



May 15, 2017

U.S. Environmental Protection Agency
Office of Regulatory Policy and Management
Mail Code 1803A
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Re: U.S. Environmental Protection Agency (EPA) Evaluation of Existing
Regulations Pursuant to Executive Order 13777, Enforcing the Regulatory
Agenda
Docket ID No. EPA-HQ-OAR-2017-0190

Dear Sir or Madam:

Enclosed please find comments submitted on behalf of the National Association for Surface Finishing (NASF) regarding the U.S. Environmental Protection Agency (EPA) Evaluation of Existing Regulations Pursuant to Executive Order 13777, Enforcing the Regulatory Agenda.

If you have any questions, would like additional information, or would like to discuss these comments, please contact me by telephone at 202-257-3756 or by email at jhannapel@thepolicygroup.com.

Respectfully submitted,

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The Policy Group
On Behalf of NASF



May 15, 2017

**Comments on the U.S. Environmental Protection Agency
(EPA) Evaluation of Existing Regulations Pursuant to
Executive Order 13777, Enforcing the Regulatory Agenda**

Docket ID No. EPA-HQ-OA-2017-0190

These comments are submitted on behalf of the National Association for Surface Finishing (NASF) regarding the U.S. Environmental Protection Agency (EPA) Evaluation of Existing Regulations Pursuant to Executive Order 13777, Enforcing the Regulatory Agenda. NASF urges EPA to consider these comments on burdensome regulations and make appropriate recommendations to repeal, replace, or modify them to ensure that the surface finishing industry continues to protect human health and the environment and remains globally competitive.

I. Summary of the Surface Finishing Industry

The NASF has approximately 1,000 members that include surface finishing companies, surface finishing suppliers, and individual and professional members. The NASF represents the business, management, technical, and educational programs, as well as the

regulatory and legislative advocacy interests of the surface finishing industry to promote the advancement of the North American surface finishing industry globally.

The surface finishing industry plays a vital role in the lives of consumers and in the nation's economic future. The industry's role in corrosion protection alone provides an estimated \$200 billion annual economic benefit to the nation, including significant corrosion protection for military equipment that provides national defense. Surface finishing ensures that the products people use every day last longer, work better, and look better.

Everyone relies on surface finishing, whether they realize it or not - to maximize their productivity, safety, and quality of life. Surface finishing is the process of coating, usually a metal or plastic object, with one or more layers of another metal, paint, or plastic to furnish its surface with desired properties, such as: corrosion, abrasion and wear resistance; improved lubrication; non-toxicity; altered dimensions; light reflection; insulation or conductivity; improved electrical properties and solderability; heat and cold resistance; and improved appearance. The many industries that rely on metal finishing include: automotive, aerospace and defense, industrial equipment, computers and electronics, medical equipment, tools and dies, shipbuilding, petroleum, furniture, steel mill products, jewelry, plumbing fixtures, household appliances, and construction.

Surface finishing operations are performed in two ways: 1) as a "captive" operation or department of a manufacturing company; and 2) on a job-shop basis where the finishing work is performed under contract for the owner of the product or material that is to be finished. Although many manufacturers continue to operate metal finishing departments, the increasing trend is to subcontract this work to independent firms. This trend is a result of the high operating costs and a realization that metal finishing is both a regulatory and process specialty.

Over 80 percent of the job-shops in business employ fewer than 75 people, while nearly 40 percent employ fewer than 20 people. Most job-shop surface finishing firms are

family-owned businesses, located in urban areas, with a large percentage of minority employees.

The industry is subject to very high costs for environmental, health, and safety compliance. Roughly 7.5 percent of total payroll is spent on regulatory-related employees, and these employees cost on average over 20 percent more than other personnel. Plating operations spend nearly 28 percent of their total capital expenditures on pollution prevention and regulatory controls. Further, total compliance operating costs for an average job shop is approximately 6.5 percent of sales, or nearly \$200,000 for a company with a sales volume of \$3 million.

II. Need for Regulatory Reform

According to the Manufacturers Alliance for Productivity and Innovation (MAPI), since 1981 federal agencies have promulgated approximately 2,300 manufacturing-related regulations. This equates to 1.5 regulations every week for 30 years. About one half of the 2,300 federal rules impacting manufacturing were issued by the EPA. Over the last 15 years, the compliance costs associated with these EPA rules are \$177 billion, which is more than all other federal agencies combined over that same period.

These federal rules have imposed a significant regulatory burden on U.S. manufacturing without any formal assessment of the cumulative cost to industry. EPA was not required to conduct a cost-benefit analysis for over 90 percent of its rules, because they were not designated as “significant” (a significant rule is defined as a rule that has an impact of \$100 million or greater on the U.S. economy). Accordingly, the cumulative impacts of these EPA rules (that separately make a small incremental addition to the regulatory burdens on U.S. manufacturing) have been layered over 30 years to result in a significant impact.

Provided below are some specific regulations that need to be reviewed, revised, replaced, or eliminated to remove unnecessary burdens on the U.S. surface finishing industry.

III. Existing EPA Regulations that Need to Be Reviewed for Reform

Revisions to Metal Finishing and Electroplating Effluent Limitation Guidelines

As part of its Preliminary 2014 Effluent Guidelines Program Plan, EPA indicated that it would conduct a preliminary category review of the metal finishing point source category (40 CFR Part 433).” NASF has continued to state that revisions to the effluent limitation guidelines (ELGs) for these source categories are neither needed nor warranted.

As part of this process NASF has provided information to EPA on pollution prevention practices that the industry has implemented to reduce wastewater discharges significantly. In addition NASF has invited EPA officials to participate in several industry events regarding this topic. EPA also conducted several site visits to collect data on the wastewater treatment practices of the surface finishing industry. In its 2016 ELG Program Plan EPA noted that it was continuing its review of the metal finishing source category.

NASF recently commissioned a metal loadings study of wastewater discharged to the Milwaukee POTW from 2014 to 2016 and has shared the results of the study with EPA officials. This study repeated a similar study conducted in 1992 and enabled NASF to benchmark the industry’s environmental progress since then. The results of the study demonstrated that the industry has significantly reduced the metals that are discharged to the POTW since 1992 by as much as 95 percent and contributed a very small percentage of the total metals discharged to the POTW. Some general trends and reasons for the increase in environmental performance included more effective and efficient operation of wastewater treatment systems and the implementation of pollution prevention practices.

Because the technology and science for managing wastewater treatment is fundamentally the same throughout the industry, the significant metals reduction found in the study would be representative of the surface finishing industry nationwide. This study clearly demonstrates the significant progress in reducing the metals in its effluent, and thereby

providing evidence that revisions to the existing categorical standards for the industry are not needed. NASF urges EPA to conclude that new, revised ELGs for the metal finishing and electroplating source categories are neither warranted nor needed to protect human health and the environment.

Chromium Electroplating NESHAP

Despite the fact that the surface finishing industry reduced chromium emissions by 99 percent since the promulgation of the original chromium electroplating NESHAP, EPA promulgated a new chromium electroplating and anodizing rule in September 2012 that imposed more stringent emissions limits and surface tension levels as part of a residual risk and technology review. The rule also bans the use of PFOS-based fume suppressants as of September 2015. EPA imposed these new requirements, even though it concluded that the residual risk from chromium emissions was acceptable and that there was no new technologies identified to control chromium emissions.

NASF filed a legal challenge to the final rule in the U.S. Court of Appeals for the D.C. Circuit claiming that EPA has misapplied the requirements of the Clean Air Act (CAA) and failed to provide any credible technical support for the new standard. Specifically, EPA based the new limits on the use of PFOS-based fume suppressants, even though further use of these fume suppressants was banned after September 2015. Furthermore, NASF provided substantial other data that EPA's technical and economic justification for the rule was incorrect and seriously flawed.

On July 21, 2015 the U.S. Court of Appeals for the D.C. Circuit denied NASF's legal challenge and upheld the final federal chromium electroplating and anodizing air emissions rule in its entirety. The court also denied the Sierra Club challenge in upholding the EPA rule. In issuing its decision, the court relied upon the legal principle of granting EPA broad deference in the issuance of the final rule (*i.e.*, giving EPA the benefit of the doubt on all issues) and found that EPA was not arbitrary and capricious in promulgating the final rule.

The new requirements imposed on the surface finishing industry were not needed to protect human health and the environment and merely impose an unnecessary burden on the industry. NASF requests that EPA review the technical basis for the new requirements and to revise them consistent with appropriate technical and economic feasibility standards.

Plating and Polishing NESHAP for Area Sources

In 2008 EPA published a final regulation for plating and polishing area sources (73 Fed. Reg. 37728). The final rule, 40 CFR Part 63, Subpart WWWWWW, covers those “processes performed at an affected plating and polishing facility that uses or has the potential to emit” any compound of any of the following metal HAPs: cadmium, chromium, lead, manganese and nickel. This includes electrolytic and non-electrolytic plating and coating processes (*e.g.*, electroplating, conversion coating, sealing and phosphating), electroforming, dry mechanical polishing, and thermal spray at approximately 2,900 existing plating and polishing facilities.

As a result of the efforts of NASF, EPA did not establish emission limits for plating and polishing operations, but required plating and polishing facilities to follow management practices as the generally available control technology (GACT) standards. EPA also acknowledged in the preamble to the final rule that not all of the management practices may be practicable for some processes due to production and product quality concerns.

EPA further stated in the preamble to the final rule that

Since 1990, the plating and polishing industry has reduced their air impacts by voluntary controls that were likely motivated by concerns for worker safety. These controls have reduced approximately 20 tons of the metal HAP (cadmium, chromium, lead, manganese, and nickel) attributed to this industry in the 1990 urban HAP inventory. Although there are no additional air emission reductions as a result of this rule, we believe that this rule will assure that the emission reductions made by the industry since 1990 will be maintained. 73 Fed. Reg. 37728, 37738 (2008).

Based on this statement it is fair to conclude that the final rule was designed to ensure that the industry continues its existing practices and that additional controls were not needed.

Unfortunately, regulatory officials have recently taken overly broad interpretations of the rule that are not consistent with the original intent and letter of the regulation. Last year EPA Region 5 Office of Enforcement identified some problems with compliance at surface finishing facilities (mostly paperwork issues, but also asserted that some facilities did not have proper controls). Specifically, EPA has been trying to enforce provisions to install additional controls that are not required by this regulation. This is an example of inappropriate regulatory reach, even though there is no potential harm to human health and the environment.

NASF is currently working cooperatively with the state Small Business Environmental Assistance Programs (SBEAPs) in Region 5 to develop guidance and industry outreach to facilitate the industry's continued compliance with the requirements of the rule. Concurrently, NASF requests that EPA clarify that the minimal requirements of this rule were designed to assure that the emissions reductions already achieved by the industry are maintained.

Stormwater Management

Many surface finishing facilities operate under a multi-sector general permit (MSGP), as is the case for most industrial stormwater dischargers, and must implement best management practices (BMPs) to meet stormwater benchmark concentration levels. If a benchmark level is exceeded, facilities must review their BMPs and determine if additional BMPs must be implemented, or if other corrective measures are needed.

Many of the benchmark concentration levels for metals have been set so low that it may not be possible for surface finishing operations to meet the benchmarks. In fact, many are so low that nearly all residential and commercial stormwater discharges would exceed

them. As a result, many surface finishing facilities could face unnecessary enforcement issues, even though their stormwater discharges are effectively controlled with BMPs.

As discussed above, facilities would need to implement one or more BMPs to control stormwater discharges. The decisions on which BMPs to implement at a surface finishing operation will depend on the specific conditions and needs at each individual facility. If additional BMPs are still not achieving benchmarks (and if EPA required strict compliance or identified possible stream impairment), then end-of-pipe, mechanical/chemical stormwater treatment may be required. While this may appear to be an extreme option, it may be necessary if the facility must meet numeric limits as part of the MSGP or it may be forced to secure an individual facility permit outside the MSGP, and thus meet new numeric limits set at or near benchmark values. EPA needs to provide for flexibility in and for enforcing benchmark values as permit levels. If left unchecked this permit process will be never-ending, extremely burdensome, and very expensive for the surface finishing industry.

Waters of the United States

This rule redefines the scope of the Clean Water Act (CWA) to state which waters (such as cooling ponds, catch basins, ditches, etc.) need to meet CWA standards to protect aquatic life. It is currently stayed while going through litigation, so it is not being implemented. If implemented, it would force surface finishing operations to meet CWA standards at waters on their facilities that are currently unregulated.

President Trump signed, Presidential Executive Order on Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the “Waters of the United States” Rule on February 28, 2017. The order directed EPA and the Corps to review the rule and issue a notice and comment for a proposed rule rescinding or revising the rule. With this new rulemaking EPA should revise this rule to ensure that waters of the U.S. are defined appropriately to not broaden CWA jurisdiction and unnecessarily burden the surface finishing industry.

Definition of Solid Waste, Recycling and Reclaiming Valuable Resources from Secondary Materials

On January 13, 2015, EPA published the final revisions to the Definition of Solid Waste rule. The primary purpose of the revisions was to close perceived regulatory gaps in the 2008 definition of solid waste rule that allowed the recycling of hazardous secondary materials without onerous regulatory controls. The 2008 rule allowed that if secondary materials were recycled, they were not wastes, which is consistent with the statutory language governing recycling. The new revisions provide that the recycling of secondary materials can occur only if specific regulatory requirements applicable to waste management are met.

The biggest change in the 2014 revisions was that EPA has withdrew the “transfer-based” exclusion and replaced it with the “verified recycler” exclusion. Now, off site, third-party facilities that receive secondary materials for recycling must have a RCRA permit. In addition, generators must: 1) notify EPA or authorized state, 2) ensure that materials are contained, 3) maintain records of shipments of materials off site, and 4) meet emergency response and preparedness requirements.

While the new revisions provide safeguards for the recycling of secondary materials, they make it more difficult and more expensive to recycle many secondary materials. EPA should revise the definition of solid waste regulations consistent with the approach taken in the 2008 rule to facilitate the recycling and reuse of valuable secondary materials. This makes good economic sense, protects human health and the environment, and is consistent with the statutory language of RCRA.

Remove F006 Sludge as a Listed Hazardous Waste

Surface finishing operations generate rinse waters that contain metal compounds from plating solutions. To meet applicable water effluent limits, facilities must treat rinse waters to remove metals prior to discharge. Generally, the metals are removed through a chemical precipitation process that generates a metal-bearing sludge. The sludge is collected and passed through a filter press and is dried to remove some of the remaining

moisture. The resulting sludge is defined under the RCRA regulations as the listed hazardous waste, F006.

Originally, the sludge was listed as a hazardous waste in 1980 because it contained the metals: chromium, cadmium and nickel, as well as complex cyanide compounds. The levels of metals in the sludge vary depending on the metal finishing processes that are conducted at the facility. Even sludges that contain valuable metals other than chromium, cadmium and nickel must be managed as a listed hazardous waste.

With respect to the cyanide compounds, the metal finishing industry has undergone substantial changes in the 37 years since F006 was listed. Many cyanide plating processes have been replaced with other types of metal plating processes. The F006 sludge generated today has cyanide concentrations well below the land disposal restriction level of 590 mg/L, and contains cyanide that is complexed with iron. EPA has concluded that iron cyanide compounds (*e.g.*, common ingredients in road salts used to melt snow and ice) do not present a hazard to human health or the environment.

Despite the fact that F006 sludge contains valuable metals that could be recovered, historically most sludge has been disposed in hazardous waste landfills. Disposal tends to be less expensive than recycling because:

- 1) there are more permitted hazardous waste landfills than recycling facilities that can receive electroplating sludge;
- 2) landfills are generally located closer to generators than recycling facilities so the transportation costs are less;
- 3) regulatory compliance costs are high for sending materials to a recycling facility; and
- 4) the application of the so-called “mixture and derived-from rule” discourages the recycling of listed hazardous waste such as F006 because the residues from recycling listed hazardous waste must be managed as a listed hazardous waste.

The vast majority of F006 sludge is *NOT* recycled, in part, because of regulatory disincentives and the high costs associated with managing it as a hazardous waste. Without the revisions to the definition of solid waste to facilitate recycling, the surface finishing industry would be forced to throw away valuable metals. As a result an average metal finishing firm may “throw away” over \$50,000 annually in metals based on current pricing trends. What makes electroplating sludge “hazardous” in the eyes of EPA is the very metal that makes it valuable when it is recovered. In short, the sludge is only “hazardous” if it is *not recycled*.

NASF requests that EPA remove the listed hazardous waste designation for F006 sludge. Consistent with the approach taken in the 2008 definition of solid waste regulation discussed above, the materials should not be a waste when recycled for metals recovery. F006 sludge should only be regulated as a hazardous waste if it is disposed and exhibits one or more characteristics of hazardous waste.

Hazardous Waste Generators Improvements Rule

On November 28, 2016, EPA published the final Hazardous Waste Generator Improvements Rule. Even though EPA states that the new regulation was needed to improve clarity and flexibility of hazardous waste generator requirements, the rule will add regulatory burdens, with minimal benefit to human health or the environment.

According to EPA, the final rule provides approximately 60 changes to the hazardous waste generator regulations, including the following:

- Allowing additional flexibility for very small quantity generators (VSQGs), and small quantity generator (SQGs)
- Requiring notification for SQGs every four years, as opposed to a one-time notification under the current federal system.
- Improving risk communication by revising the regulations for labeling and marking of containers and tanks to indicate the hazards of the hazardous waste contained inside.

- Making some revisions to the requirements applicable to satellite accumulation for hazardous waste.
- Revising the regulations for completing the RCRA biennial report to be consistent with the current instructions distributed with the form.
- Recycling facilities must now report wastes that are not stored prior to recycling.
- Revising generator requirements for closure of hazardous waste units, waste determinations, submission of contingency plans, and other emergency preparedness and prevention areas.

NASF supports the provisions of the new rule that provide greater flexibility for hazardous waste generators while continuing to safeguard environmental protections. EPA should, however, revise some of the additional reporting and paperwork requirements that provide little, if any, additional environmental benefits.

Toxic Release Inventory (TRI) Reporting & Manufactured Metal Compounds

EPA has taken actions to enforce the reporting obligation contained in Section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) that applies to surface finishing processes with respect to manufactured metal compounds. Section 313 of EPCRA, and EPA's implementing regulations at 40 C.F.R. §§ 372.22 and 372.30, require the owner or operator of a facility that manufactures, processes, or otherwise uses a toxic chemical in an amount exceeding an applicable threshold quantity of that chemical during a calendar year to report releases of listed hazardous substances. If a facility is required to report such releases, a toxic release inventory (TRI) Form R must be submitted to EPA and to the state.

In the surface finishing process intermediate compounds are coincidentally manufactured as the metal is brought into solution. For example, copper, nickel, zinc, and chromium compounds are being formed and unformed through the chemical reactions in the plating bath. Pursuant to EPA's interpretation of the TRI regulations, these manufactured metal compounds must be calculated to determine the amount of chemical compounds that are manufactured, processed, or otherwise used for threshold reporting levels. NASF has

provided guidance on the burdensome calculation of manufactured metal compounds and has other tools to assist facilities with this reporting obligation. Failing to include these manufactured compounds in your Form R threshold determinations could result in an inaccurate TRI report.

NASF urges EPA to reconsider its interpretation on the need to calculate manufactured metal compounds in plating baths to determine threshold reporting levels. Such a requirement imposes a contrived process of manufacturing chemical compounds that does not appear to be consistent with the intent of the TRI reporting requirements.

CERCLA Financial Assurance Regulations

Section 108(b) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund) provides EPA with the authority to require that certain facilities must maintain financial responsibility consistent with the degree and duration of risk associated with the handling and management of hazardous substances. EPA has identified three industries (i.e., hard rock mining, refineries, and utilities) that would be included in a regulation requiring financial assurance under CERCLA and deferred regulatory action on another five industry categories (including metal fabrication and metal finishing facilities) until these sectors are evaluated further.

These regulations would require facilities subject to the new requirements to establish and maintain evidence of financial responsibility for potential releases of hazardous substances (*e.g.*, insurance policy, surety bond, trust fund, corporate guarantee). These requirements could negatively impact many facilities, because financial assurance mechanisms for potential Superfund liability can be very expensive and extremely difficult to obtain for most metal finishers.

NASF provided information to EPA on regulatory controls and chemical use trends for the metal finishing industry. In addition, NASF also provided information regarding the high cost and difficulty that metal finishing facilities would have in obtaining financial assurance mechanisms to address potential CERCLA liability. These efforts persuaded

EPA to defer financial assurance requirements for the metal finishing industry and to conduct further evaluation of industry sectors for financial assurance requirements.

Nonetheless, EPA issued proposed financial assurance requirements for the hard-rock mining industry on January 11, 2017. Owners and operators of facilities subject to the proposed rule would be required to:

- notify EPA that they are subject to the rule;
- calculate a level of financial responsibility for their facility using a formula provided in the rule (and provide supporting documentation for the calculation);
- obtain a financial responsibility instrument, or qualify to self-assure, for the amount of financial responsibility if that option is adopted in the final rule;
- demonstrate to EPA that they have obtained such evidence of financial responsibility; and
- update and maintain financial responsibility until EPA releases the owner or operator from the CERCLA section 108(b) regulations.

Even though these proposed financial assurance requirements do not appear to be needed, nor are they appropriate, for the hard-rock mining industry, NASF is concerned that these requirements could be the model for regulating other industries such as the metal finishing industry. NASF urges EPA not to impose these financial assurance requirements on the hard-rock mining industry, because any similar requirements for the surface finishing industry would be unnecessary and totally devastating.

TSCA Reform Legislation Regulations

On June 22, 2016 President Obama signed the new legislation, the Frank R. Lautenberg Chemical Safety Act for the 21st Century. The new requirements include the following.

- "Conditions of use" (*i.e.*, how a chemical is made, processed, used or disposed of) is the standard used to determine the risks posed by chemical substances.

- Mandate risk reviews for new and existing chemicals before they can enter the market.
- For existing chemical substances, set priorities for the highest risk substances, conduct risk evaluations, and implement risk management requirements.
- EPA will have three years to complete a risk evaluation and must have an annual plan identifying chemical substances subject to risk evaluation.
- Propose risk management rules for chemical substances within one year of completing risk evaluation, and another year to issue a final rule.
- Address Confidential Business Information (CBI) claims protecting the identities of chemical substances in commerce.
- Set fees to fund program only after consultation with potentially subject parties.
- Provide preemption of state actions to regulate chemical substances, but “grandfather” state actions taken before August 1, 2015 to balance state and federal authority to regulate chemicals.

In identifying priorities for and conducting risk evaluations, metals and metal compounds are not necessarily deemed to be persistent. The risks associated with metals and metal compounds must be assessed specifically. Metals are also excluded from expedited action on persistent, bio-accumulative and toxic (PBT) chemicals for risk management. Separate risk evaluations on metals and metal compounds must be conducted before proceeding to a rulemaking.

EPA is in the process of developing several of the implementing regulations such as the chemical inventory reset and risk prioritization for chemicals in active use. The surface finishing industry has a long-standing history of effectively managing risks associated with the use of metals and metal compounds as part of its processes. NASF supports the efforts to modernize a national chemical management system, but requests that EPA take a practical and science-based approach for regulating the highest priority chemicals.

EPA Greenhouse Gas (GHG) Emissions from Electric Generating Utilities

In 2015, the U.S. Environmental Protection Agency (EPA) finalized new rules designed to limit GHG reductions from both existing and new power plants. The rule for existing plants mandates a 32 percent reduction in CO₂ emissions from the electric power sector by 2030, compared to 2005 levels. The final rule for newly constructed power plants would effectively require use of carbon capture and sequestration (CCS) technology to achieve these emissions goals, even though these control technologies have not yet been demonstrated to be commercially viable.

Surface finishing requires a substantial energy input. In a number of states where surface finishing is predominant there is a heavy dependence on coal for electricity production. EPA regulations that disproportionately impact coal-generated electricity have put the affordability and reliability of electricity for surface finishing facilities at risk. As a significant energy consumer, the GHG rules could substantially increase energy costs for finishers and potentially disrupt the reliability of the energy grid. EPA should withdraw the rule and develop a more cost effective, reliable and feasible approach to reduce CO₂ emissions to an appropriate level, only if necessary.

Ozone NAAQS Revision from October 2015

This rule set a very stringent emission standard for ozone emissions from all stationary sources in the U.S. This standard is just now starting to be implemented, and is expected to result in significant costs for communities. NASF is concerned that finishers may not be able to expand without a reduction of emission or shut down of operations from other businesses in the area. With the revised NAAQS, plans for expansion may be delayed or shelved.

On March 28, 2017 President Trump issued an Executive Order directing EPA to review for possible reconsideration any rule that could “potentially burden the development or use of domestically produced energy sources, with particular attention to oil, natural gas, coal, and nuclear energy sources.” EPA is currently evaluating whether the 2015 ozone standard is potentially subject to the review process set forth in this Executive Order.

EPA should defer implementation of the new ozone NAAQS standard by at least two years, or more, to allow states and impacted sources more time to prepare to meet the new standard and have a smooth transition from efforts associated with meeting the 2008 ozone standard.

EPA Spill Prevention Control and Countermeasure (SPCC) - 40 CFR Part 112

The EPA SPCC rule established requirements for facilities to prevent a discharge of oil into navigable waters or adjoining shorelines. It was designed primarily to cover onshore and offshore oil drilling and production facilities, oil refining or storage facilities, and other oil-intensive industries with a high probability of significant damage should an oil release occur. Current SPCC regulations require a comprehensive, detailed plan developed and certified by an engineer, dedication of adequate resources and manpower to react to an unforeseen spill, storage tank testing and evaluation for integrity, and many other elements.

While surface finishing operations use oils for a variety of applications, they do not generate nearly the same amounts that are present in the oil production, refining, storage, and distribution sectors. There is a “streamlined” process for smaller facilities with less than 10,000 gallons of onsite oil storage, but many small- and medium-sized manufacturers miss that cutoff, and are essentially held to the same standard as large multi-national corporations and other major producers. EPA should offer more flexibility for smaller scale manufacturing facilities, with multiple lubricant-containing machines, that are above the 10,000-gallon threshold.

IV. Conclusion

On behalf of the National Association for Surface Finishing (NASF), we appreciate the opportunity to submit these comments on EPA’s request for information on the burdens posed by existing regulations. NASF looks forward to working with EPA to identify those regulations that need to be reviewed, revised, replaced, and eliminated. If you have

any questions, would like additional information, or would like to discuss these comments, please contact Christian Richter (crichter@thepolicygroup.com) or Jeff Hannapel (jhannapel@thepolicygroup.com) of The Policy Group on behalf of the NASF.