concerns present, a routine regulatory inspection could not be performed and a complete list of violations has not been established. Instead, the following list of violations represents the broad view and the most pressing conditions that threaten public safety and the environment.

1. EPS shall not accumulate hazardous waste for more than 90 days if the site generates more than 1,000 kilograms of hazardous waste or more in a month, nor more than one hundred eighty days if the site generates more than 100 kilograms but less than 1,000 kilograms of hazardous waste in a month, as required by R 299.9306(1), R 299.306(3), and R 299.9306(4).

During the initial May 12, 2016 inspection, Mr. Sayers indicated that the wastewater treatment sludge (F006 listed hazardous waste) in the tanks had been accumulated for over one year and the crystallized nickel and copper sulfate wastes were several years old. During the November 15, 2016 inspection, Mr. Sayers indicated no waste had been shipped off site since the initial inspection. Therefore, EPS continues to be in violation of the hazardous waste accumulation requirements.

2. EPS shall not establish an unlicensed hazardous waste storage facility as defined in MCL 324.11104(5). A generator who accumulates hazardous waste for more than 90 days is an operator of a storage facility and subject to the licensing and operating

requirements of parts 5, 6 and 7 of the Part 111 Administrative Rules, in accordance with R 299.9306(3).

EPS has accumulated hazardous waste past 90 days and now meets the definition of a hazardous waste storage facility. However, EPS has not met the licensing or operating requirements for a hazardous waste storage facility, nor have financial assurance obligations for such a facility been met.

3. EPS shall place hazardous waste in containers or tanks or on drip pads, as required by R 299.9306(1)(i)(ii)(iii).

Mr. Sayers indicated he had used the F006 listed hazardous waste as dike material for sludge that was removed from the basement pit to dewater on the surface of the basement floor. Further, the earthen pit that was excavated in the basement has been receiving leakage from plating liquids and accumulating sludge that is likely hazardous waste. Neither the basement floor nor the pit complies with the definitions of "containers" (R 299.9102(q)) or "tanks" (R 299.9108(a)) suitable for hazardous waste storage.

4. EPS shall evaluate all wastes generated in accordance with R 299.9302 to determine if the wastes are hazardous waste or liquid industrial byproduct as required by MCL 324.11138(1)(a), MCL 324.12103(1)(a) and R 299.9302(1).

At the time of the inspection, numerous unlabeled containers were observed, the contents of which could not be positively identified.

5. EPS shall maintain and operate the facility such that EPS minimizes the possibility of a fire, explosion, or any unplanned sudden or nonsudden release of hazardous waste in accordance with 40 CFR, Section 265.31, and as required by R 299.9306(4)(e).

During the inspection, staff observed numerous open, improperly stored, unlabeled and leaking containers. An excessive accumulation of containers and other materials has occurred throughout the facility. Several doors, windows and areas of roofing were missing or covered only by plastic sheeting. The majority of the plating bath floor is covered with make-shift flooring to cover over areas that have corroded. In addition to the safety concerns that DEQ staff observed during the inspection, the DEQ understands that the City of Madison Heights revoked occupancy of the property from May 11-27, 2016, due to significant violations of the fire and building codes. Additional fire and building code violations were noted by the Madison Heights during the November 15, 2016 inspection. The observed conditions exacerbate the risk of fire, explosion, or unanticipated releases.

6. EPS shall keep all containers of hazardous waste and liquid industrial byproduct closed except when it is necessary to add or remove waste as required by R 299.9306(1)(a)(i), MCL 324.12113(1), and the corresponding federal regulations under 40 CFR, Section 265.173(a).

Numerous open containers were observed during the inspection.

7. EPS shall inspect containers of hazardous waste at least weekly for leaks and deterioration in accordance with 40 CFR, Section 265.174; respond to detected leak(s) in accordance with 40 CFR, Section 265.171; document the inspections and any correction(s); maintain the documentation for at least three (3) years as required by R 299.9306(1)(a)(i).

Numerous leaking, badly corroded and improperly stored containers were observed during the inspection.

8. EPS shall store all hazardous waste and liquid industrial byproduct protected from weather, fire, physical damage, and vandals as required by R299.9306(1)(e) and MCL 324.12113(1).

As a result of a missing door, windows, and roofing, access to the facility is unrestricted, and in many parts, the interior of the facility is exposed to the elements. Of specific concern was a number of totes of cyanide stored near an entryway without a door, covered only by plastic sheeting. The perimeter of the facility is not fenced.

9. EPS shall provide for training of all employees and maintain documentation of training, in accordance with 40 CFR, Section 265.16.

During the November 15, 2016 inspection, Mr. Sayers stated that new employees had been added to EPS within the last several years, but there were no training records available.

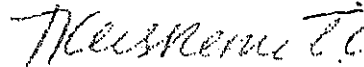
EPS is advised to take immediate action to correct the cited violations and attain compliance with all applicable regulations. EPS is further advised to submit a written response to this Second Violation Notice by **December 16, 2017**. The written response should include a description of all actions taken to date to achieve compliance. If compliance has not been achieved, the response shall also include a work plan and schedule for addressing the outstanding violations.

Please be reminded that the management of the wastes on site must be done so lawfully. EPS must ensure that the wastes are properly characterized, containerized, labeled, manifested and transported for off-site disposal. Any on-site treatment of waste must be done so in compliance with state and federal law and applicable discharge permits. All transportation of hazardous waste and liquid industrial byproduct must be performed by a properly licensed transporter.

Due to the severity of the violations identified in this 2nd Violation Notice, the DEQ is exploring all possible avenues for mitigating the hazards present at this facility; this may include administrative or civil action seeking fines, enforcement costs and injunctive relief, and potential criminal prosecution. Please be advised that compliance with this Violation Notice does not preclude, nor limit, the DEQ's ability to initiate any other enforcement action under state or federal law, as deemed appropriate for past, current, or continuing violations of the NREPA. Additionally, EPS remains subject to the terms and conditions of Consent Order No. 111-03-10, including the provisions for stipulated penalties.

The DEQ anticipates and appreciates your cooperation in resolving this matter. If you have any questions, please feel free to contact me by telephone at 248-217-3080 or by electronic mail at kecskemetit@michigan.gov.

Sincerely,



Ms. Tracy Kecskemeti
District Supervisor
Southeast Michigan District Office
Office of Waste Management
and Radiological Protection

cc: Mr. Philip J. Tannian, Attorney, Environmental Legal Service
Mr. Greg Lelito, Fire Chief, Madison Heights Fire Department
Mr. Paul Biliti, Fire Marshal, Madison Heights Fire Department
Mr. Frank Hayward, Madison Heights Building Official
Mr. John Craig, DEQ
Mr. Lonnie Lee, DEQ
Ms. Alexandra Clark, DEQ
Mr. Mark Daniels, DEQ

Exhibit 4

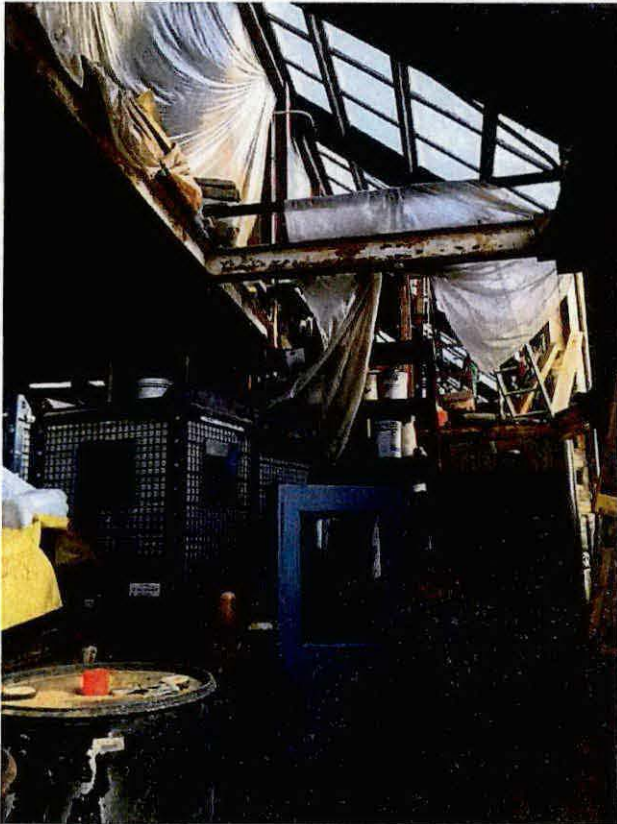


Photo 1: Inside main building on south side



Photo 2: Containers stored immediately inside south entry way

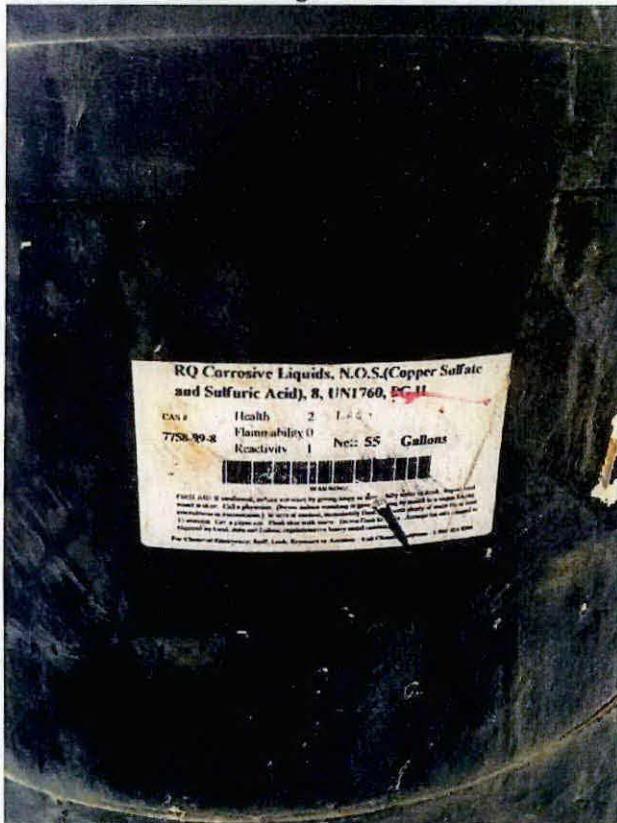


Photo 3: Corrosive Liquids container label



Photo 4: Containers stored immediately inside south entry way

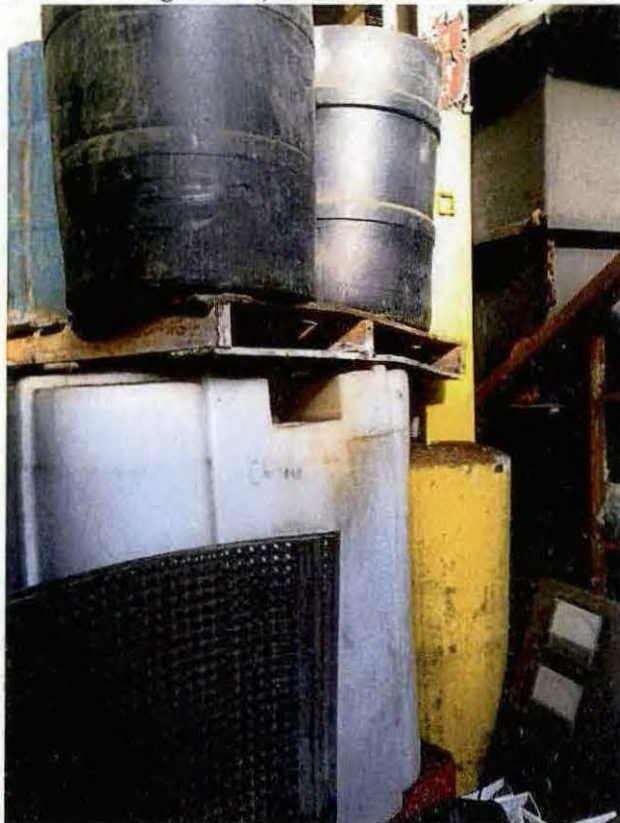


Photo 5: Representative container storage – first floor



Photo 6: Representative container storage – first floor



Photo 7: Representative container storage



Photo 8: Storage of miscellaneous debris blocking exit



Photo 9: Sewer discharge point



Photo 10: "Sand blast cabinet" – aluminum oxide shavings



Photo 11: Basement "pit" receiving liquid leakage from plating bath floor above



Photo 12: Pooled leakage in basement



Photo 13: Pooled leakage in basement



Photo 14: Representative container storage in basement



Photo 15: Missing bay door facing north - purported cyanide storage in totes against wall



Photo 16: Metal bin purportedly containing cyanide waste

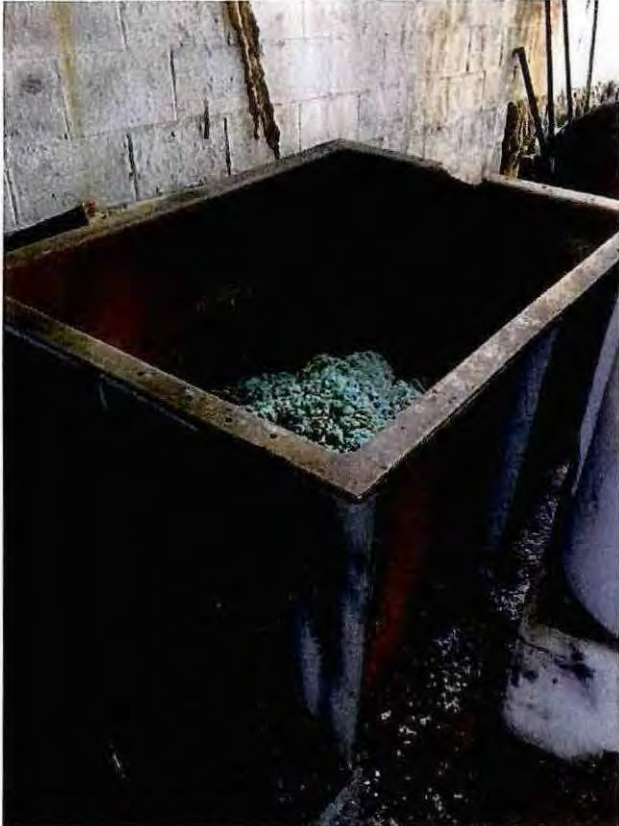


Photo 17: Representative solids storage in basement



Photo 18: Representative solids storage in basement



Photo 19: Tote labeled as Sodium Hydroxide but containing Solid material in basement



Photo 20: Corroded and leaking containers with "Copper Cyanide" label in basement



Photo 21: Corroded and leaking containers with "Copper Cyanide" label in basement



Photo 22: Representative container storage



Photo 23: Spilled liquids on plating bath floor



Photo 24: Representative container storage

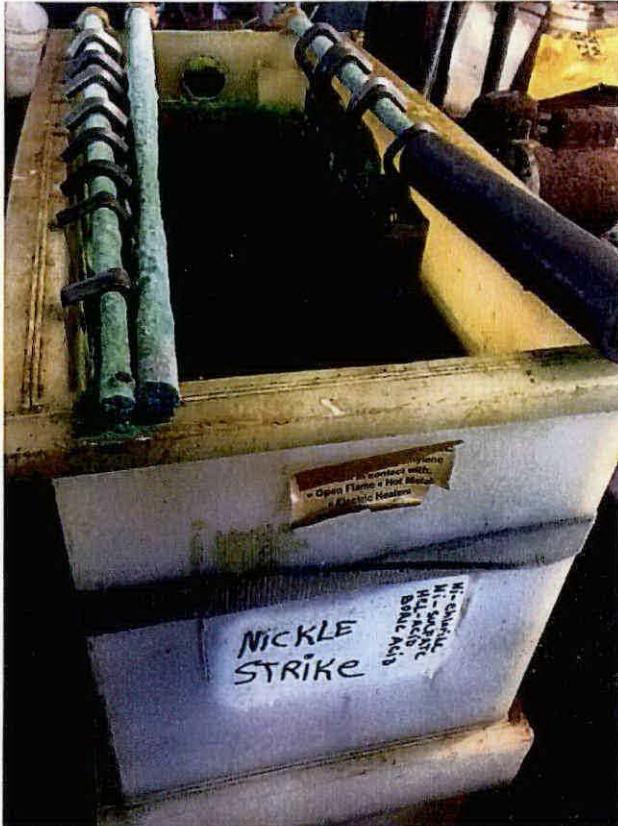


Photo 25: Representative plating bath

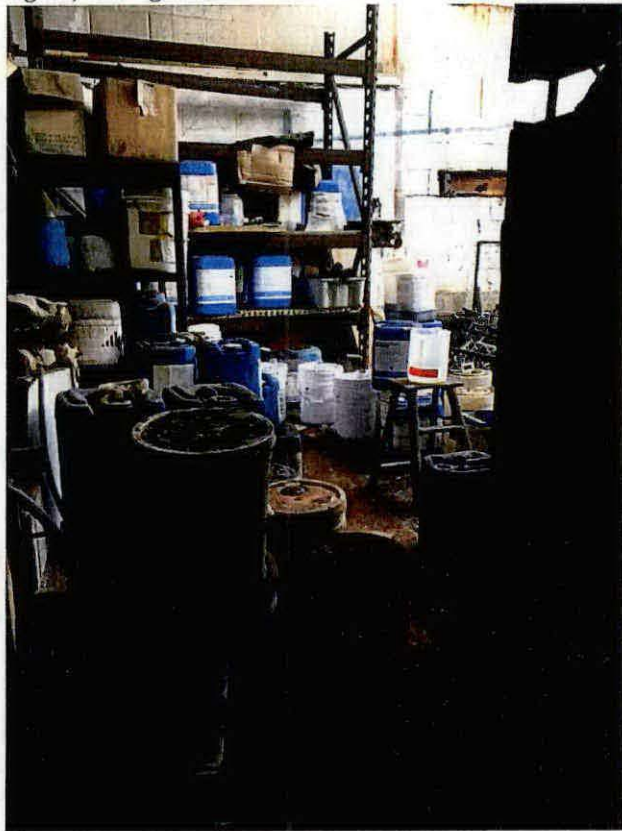


Photo 26: Representative container storage on plating bath floor

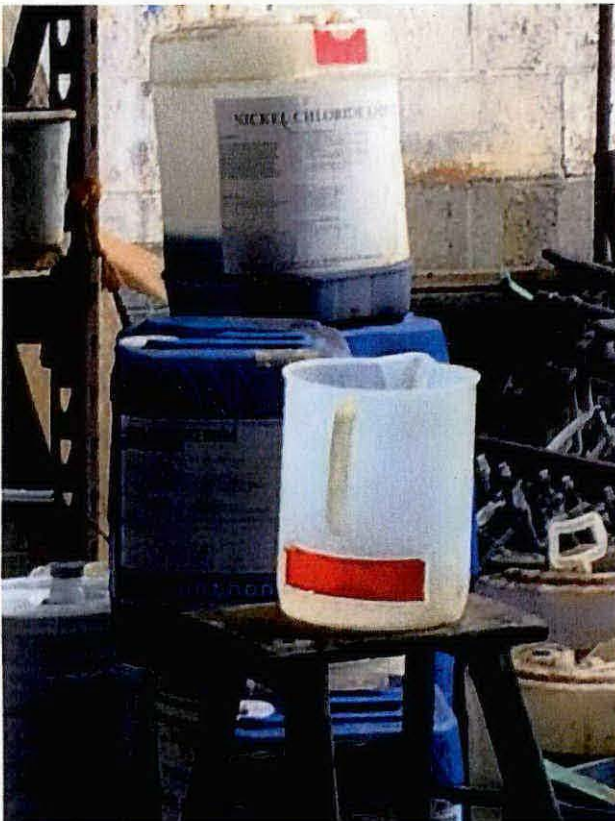


Photo 27: Representative container storage on plating bath floor

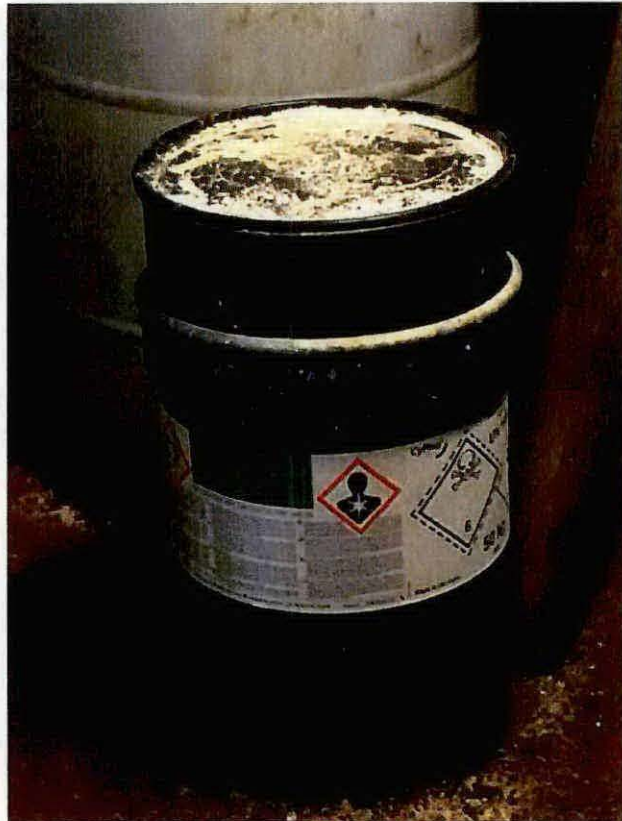


Photo 28: 50 kilogram cyanide container, note powder or crystals on container surface



Photo 29: Representative container storage



Photo 30: Representative container storage – note lack of covers



Photo 31: Representative plating bath floor containers



Photo 32: Purported containers of Trichloroethylene for degreasing on plating bath floor



Photo 33: Spilled liquid of unknown origin

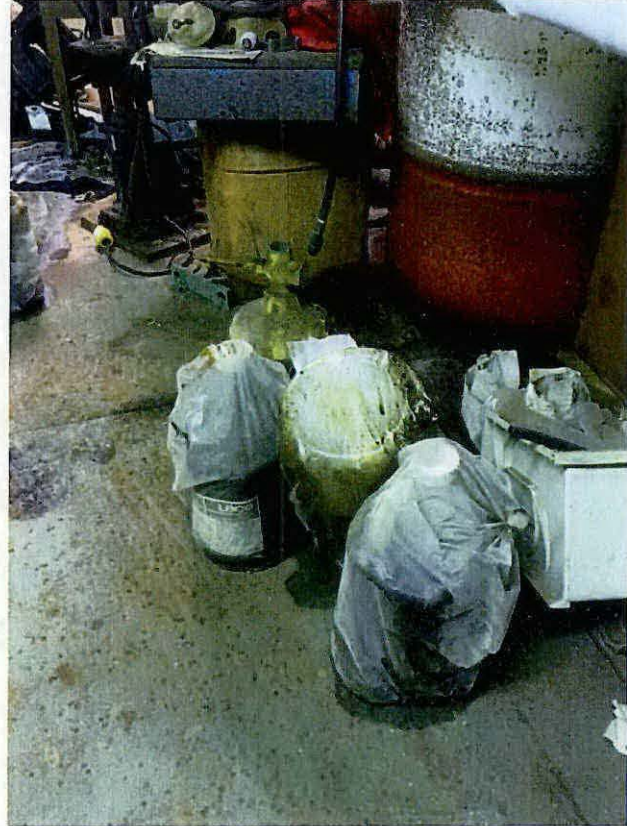


Photo 34: Representative container storage



Photo 35: Representative container storage – purported Plating bath filters



Photo 36: Representative container storage – top floor



Photo 37: Representative container storage – top floor



Photo 38: Representative container storage



Photo 39: Representative container storage – top floor



Photo 40: Representative container storage – top floor. These containers had been consolidated and numbered by inventory contractor



Photo 41: Missing bay door on north side of building

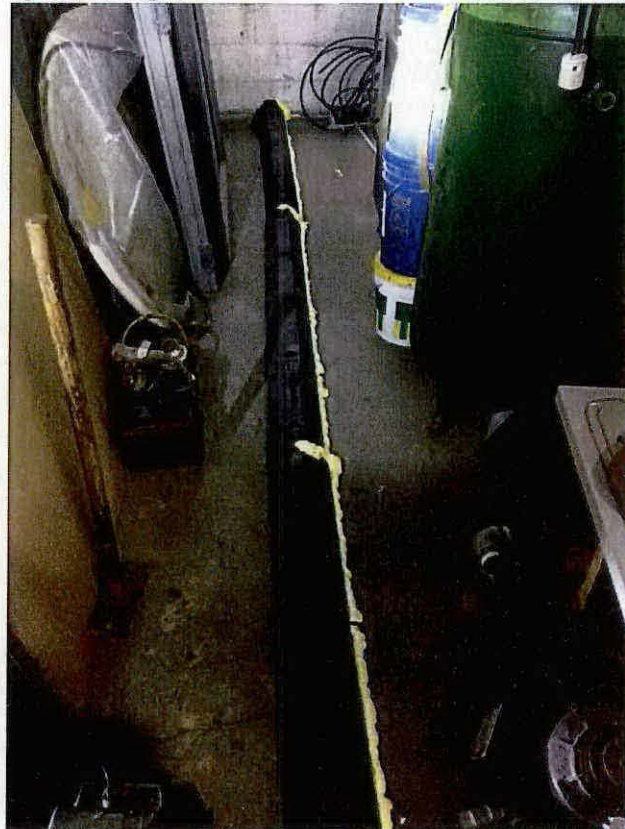


Photo 42: Recently installed plastic and foam berm in adjacent building

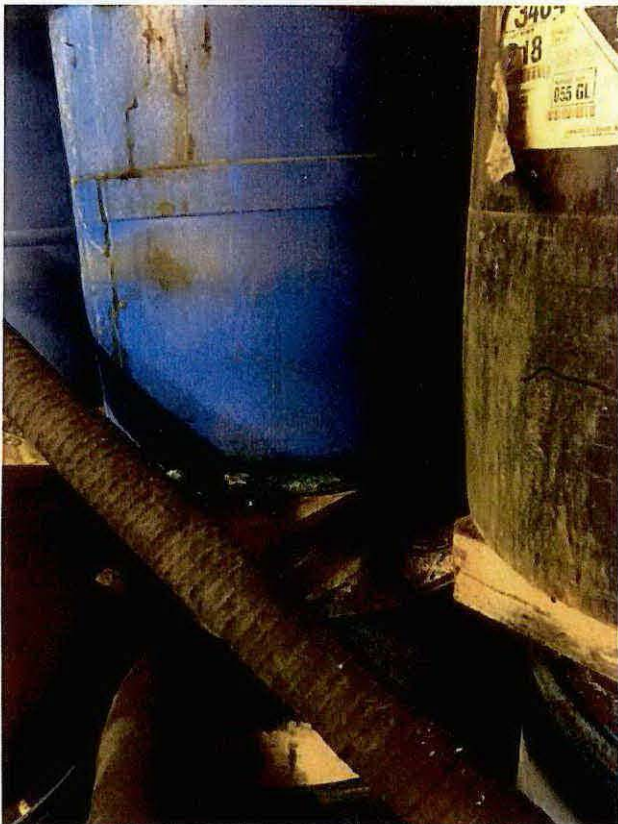


Photo 43: Corroded container in adjacent building

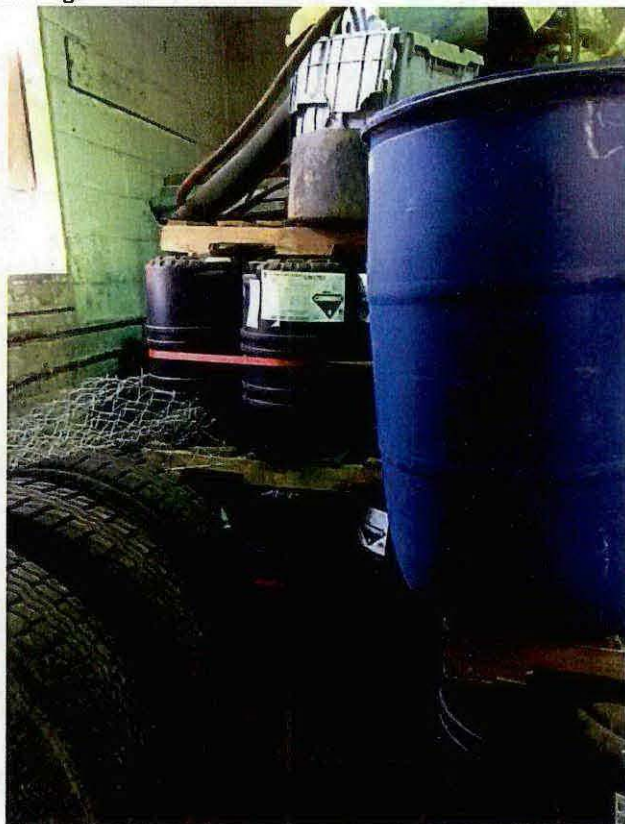


Photo 44: Hydrochloric acid storage in adjacent building



Photo 45: Representative container storage in adjacent building, some unlabeled and compatibility with acid unknown



Photo 46: Representative container storage in adjacent building



Photo 47: Representative container storage in adjacent



Photo 48: South side of building facing 10 Mile Road



Photo 49: Representative conditions inside main building



Photo 50: Sludge drying in basement. Note purported F006 listed hazardous waste used as berm material



Photo 51: Sludge drying in basement. Note purported F006 listed hazardous waste used as berm material



Photo 52: View of plating bath floor



Photo 53: View of plating bath floor



Photo 54: Representative container storage



Photo 55: View of missing wall area on top floor of main building



Photo 56: Laboratory area inside main building



Photo 57: Laboratory area inside main building



Photo 58: Representative container storage inside adjacent building



Photo 59: South side of 901 E. 10 Mile Road building

Exhibit 5



STATE OF MICHIGAN
DEPARTMENT OF HEALTH AND HUMAN SERVICES
LANSING

RICK SNYDER
GOVERNOR

NICK LYON
DIRECTOR

VIA E-MAIL

To: Ms. C. Heidi Grether, Director, Department of Environmental Quality

From: Kory Groetsch, Acting Environmental Public Health Director,
Division of Environmental Health

Date: December 16, 2016

Subject: Electro-Plating Service, Inc., 945 East 10 Mile Road, Madison Heights, Oakland County,
Michigan - Determination of Imminent and Substantial Hazard

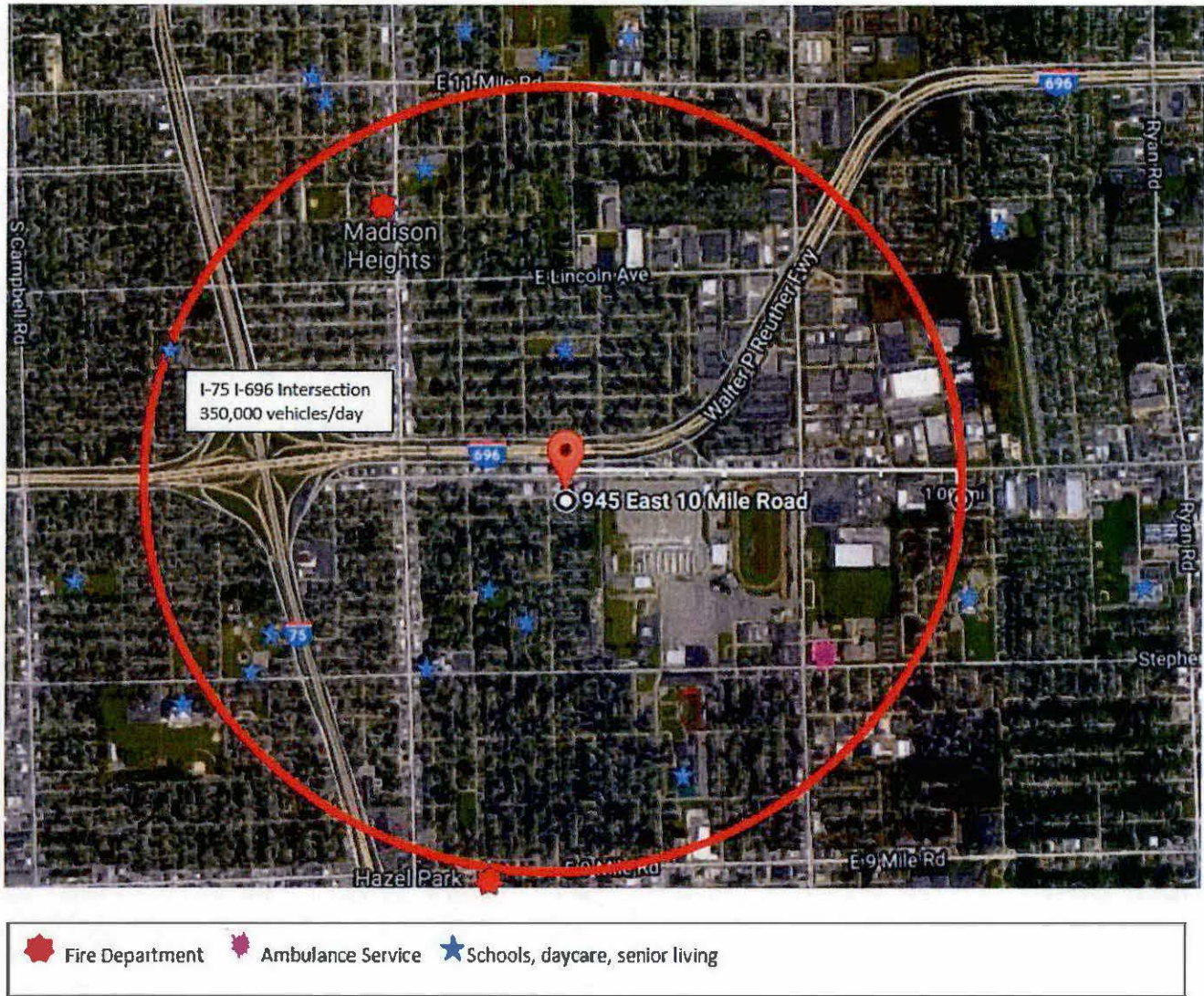
In response to the December 16, 2016 letter (see attached) requesting a public health determination, pursuant to Section 11148(1)(a) of Part 111, Hazardous Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, regarding the conditions at Electro-Plating Service (EPS), Inc. (945 East 10 Mile Road, Madison Heights, Oakland County, Michigan) the Michigan Department of Health and Human Services (DHHS) finds that the conditions at this property are an **imminent and substantial hazard to public health**. DHHS recommends DEQ use any and all necessary authorities to secure the property and address all hazards at this location. If DEQ determines it is necessary, DHHS would concur with referring the site to the United States Environmental Protection Agency Removal Program (On-Scene Coordinators) for a time-critical or emergency removal of these hazards.

DHHS reviewed the DEQ briefing report (attached), the two violation notices (attached), and the series of photos (select photos attached) regarding conditions at the EPS property. This property is in Madison Heights, a very densely populated suburb of Detroit. This facility is dilapidated with doors, windows and roofing materials missing and replaced with plastic sheeting. It contains an estimated 5,000 containers of labeled and unlabeled chemicals. These chemicals are scattered throughout the facility in containers that are leaking, unlabeled, open and badly corroded. Many of these chemicals are highly toxic and corrosive and would be dangerous to any trespassers who could enter the unsecured facility and would be a hazard to any first responders responding to the facility.

In addition, certain highly hazardous chemicals are likely at this facility based on the attached Photos No. 28 (cyanide) and No. 25 (plating baths containing hydrochloric acid). Additional containers of hydrochloric acid were found in the facility by MDEQ. The combination of these two chemicals or the addition of an excess amount of water, such as used in firefighting, can produce a highly toxic cloud of hydrogen cyanide. Should such an incident occur, the United States' Department of Transportation's Emergency Response Guide recommends protecting all persons within 1.0 mile during the day and 2.5 miles at night, downwind of a spill of these chemicals from this type of facility. Figure 1 gives the 1 mile distance from the site which includes; the Madison Heights Fire Station (the Hazel Park Fire Station is just outside 1 mile), the ambulance service, 9 daycares, schools and senior living facilities. It also includes the I-75 / I-696 intersection where 350,000 vehicles travel each day. It would be very difficult to evacuate people quickly from this densely populated area before they suffered serious health effects from such an exposure.

cc/enc: Mr. Nick Lyon, Director, DHHS
Ms. Nancy Vreibel, Chief Deputy Director, DHHS
Dr. Eden Wells, Medical Director, DHHS
Ms. Susan Moran, Deputy Director, Population Health, DHHS
Ms. Sarah Lyon-Callo, State Epidemiologist, Director of Bureau of Epi. & Pop. Health, DHHS
Ms. Lisa Quiggle, Toxicologist, Division of Environmental Health, DHHS
Ms. Kathy Forzley, Health Officer/Manager, Oakland County Health Division
Mr. Anthony Drautz, Administrator, Environ. Health Services, Oakland County Health Division
Mr. Greg Lelito, Chief, Madison Heights Fire Department
Mr. S. Peter Manning, DAG
Ms. Polly Synk, DAG
Mr. Robert Wagner, Program Deputy Director, DEQ
Ms. Susan Leeming, DEQ
Mr. Steve Sliver, DEQ
Mr. Phil Raycraft, DEQ
Mr. John Craig, DEQ
Mr. Lonnie Lee, DEQ
Mr. Alan Taylor, DEQ
Ms. Tracy Kecskemeti, DEQ
Ms. Alexandra Clark, DEQ

Figure 1: The approximate one mile radius from EPS, Inc. 945 East 10 Mile Road, Madison Heights, Oakland County.



ATTACHMENTS

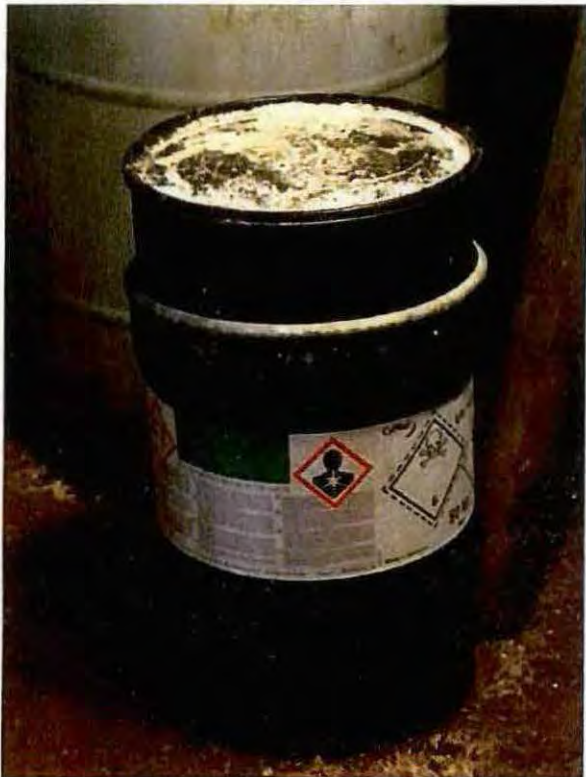


Photo 28: 50 kilogram cyanide container – note powder or crystals on container surface



Photo 25: Representative plating bath



Photo 55: View of missing wall area on top floor of main building



Photo 41: Missing bay door on north side of building



Photo 15: Missing bay door facing north – purported cyanide storage in totes against wall



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING



C. HEIDI GREYER
DIRECTOR

December 16, 2016

VIA E-MAIL

Mr. Nick Lyon, Director
Department of Health and Human Services
333 South Grand Avenue
P.O. Box 30037
Lansing, Michigan 48909

Dear Director Lyon:

The Department of Environmental Quality (DEQ) seeks the assistance of the Department of Health and Human Services (DHHS) to facilitate issuance of an administrative order (Order) pursuant to Section 11148(1)(a) of Part 111, Hazardous Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended. Section 11148 of Part 111 provides for the DEQ to consult with the DHHS and for the Director of the DHHS to make a determination, based on available information, of an instance of an imminent and substantial hazard to the health of persons or endangering or causing damage to public health. Section 11148 of Part 111 states specifically:

(1) Subject to subsection (2), upon receipt of information that the storage, transportation, treatment, or disposal of hazardous waste may present an imminent and substantial hazard to the health of persons or to the natural resources, or is endangering or causing damage to public health or the environment, the department, after consultation with the director of public health or a designated representative of the director of public health, shall take 1 or more of the following actions:

(a) Issue an order directing the owner or operator of the treatment, storage, or disposal facility, the generator, the transporter, or the custodian of the hazardous waste that constitutes the hazard, to take the steps necessary to prevent the act or eliminate the practice that constitutes the hazard. The order may include permanent or temporary cessation of the operation of a treatment, storage, or disposal facility, generator, or transporter. An order issued under this subdivision may be issued without prior notice or hearing and shall be complied with immediately. An order issued under this subdivision shall not remain in effect more than 7 days without affording the owner or operator or custodian an opportunity for a hearing. In issuing an order calling for corrective action, the department shall specify the precise nature of the corrective action necessary and the specific time limits for performing the corrective action. If corrective action is not completed within the time limit specified and pursuant to the department's requirements, the department shall issue a cease and desist order against the owner or operator of the treatment, storage, or disposal facility, generator, or transporter and initiate action to revoke the operating license and take appropriate action.

Mr. Nick Lyon
Page 2
December 16, 2016

(b) Request that the attorney general commence an action to enjoin the act or practice and obtain injunctive relief upon a showing by the department that a person has engaged in the prohibited act or practice.

(c) Revoke a permit, license, or construction permit after reasonable notice and hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, if the department finds that a treatment, storage, or disposal facility is not, or has not been, constructed or operated pursuant to the approved plans or this part and the rules promulgated under this part, or the conditions of a license or construction permit.


(2) A determination of an instance of imminent and substantial hazard to the health of persons shall be made by the director of community health.

Therefore, enclosed for your consideration are a briefing report, two Violation Notices resulting from inspections by the DEQ and the Madison Heights Fire Department, and a series of photographs that document current conditions at Electro-Plating Service, Inc., a hazardous waste generator located at 945 East 10 Mile Road, Madison Heights, Oakland County, Michigan. Since issuance of the initial Violation Notice, the owner/operator has failed to take effective measures to abate the hazard posed by the conditions at the site. The DEQ is seeking an expedited review and determination from the DHHS.

DEQ staff has shared information with Mr. Kory Groetsch, Division of Environmental Health, DHHS, on this matter to help facilitate the DHHS review and issuance of a Determination of Imminent and Substantial Hazard. A draft Order, with an anticipated issuance date of late December 2016, is in preparation and will be shared with staff of the Department of Attorney General (DAG); staff of the U.S. Environmental Protection Agency, Region 5, Superfund Division, Emergency Response Branch; and your staff to coordinate a schedule for this action.

Thank you in advance for your support in this matter. If you have any questions or concerns, please contact Mr. Steve Sliver, Acting Chief, Office of Waste Management and Radiological Protection, at 517-284-6595; slivers@michigan.gov; or DEQ, P.O. Box 30241, Lansing, Michigan 48909-7741; or you may contact me.

Sincerely,



C. Heidi Grether
Director
517-284-6700

Enclosures

Mr. Nick Lyon
Page 3
December 16, 2016

cc/enc: Mr. Greg Lelito, Chief, Madison Heights Fire Department
Mr. S. Peter Manning, DAG
Ms. Polly Synk, DAG
Mr. Kory Groetsch, DHHS
Mr. Robert Wagner, Program Deputy Director, DEQ
Ms. Susan Leeming, DEQ
Mr. Steve Sliver, DEQ
Mr. Phil Roycraft, DEQ
Mr. John Craig, DEQ
Mr. Lonnie Lee, DEQ
Mr. Alan Taylor, DEQ
Ms. Tracy Kecskemeti, DEQ
Ms. Alexandra Clark, DEQ

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY

Briefing Report
Electro-Plating Service, Inc.
945 East 10 Mile Road, Madison Heights, Oakland County, Michigan
Site ID: MID042444687; WDS No. 395573

This serves as a formal briefing related to conditions documented at Electro-Plating Service, Inc. (EPS), located at 945 East 10 Mile Road, Madison Heights, Oakland County, Michigan, and owned/operated by Mr. Gary Sayers.

Background

EPS is an operating electroplating facility that has been in operation since 1967. EPS is a large quantity hazardous waste generator and has generated a variety of hazardous wastes including, but not limited to, cyanide, chrome, and trichloroethylene wastes. Hazardous waste violations were documented by Department of Environmental Quality (DEQ) staff beginning in 1996. From 1996 to 2009, there were 15 compliance actions, including criminal enforcement, related to EPS for the Madison Heights facility as well as the second EPS location at 5900 Commonwealth, Detroit, Michigan 48208. A Consent Order (Order #111-03-10) was executed between EPS and the Department of Natural Resources and Environment (now DEQ) in April of 2010 to resolve significant hazardous waste violations due to EPS's ongoing inability to properly characterize and store hazardous waste; properly store or label process materials; provide for proper emergency planning and employee training; and comply with hazardous waste reporting requirements. The 2010 Consent Order currently remains open.

Current Conditions – Imminent and Substantial Endangerment

DEQ staff conducted an abbreviated inspection on May 13, 2016, as result of a complaint filed with the DEQ by the Madison Heights Fire Department that alleged EPS was mismanaging hazardous materials, hazardous wastes, other liquid and solid wastes, and unidentified chemicals. These allegations were substantiated during the inspection, and a Violation Notice was issued to EPS on June 6, 2016. In addition, the Madison Heights Fire Department revoked EPS's occupancy from May 11 to May 27, 2016, due to fire and building code violations.

Despite ongoing communication with EPS's attorney, as of November 2016, the DEQ had not received a formal written response to the Violation Notice issued on June 6, 2016. Therefore, DEQ staff conducted a joint follow-up inspection with the Madison Heights Fire Department on November 15, 2016. The conditions observed on November 15, 2016, were consistent with those observed on May 13, 2016, and pose an imminent and substantial threat to human health and the environment. Specifically, the following conditions pose an imminent and substantial endangerment threat:

- An estimated 5,000 containers of known and potential hazardous waste, hazardous chemicals, and unknown waste are present at the facility, which has unrestricted access. A residential neighborhood is within 500 feet of the facility and Interstate 696 is immediately adjacent to the facility, resulting in the potential to expose residents and passersby to hazardous substances in the event of a fire, release, or curious children entering the facility. The unknown and hazardous nature of many of the container contents poses a potential exposure hazard to trespassers and first responders who could be exposed to a hazardous material and not know what the material is or how to properly treat injuries caused by it.

- The hazardous and potentially hazardous nature of many container contents and the unrestricted access to the facility increases the potential for fire or explosion (intentional or unintentional).
- Hazardous waste and potentially hazardous waste and chemicals that are contained in dilapidated or open containers could result in overflow and run-off of contamination due to areas of the facility that are exposed to weather conditions. The basement "pit" is known to receive liquid wastes, and the degree of infiltration of contaminants to the underlying soil is unknown and could be exacerbated due to precipitation.

General Observations

The facility is significantly dilapidated with many doors, windows, and roof areas missing or only covered by plastic sheeting, resulting in unrestricted access (**Photo 15**). The plating bath floor consists of unstable and makeshift flooring. The facility is extremely cluttered and filled with numerous containers (estimated over 5,000) of liquid and solid waste, chemicals, equipment, and debris. The number and extreme clutter of containers, equipment, and debris has resulted in blocked exits and impassable portions of the facility (**Photo 8**). Numerous leaking, unlabeled, open, improperly stored, and/or badly corroded containers with contents are present (**Photos 7, 16, 21, 31, 32, 33 and 43**). Known waste and chemicals on-site include, but were not limited to, acids, bases, metal oxides, cyanide, and chlorinated solvents; however, many of the container contents are unknown. There is no discernable system for storage of waste and chemicals based on chemical compatibility.

Liquids leaking from the plating bath floor are accumulating in the basement "pit" (**Photos 11 and 12**). The "pit" is a portion of the basement that Mr. Sayers excavated around 1993 with the intention of storing waste. The competency of the soil underlying the pit is undocumented; however, toxicity characteristic leaching procedure (TCLP) sample data collected from the excavated soil in 1993 indicated detectable concentrations of cadmium, chromium, copper, lead, and zinc. During the November 15, 2016, inspection, Mr. Sayers indicated he removed the sludge (waste) that was previously accumulated in the lower portion of the basement and moved the sludge to an elevated portion of the basement to dry out. The dried sludge was observed during the inspection. Mr. Sayers also indicated he used sludge from F006 (chrome) listed hazardous waste to dike the areas around the basement sludge.

The DEQ issued a 2nd Violation Notice to EPS on December 2, 2016.

Recommendations

A lengthy history of noncompliance has been documented at EPS as the result of Mr. Sayer's operations. The ongoing violations of Part 111, Hazardous Waste Management, and Part 121, Liquid Industrial By-Products, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, and the existing Consent Order, along with the disorganization and the dilapidated state of the facility, demonstrate that Mr. Sayers' is incapable or unwilling to operate the facility in compliance with the law. Further, the conditions observed on November 15, 2016, demonstrate the facility poses an imminent and substantial threat to human health and the environment. Conventional compliance enforcement tools have not been effective at this facility. Given the severity of the violations, an Order to Perform Corrective Action and Cease and Desist Operations is recommended. Referral of the site to the United

Briefing Report
Electro-Plating Service, Inc.
Page 3

States Environmental Protection Agency, Superfund Division, Emergency Response Branch, is recommended once operations at the facility have ceased in order to perform an emergency removal action that will: (1) secure access to the facility; and (2) secure and properly manage all uncontrolled hazardous waste and materials.

Prepared by: Alexandra Clark
Senior Environmental Quality Analyst
Office of Waste Management and Radiological Protection
Southeast Michigan District Office
Department of Environmental Quality
December 16, 2016



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
SOUTHEAST MICHIGAN DISTRICT OFFICE



KEITH CREAGH
DIRECTOR

June 6, 2016

Mr. Gary Sayers, President
Electro-Plating Service, Inc.
945 East Ten Mile Road
Madison Heights, Michigan 48071

Dear Mr. Sayers:

SUBJECT: Violation Notice, Electro-Plating Service, Inc.
Site Identification Number: MID 042 444 687

On May 13, 2016, Department of Environmental Quality (DEQ), Office of Waste Management and Radiological Protection (OWMRP) and Water Resources Division (WRD), staff conducted an abbreviated inspection of Electro-Plating Service, Inc. (EPS), located at 945 East Ten Mile Road, Madison Heights, Michigan. Due to hazardous conditions and safety considerations, DEQ staff were not able to conduct a full inspection to thoroughly evaluate compliance with applicable regulations. This Violation Notice will address issues related to waste management at EPS. Issues or violations relative to storm water management or water quality protection regulations will be addressed by WRD under separate cover.

This inspection was completed, in part, in response to a complaint filed with the DEQ on May 12, 2016, by the Madison Heights Fire Department which alleged that EPS was mismanaging hazardous materials, hazardous wastes, other liquid and solid wastes, and unidentified chemicals. Based on observations, photographs taken, and statements made by you during the inspection, the allegations in the complaint were substantiated.

During the inspection, OWMRP staff evaluated compliance with Part 111, Hazardous Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA); Part 121, Liquid Industrial By-Products, of the NREPA; the corresponding requirements under Subtitle C of the federal Resource Conservation and Recovery Act of 1976, as amended; any administrative rules or regulations promulgated pursuant to these acts, and Consent Order No. 111-03-10. Although the scope of the inspection was extremely limited, the following violations have been identified to date:

1. EPS shall not accumulate hazardous waste for more than 90 days if the site generates more than 1,000 kilograms of hazardous waste or more in a month, nor more than one hundred eighty days if the site generates more than 100 kilograms but less than 1,000 kilograms of hazardous waste in a month; as required by R 299.9306(1), R 299.9306(3), and R 299.9306(4).

At the time of the inspection, you indicated that the wastewater treatment sludge (F006 listed hazardous waste) in the tanks had been accumulated for over one year and the crystallized nickel and copper sulfate wastes were several years old.

2. EPS shall evaluate all wastes generated in accordance with R 299.9302 to determine if the wastes are hazardous waste or liquid industrial byproduct as required by MCL 324.11138(1)(a), MCL 324.12103(1)(a) and R 299.9302(1).

At the time of the inspection, numerous unlabeled containers were observed, the contents of which you could not positively identify nor provide waste characterization.

3. EPS shall maintain and operate the facility such that EPS minimizes the possibility of a fire, explosion, or any unplanned sudden or nonsudden release of hazardous waste in accordance with 40 CFR, Section 265.31, and as required by R 299.9306(4)(e).

During the inspection, staff observed numerous leaking containers, containers improperly stacked, and the facility was generally impassable due to the excessive accumulation of materials throughout. In addition to the safety concerns that DEQ staff observed during the inspection, the DEQ understands that the City of Madison Heights condemned the property from May 11-27, 2016, for significant violations of the fire and building codes. The observed conditions do not minimize the risk of fire, explosion, or unanticipated releases.

4. EPS shall keep all containers of hazardous waste and liquid industrial byproduct closed except when it is necessary to add or remove waste as required by R 299.9306(1)(a)(i), MCL 324.12113(1), and the corresponding federal regulations under 40 CFR, Section 265.173(a).

Numerous open containers were observed during the inspection.

5. EPS shall inspect containers of hazardous waste at least weekly for leaks and deterioration in accordance with 40 CFR, Section 265.174; respond to detected leak(s) in accordance with 40 CFR, Section 265.171; document the inspections and any correction(s); maintain the documentation for at least three (3) years as required by R 299.9306(1)(a)(i).

Numerous leaking containers were observed during the inspection.

6. EPS shall store all liquid industrial byproduct protected from weather, fire, physical damage, and vandals in containers that are closed or covered, except when necessary to add or remove waste, to prevent the escape of liquid industrial byproduct to the environment.

Because many of the wastes observed could not be identified, staff could not differentiate between hazardous waste and liquid industrial by-products, as defined in Part 121. Liquid wastes, that were presumed to not be hazardous wastes, were observed in open containers, improperly stacked, and staged outdoors.

EPS is advised to take immediate action to correct the cited violations and attain compliance with all applicable regulations. The DEQ understands that EPS has contracted US Ecology to perform assessment services at the facility. In response to this Violation Notice, EPS is requested to provide the following:

1. By June 20, 2016: A report including a complete inventory of all hazardous wastes, liquid industrial by-products, and industrial chemicals on-site. This inventory shall encompass the seven contiguous properties owned by EPS on 10 Mile Road. The report shall document, narratively and by photograph, the current condition of all tanks

and containers. Relevant descriptors include: waste/product, open/closed, leaking/not-leaking, bulging, crystallized, labeled/unlabeled, accumulation dates, location, etc. The report shall also include a description of any actions taken between the time of the inspection and the submittal of this report to manage hazardous wastes or liquid industrial by-products; including any discharges to the sewer system, consolidating of waste materials, or removal of waste materials off-site.

2. By June 27, 2016: A work plan for the removal of all non-compliant hazardous wastes and liquid industrial by-products from the facility. This work plan shall identify high priority materials or areas and an aggressive timeline for proper disposal off-site.
3. Beginning July 11, 2016 and continuing bi-weekly through the completion of the removal: Progress reports detailing wastes removed from the site, including photographs and manifests.

Please be advised that compliance with this Violation Notice does not preclude, nor limit, the DEQ's ability to initiate any other enforcement action under state or federal law, as deemed appropriate for past, current, or continuing violations of the NREPA. EPS remains subject to the terms and conditions of Consent Order No. 111-03-10, including the provisions for stipulated penalties.

The DEQ anticipates and appreciates your cooperation in resolving this matter. If you have any questions, please feel free to contact Ms. Sue McDonald at mcdonalds3@michigan.gov or at 586-753-3844.

Sincerely,



Ms. Tracy Keckskemeti
District Supervisor
Southeast Michigan District Office
Office of Waste Management
and Radiological Protection
248-217-3080

cc: Mr. Philip J. Tannian, Attorney, Environmental Legal Service
Mr. Frank Hayward, Madison Heights Building Official
Mr. Sean Knight, Madison Height Fire Marshall
Mr. John Craig, DEQ
Mr. Lonnie Lee, DEQ
Ms. Sue Mcdonald, DEQ
Mr. Mark Daniels, DEQ



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
SOUTHEAST MICHIGAN DISTRICT OFFICE



C. HEIDI GREYER
DIRECTOR

December 2, 2016

Mr. Gary Sayers, President
Electro-Plating Service, Inc.
945 East Ten Mile Road
Madison Heights, Michigan 48071

Dear Mr. Sayers:

SUBJECT: 2nd Violation Notice, Electro-Plating Service, Inc.
Site Identification Number: MID 042 444 687

The Department of Environmental Quality (DEQ), Office of Waste Management and Radiological Protection (OWMRP) has determined that Electro-Plating Service, Inc. (EPS) is operating in significant violation of state and federal hazardous waste management regulations, including Part 111, Hazardous Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA); the corresponding requirements under Subtitle C of the federal Resource Conservation and Recovery Act of 1976, as amended; Part 121, Liquid Industrial By-Products, of the NREPA; any administrative rules or regulations promulgated pursuant to these acts, and Consent Order No. 111-03-10, entered into by yourself and this department on April 13, 2010. This 2nd Violation Notice addresses the continuing hazardous waste violations at EPS.

On November 15, 2016, Department of Environmental Quality (DEQ), Office of Waste Management and Radiological Protection (OWMRP) and Madison Heights Fire Department staff conducted a follow-up inspection of EPS, located at 945 East Ten Mile Road, Madison Heights, Michigan and the two affiliated building located to the west of 945 East Ten Mile Road (facility). This inspection was completed as a follow-up to an initial complaint inspection conducted on May 12, 2016. A violation notice was issued to EPS on June 6, 2016 as a result of the initial inspection. As of the date of this 2nd violation notice, no formal response to the initial violation notice has been received by DEQ, nor have any of the requested reports or work plans been provided by EPS.

Facility Conditions

The facility consists of a large building with four levels (main electroplating operations) and two smaller buildings located to the west on East Ten Mile Road. During the inspections, the facility was observed to be in a significant state of disrepair with many doors, windows and roof areas missing or only covered by plastic sheeting, resulting in unrestricted access. The facility was extremely cluttered and filled with numerous containers (estimated over 5,000) of liquid and solid waste, chemicals, equipment and debris. The volume and disorganization of containers, equipment and debris resulted in blocked exits and impassible portions of the facility. Numerous unlabeled, open, improperly stored and/or badly corroded containers were observed. Waste and chemicals on site included, but were not limited to, acids, bases, metal oxides, cyanide and chlorinated solvents.

Extensive staining and pooling of liquids, including oil staining, was observed on the floor throughout the facility. Liquids leaking from the plating bath floor were observed accumulating in the basement "pit". DEQ staff understands that EPS excavated this earthen pit, which is approximately 20 feet wide, 50 feet long, and 2 feet deep, in the basement to collect plating wastes. Mr. Sayers indicated he removed the sludge that was previously accumulated in the lower portion of the basement and moved the sludge to an elevated portion of the basement to dry out. The dried sludge was observed during the inspection. Mr. Sayers also indicated he used sludge from the on-site wastewater treatment plant (F006 listed hazardous waste) to dike the areas around the basement sludge.

Several areas of the main electroplating building were observed to have unstable flooring. Unstable and worn out flooring (the level underneath could be observed through the flooring) was observed throughout the plating bath floor. Metal plates are used to cover over worn-out portions of the flooring for walkways. Despite the use of metal plates, several areas of the flooring would sink when walked across. A cigarette ash tray was observed by the Madison Heights Fire Department Fire Marshal, indicating evidence of employees smoking on the plating bath floor. At least 3 employees were present during the time of inspection and none were observed to be wearing respiratory personal protective equipment.

The two buildings located to the west of the main electroplating building (includes 901-945 East Ten Mile Road) are completely full of miscellaneous containers with contents (including containers with hazard class labels), unused storage tanks, equipment and debris. A plastic and foam berm has been installed in the building west of the main electroplating building. Mr. Sayers indicated the containers stored in the bermed area mostly contain hydrochloric acid. However, many of the containers were observed to be unlabeled and/or badly corroded. Compatibility of all drum contents with hydrochloric acid is unknown.

Violations

Due to the extraordinary disorder of the facility and the significant safety concerns present, a routine regulatory inspection could not be performed and a complete list of violations has not been established. Instead, the following list of violations represents the broad view and the most pressing conditions that threaten public safety and the environment.

1. EPS shall not accumulate hazardous waste for more than 90 days if the site generates more than 1,000 kilograms of hazardous waste or more in a month, nor more than one hundred eighty days if the site generates more than 100 kilograms but less than 1,000 kilograms of hazardous waste in a month, as required by R 299.9306(1), R 299.306(3), and R 299.9306(4).

During the initial May 12, 2016 inspection, Mr. Sayers indicated that the wastewater treatment sludge (F006 listed hazardous waste) in the tanks had been accumulated for over one year and the crystallized nickel and copper sulfate wastes were several years old. During the November 15, 2016 inspection, Mr. Sayers indicated no waste had been shipped off site since the initial inspection. Therefore, EPS continues to be in violation of the hazardous waste accumulation requirements.

2. EPS shall not establish an unlicensed hazardous waste storage facility as defined in MCL 324.11104(5). A generator who accumulates hazardous waste for more than 90 days is an operator of a storage facility and subject to the licensing and operating

requirements of parts 5, 6 and 7 of the Part 111 Administrative Rules, in accordance with R 299.9306(3).

EPS has accumulated hazardous waste past 90 days and now meets the definition of a hazardous waste storage facility. However, EPS has not met the licensing or operating requirements for a hazardous waste storage facility, nor have financial assurance obligations for such a facility been met.

3. EPS shall place hazardous waste in containers or tanks or on drip pads, as required by R 299.9306(1)(i)(ii)(iii).

Mr. Sayers indicated he had used the F006 listed hazardous waste as dike material for sludge that was removed from the basement pit to dewater on the surface of the basement floor. Further, the earthen pit that was excavated in the basement has been receiving leakage from plating liquids and accumulating sludge that is likely hazardous waste. Neither the basement floor nor the pit complies with the definitions of "containers" (R 299.9102(q)) or "tanks" (R 299.9108(a)) suitable for hazardous waste storage.

4. EPS shall evaluate all wastes generated in accordance with R 299.9302 to determine if the wastes are hazardous waste or liquid industrial byproduct as required by MCL 324.11138(1)(a), MCL 324.12103(1)(a) and R 299.9302(1).

At the time of the inspection, numerous unlabeled containers were observed, the contents of which could not be positively identified.

5. EPS shall maintain and operate the facility such that EPS minimizes the possibility of a fire, explosion, or any unplanned sudden or nonsudden release of hazardous waste in accordance with 40 CFR, Section 265.31, and as required by R 299.9306(4)(e).

During the inspection, staff observed numerous open, improperly stored, unlabeled and leaking containers. An excessive accumulation of containers and other materials has occurred throughout the facility. Several doors, windows and areas of roofing were missing or covered only by plastic sheeting. The majority of the plating bath floor is covered with make-shift flooring to cover over areas that have corroded. In addition to the safety concerns that DEQ staff observed during the inspection, the DEQ understands that the City of Madison Heights revoked occupancy of the property from May 11-27, 2016, due to significant violations of the fire and building codes. Additional fire and building code violations were noted by the Madison Heights during the November 15, 2016 inspection. The observed conditions exacerbate the risk of fire, explosion, or unanticipated releases.

6. EPS shall keep all containers of hazardous waste and liquid industrial byproduct closed except when it is necessary to add or remove waste as required by R 299.9306(1)(a)(i), MCL 324.12113(1), and the corresponding federal regulations under 40 CFR, Section 265.173(a).

Numerous open containers were observed during the inspection.

7. EPS shall inspect containers of hazardous waste at least weekly for leaks and deterioration in accordance with 40 CFR, Section 265.174; respond to detected leak(s) in accordance with 40 CFR, Section 265.171; document the inspections and any correction(s); maintain the documentation for at least three (3) years as required by R 299.9306(1)(a)(i).

Numerous leaking, badly corroded and improperly stored containers were observed during the inspection.

8. EPS shall store all hazardous waste and liquid industrial byproduct protected from weather, fire, physical damage, and vandals as required by R299.9306(1)(e) and MCL 324.12113(1).

As a result of a missing door, windows, and roofing, access to the facility is unrestricted, and in many parts, the interior of the facility is exposed to the elements. Of specific concern was a number of totes of cyanide stored near an entryway without a door, covered only by plastic sheeting. The perimeter of the facility is not fenced.

9. EPS shall provide for training of all employees and maintain documentation of training, in accordance with 40 CFR, Section 265.16.

During the November 15, 2016 inspection, Mr. Sayers stated that new employees had been added to EPS within the last several years, but there were no training records available.

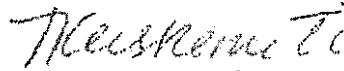
EPS is advised to take immediate action to correct the cited violations and attain compliance with all applicable regulations. EPS is further advised to submit a written response to this Second Violation Notice by **December 16, 2017**. The written response should include a description of all actions taken to date to achieve compliance. If compliance has not been achieved, the response shall also include a work plan and schedule for addressing the outstanding violations.

Please be reminded that the management of the wastes on site must be done so lawfully. EPS must ensure that the wastes are properly characterized, containerized, labeled, manifested and transported for off-site disposal. Any on-site treatment of waste must be done so in compliance with state and federal law and applicable discharge permits. All transportation of hazardous waste and liquid industrial byproduct must be performed by a properly licensed transporter.

Due to the severity of the violations identified in this 2nd Violation Notice, the DEQ is exploring all possible avenues for mitigating the hazards present at this facility; this may include administrative or civil action seeking fines, enforcement costs and injunctive relief, and potential criminal prosecution. Please be advised that compliance with this Violation Notice does not preclude, nor limit, the DEQ's ability to initiate any other enforcement action under state or federal law, as deemed appropriate for past, current, or continuing violations of the NREPA. Additionally, EPS remains subject to the terms and conditions of Consent Order No. 111-03-10, including the provisions for stipulated penalties.

The DEQ anticipates and appreciates your cooperation in resolving this matter. If you have any questions, please feel free to contact me by telephone at 248-217-3080 or by electronic mail at kecskemetit@michigan.gov.

Sincerely,



Ms. Tracy Keckemeti
District Supervisor
Southeast Michigan District Office
Office of Waste Management
and Radiological Protection

cc: Mr. Phillip J. Tannian, Attorney, Environmental Legal Service
Mr. Greg Lelito, Fire Chief, Madison Heights Fire Department
Mr. Paul Biliti, Fire Marshal, Madison Heights Fire Department
Mr. Frank Hayward, Madison Heights Building Official
Mr. John Craig, DEQ
Mr. Lonnie Lee, DEQ
Ms. Alexandra Clark, DEQ
Mr. Mark Daniels, DEQ

Exhibit 6



MADISON HEIGHTS FIRE DEPARTMENT
31313 BRUSH, MADISON HEIGHTS, MICHIGAN 48071
PHONE (248) 588-3605 FAX (248) 588-3604

FIRE CHIEF GREG LELITO

FIRE MARSHAL PAUL BILITI

Mr. Gary Sayers, President
Electro-Plating Service, Inc.
945 E. Ten Mile Rd
Madison heights, MI 48071

December 19, 2016

Dear Mr. Sayers,

After conducting numerous inspections over the last year, it is my determination that the building located at 945 E. Ten Mile is unfit for occupancy. As of this date, all operations inside the facility must cease. A 24 hour Fire Watch shall be instituted. One designated person shall be allowed inside the structure to continuously monitor the building for emergencies such as a fire or chemical release (see instructions to maintain a Fire Watch). Any processes that are deemed vital by myself or a subject matter expert shall be allowed to maintain chemical stability of said product.

The following current violations are contained within the 2015 International Fire Code and have been cited in reference to this action...

- 5003.9.2 Security against unauthorized entry.
- 110.1.1 Unsafe conditions to a structure.
- 110.1.2 Structural hazards to the structure.
- 311.2.2 Fire suppression system required for occupancy type.
- 505.1 No address identification.
- 1003.4 Floor surfaces unstable.
- 1024.3 Exit passageway width.
- 1024.3 Exit passageway construction.
- 5001.3.3.6 Protection of hazardous materials.
- 5003.9.8 Separation of incompatible materials.
- 506.1 Knox Box required.
- 5001.3.3.7 Exposed hazardous materials.
- 5001.3.3.4 Spill mitigation.
- 5004.2 Means of egress blocked stairs and exits.
- 310.2 Prohibited smoking areas within the structure.
- 605.5.1 Extension cord usage for permanent use.
- 906.6 Portable fire extinguishers unobstructed.
- 605.8 Electrical motor cleanliness.
- 1009.1 Accessible means of egress required.
- 5003.5 Hazard identification signage.
- 5303.5.3 Securing compressed gas containers, cylinders and tanks.
- 6103.2.1.1 Use in basement, pit or similar location.



MADISON HEIGHTS FIRE DEPARTMENT
31313 BRUSH, MADISON HEIGHTS, MICHIGAN 48071
PHONE (248) 588-3605 FAX (248) 588-3604

FIRE CHIEF GREG LELITO

FIRE MARSHAL PAUL BILITI

Many of these infractions and violations have been documented over the last year and your compliance has not been fulfilled. Therefore, being the Authority Having Jurisdiction, I find that your building is not suited for occupancy and operations must be discontinued. The possibility of someone with nefarious intentions to enter the premises and have access to unsecured cyanide containers cannot be overlooked. Your building and its contents pose a significant and imminent threat to the community. In the event of a fire or chemical release occupants, employees, first responders and residents within several miles from the facility could be impacted. These violations will remain in effect until satisfactory compliance is obtained. This office reserves the right to amend, modify or add to the list of violations upon further inspections.

Respectively,

Paul Biliti, Fire Marshal

Madison Heights Fire Department
31313 Brush St.
Madison Heights, MI 48071
248-837-2871