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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
SOUTHEAST MICHIGAN DISTRICT OFFICE



STEVEN E. CHESTER
DIRECTOR

January 26, 2006

CERTIFIED MAIL

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

Dear Mr. Sayers:

SUBJECT: Second Letter of Warning; Electro Plating Service Inc. (EPS), 945 East Ten Mile Road, Madison Heights, Michigan, EPA ID No. MID 042 444 687, Electro Plating Service, Inc. (former Commonwealth Building), 5900 Commonwealth, Detroit, EPA ID No. MID 072 782 857

This is to inform you that an April 18, 2005 inspection of the above-referenced facilities [945 East Ten Mile Road, Madison Heights, Michigan and 5900 Commonwealth, Detroit, Michigan (hereafter EPS Madison Heights and EPS Detroit respectively)], conducted by staff of the Department of Environmental Quality (DEQ), Waste and Hazardous Materials Division (WHMD), identified violations of Part 111, Hazardous Waste Management (Part 111), and Part 121, Liquid Industrial Wastes (Part 121), of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA); Subtitle C of the federal Resource Conservation and Recovery Act of 1976, as amended. The Facility was notified of these violations in the letters dated June 7, 2005 and June 30, 2005. The Facility responded on August 18, 2005, August 26, 2005, September 2, 2005, September 16, 2005, September 19, 2005, October 4, 2005, October 5, 2005, October 14, 2005, November 1, 2005, November 14, 2005, November 18, 2005, November 25, 2005, December 30, 2005 and January 17, 2006, but has failed to correct all the violations. Among the several violations EPS Madison Heights and EPS Detroit has failed to correct are the following which are relative to a November 14, 2005 Plea Agreement, negotiated by the DEQ Office of Criminal Investigation, in the State of Michigan 36th District Court. This plea agreement was signed by the representative and owner of EPS Madison Heights and EPS Detroit (defendant).

1. In accordance with Title 40 of the Code of Federal Regulations (CFR) 262.11: Part 121, Section 12103(1)(e) MCL 324.11138(1)(a), R 299.9302, and MCL 324.12103(1)(a): A generator of a waste must determine the character and composition of that waste and if that waste is regulated as a hazardous waste or liquid industrial waste by characterizing the waste based on knowledge, supported by documentation, and/or analytical testing utilizing the Toxicity Characteristic Leaching Procedure (TCLP).
2. It was stated in the June 7 letter of warning to EPS Madison Heights that the materials in the containers were to be recycled and were not wastes. The Facility was informed

that pursuant to R 299.9202(4)(c) and R 299.9107(z) recyclable materials are wastes subject to waste regulations: A facility is not allowed to accumulate recyclable materials speculatively without being able to demonstrate a 75 % turnover of the material commencing in January of each calendar year. The EPS Madison Heights and EPS Detroit facilities are in violation of the speculative accumulation requirements.

During the April 18, 2005 inspection, DEQ staff observed more than 535 fifty-five gallon containers of stored materials at EPS Detroit, most of which were described as plating bath waste generated at EPS Madison Heights. The materials stored in the containers did not have documented characterizations. It was stated the aforementioned materials had been stored at EPS Detroit for greater than a year. In addition, other containers were observed to be stored inside EPS Detroit building. These containers consisted of sizes, ranging from approximately one-gallon to approximately five-gallons in volume and were seen stored in various locations throughout the EPS Detroit facility. These containers were not inventoried during the April 18, 2005 inspection, and were originally not discussed in the June 7, 2005 letter of warning to EPS Madison Heights. The DEQ acknowledges the December 28, 2005 disposal of 23 fifty-five gallon containers (consolidated to 14 full containers) of the waste, however, the DEQ has yet to receive a complete inventory of the remaining materials, their characterizations (see violation number 1 above) and a written proposed management plan documenting the planned future re-use of these remaining materials as requested in the June 7, 2005 letter of warning to EPS Madison Heights. This inventory was originally to be completed and submitted on July 11, 2005. It was stated that some of the materials in the containers were inherently product-like and others were unopened virgin materials that could be used as products or would qualify as recyclable materials. The staff of the DEQ, in an August 18, 2005 meeting with the representative and owner of EPS Madison Heights, EPS Detroit and their legal council, agreed upon the conditions for the consideration of the reuse of some of the containerized materials. Each material, on container by container basis, must be inventoried, characterized and packaged for reuse as a product in conjunction with a review of the proposal and approval by DEQ staff. Also, these conditions have been agreed to by the owner (Mr. Gary Sayers) in the November 14, 2005 plea agreement referenced above. In response to this letter, provide this information to the DEQ.

Section 12116(3) & (4) of the NREPA states,

"A person who violates this part...is guilty of a misdemeanor, punishable by imprisonment for not more than 6 months or a fine of not less than \$1,000.00 or more than \$ 2,500.00, or both. Each day that a violation continues constitutes a separate violation."

Section 11151(2) of the NREPA states,

"A person who transports, treats, stores, disposes, or generates hazardous waste in violation of this part, or contrary to a permit, license, order, or rule issued or promulgated under this part, or who makes a false statement, representation, or certification in an application for, or form pertaining to, a permit, license, or order or in a notice or report required by the terms and conditions of an issued permit, license, or order, or a person who violates section 44(5), is guilty of a misdemeanor punishable by a fine of not more than \$25,000 for each instance of violation and, if the violation is continuous, for each day of violation, or imprisonment for not more than one year, or both. If the conviction is for a

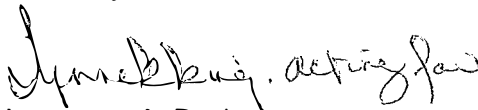
violation committed after a first conviction of the person under this subsection, the person is guilty of a misdemeanor punishable by a fine of not more than \$50,000 for each instance of violation and, if the violation is continuous, for each day of violation, or by imprisonment for not more than two years, or both."

Administrative enforcement is also an alternative which can result in penalties up to \$25,000 per day, per violation.

As you can see, there are some very serious penalties which could be assessed for violations of this regulation. This letter is to inform the Facility that the DEQ is providing a final opportunity to resolve these violations. If compliance documentation, as outlined above, is not achieved, this matter will be reviewed for possible enforcement actions and for penalty assessment pursuant to either Section 3008 of RCRA and/or Section 11151 of the NREPA. **The Facility is to contact this office, in writing, regarding the required compliance documentation no later than ten days from the receipt of this letter.** The DEQ is sure that we both have a common goal and interest to bring the Facility into compliance and avoid a costly enforcement action. The Facility is expected to resolve all violations and issues and return to full compliance immediately.

This letter of warning does not preclude, nor limit, the DEQ's ability to initiate any other enforcement action, under state or federal law, as deemed appropriate. If you have any questions, feel free to contact Mark F. Daniels at 586-753-3841, or me.

Sincerely,



Lawrence AuBuchon
Southeast Michigan District Supervisor
Waste and Hazardous Materials Division
586-753-3840

cc: Mr. James J. Sullivan, Esq.
Ms. Christine Grossman, DEQ
Mr. Mark F. Daniels, DEQ

FEB 01 2006

Waste and Hazardous
Materials Division