



American Electroplaters & Surface Finishers Society-Chicago Branch

## November 09, 2006 Branch Meeting



**Chicago Branch**  
**Thursday, November 9th**  
**The Wellington, Arlington Heights**  
**2121 S. Arlington Hts Rd. 847-439-6610**

5:00 to 6:00 Board Meeting  
6:00 to 7:00 Cocktail Hour  
7:00 to 8:00 Dinner  
8:00 to 9:00 Program



**Menu:**

Soup Du Jour  
Garden Salad  
Orange Roughy -OR- New York Strip  
Potato and Fresh Vegetables  
Rainbow Sherbet

**Guest Speaker: Dennis Stranc**

**"The Return of Solvent Vapor Degreasing  
to the Metal Finishing Industry"**

**THANKS TO OUR BAR SPONSORS:**

**Howard Supply**

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Cost: \$30.00 in advance or \$35 at the door  
Please Reserve by Friday November 3rd  
Contact Ray Horton/Deveco at 815-742-9797



**December 14th Meeting at Angelo's in Elmhurst**

## **Program Details for October 12<sup>th</sup> meeting:**

Our speaker, Dennis Stranc, has over thirty years experience in R&D, engineering, production and technical sales for the metal finishing field. He has an extensive sales and service background in chemicals, instrumentation and capital equipment with special expertise in the plating industry. Dennis's career includes having worked at LeaRonald, Seiko Instruments USA, Mecco USA, Engelhard, AT&T/Lucent Technologies Bell Laboratories and Metalor USA. At present, he is the Technical Sales Manager – Midwest Region for Enviro Tech International, Inc. in Melrose Park, IL which manufactures EnSolv precision cleaning solvent and Baron-Blakeslee vapor degreasing equipment.

Prior to the Montreal Protocols of the early 1990's, solvent vapor degreasing was extensively used as a very effective method for removing organic soils from metal surfaces. While Trichloroethylene (TCE) and Perchloroethylene (PCE) were used to a great extent, the most popular solvent for vapor degreasing in the metal finishing industry was 1,1,1 Trichloroethane (TCA) because of its superior cleaning properties. Essentially prohibited by the Montreal Protocols because it was found to deplete the ozone layer, much of the industry looked at aqueous cleaning as the best alternative to solvent vapor degreasing. However, over a decade of experience with aqueous cleaning and the recent introduction of safer and more environmentally friendly degreasing solvents that match the cleaning performance of TCE, has caused renewed interest in solvent vapor degreasing.

## **Branch News:**

### **In Memoriam**

**Dr. Nenad Mandich, a long time member of the Chicago Branch AESF, and President of HBM Electrochemical passed away in early October. Ned was a prolific writer, winner of the prestigious AESF Industrial Achievement Award, and well respected instructor in Hard Chromium Plating.**

**We will miss Ned. Our condolences to his wife Olga, and their family.**

## **AESF Chicago Branch Day At The Races**

Be sure to read the announcement that accompanies this newsletter.

## **Position Open**

Fast paced metal finishing company (located in Colorado) is seeking anodize platers with NADCAP experience. Competitive Salary & benefits commensurate with qualifications. Must speak English. Some shift work required. Applicants should fax resume, references and salary requirements to Pam 303-393-1228

## **Wishes for a Speedy Recovery**

As many members may be aware, Reliable Plating suffered a serious fire on October 23, Thankfully, no-one was hurt, and work is already under way to re-build. The branch wishes Coult and Jim Greenwell a speedy recovery in their plating business.

## **Agreement with OSHA and Public Citizen on Hexavalent Chromium Workplace Exposure Rule OSHA's Final Rule**

On February 28, 2006, OSHA promulgated its final workplace exposure standard for hexavalent chromium. 71 Fed. Reg. 10100 (2006). The industry's Government Relations (GR) program was

successful in raising the proposed permissible exposure level (PEL) of 1 ug/m<sup>3</sup> to 5 ug/m<sup>3</sup> based on an eight-hour time weighted average in the final rule. Facilities have until November 27, 2006 to comply with the new requirements of OSHA's workplace exposure standard for hexavalent chromium (or until May 30, 2007 if the company has fewer than 20 employees).

OSHA has also allowed up to four years (until May 30, 2010) to implement engineering controls to meet the PEL of 5 ug/m<sup>3</sup>. However, any worker exposed to levels of hexavalent chromium over the PEL of 5 ug/m<sup>3</sup> must wear respirators until the exposures are reduced below the PEL through engineering controls and other work practices.

### **Legal Challenges to OSHA's Rule**

In response to many concerns expressed about the requirement to put workers in respirators for full, eight-hour shifts until implementation of engineering controls, the industry filed a legal challenge to OSHA's final rule in federal appellate court to seek a PEL higher than 5 ug/m<sup>3</sup>. This action was also prompted by economic feasibility considerations, particularly for those facilities that would have to implement both a respiratory protection program and engineering controls to comply with the new standards. The stainless steel, electric utility and nuclear energy industries filed legal challenges against OSHA for this rule as well.

Activist group, Public Citizen, and the labor unions also filed a legal challenge to OSHA's rule, claiming that the PEL should be set at 0.25 ug/m<sup>3</sup> based on potential health risks. The surface finishing industry then filed to intervene in Public Citizen's action against OSHA to defend against the PEL being set lower than 5 ug/m<sup>3</sup>.

### **Settlement Agreement with OSHA and Public Citizen**

Faced with the potential expensive and uncertain results of litigation, GR approached OSHA on possible settlement options focused on securing additional regulatory flexibility under the rule for the metal finishing industry. After approximately six months of negotiations with OSHA, Public Citizen and the labor unions, the industry reached a settlement agreement that provides relief from the use of respirators in exchange for an accelerated implementation of engineering controls. A summary of the terms of the settlement agreement is provided below.

#### ***Fundamental Terms of Settlement Agreement – November 30, 2006 Deadline***

Under the terms of the agreement, employers would not have to put employees exposed to levels over the PEL in respirators in exchange for accelerated implementation of engineering controls and work practices to meet a PEL of 5 ug/m<sup>3</sup> by December 31, 2008. These controls (which are described in more detail in Exhibit A to the Settlement Agreement) include:

- 1) parts transfer practices,
- 2) bath surface tension management,
- 3) facility air flow evaluation,
- 4) use of eductors,
- 5) liquid additions of chromium chemicals,
- 6) improved housekeeping, and
- 7) maintenance or upgrade of existing local exhaust ventilation.

The Settlement Agreement is available to all SFIC members, including all members of AESF, NAMF and MFSA. Individual facilities must take steps to affirmatively agree to the terms of the settlement and have until November 30, 2006 to "opt-in" or sign the agreement.

The surface finishing industry also agrees to withdraw from the current legal challenge against OSHA and from intervention in Public Citizen's current legal challenge against OSHA.

## ***Specific Obligations Under the Settlement Agreement***

**Written Plan:** Each company must prepare (and update as required) and implement a written plan setting forth the specific control steps being taken to reduce exposures below 5 ug/m<sup>3</sup> by the compliance deadline of December 31, 2008

**Exposure Monitoring:** Companies will conduct periodic exposure monitoring in accordance with the standard (i.e., every three months if exposures are over PEL of 5 ug/m<sup>3</sup> and every six months if exposures are over action level of 2.5 ug/m<sup>3</sup>)

**Respirator Use:** Employees are required to wear respirators under the following conditions:

- 1) While performing specific tasks identified in Exhibit B of the Settlement Agreement (i.e., while making hexavalent chromium chemical additions to plating tanks, while preparing or mixing hexavalent chromium chemicals, while cleaning hexavalent chromium tanks, or during hexavalent chromium painting operations);
- 2) If employee exposures exceed the threshold of 20 ug/m<sup>3</sup>;
- 3) If after December 1, 2007, employee exposures exceed the threshold of 12.5 ug/m<sup>3</sup>;
- 4) If employees exposed to hexavalent chromium request a respirator;
- 5) If employees are required to wear respirators for other purposes (i.e., another OSHA standard); or
- 6) If employees were required to wear a respirator prior to May 30, 2006.

**Training:** Within 60 days of signing the agreement, companies will train employees on the provisions of the Settlement Agreement.

**Applicable Regulatory Requirements:** Companies must comply with the applicable provisions of the new hexavalent chromium worker exposure standard by November 27, 2006 (or by May 30, 2007, if the company has fewer than 20 employees).

## ***Opt-In Procedures***

The Settlement Agreement is scheduled for publication in the Federal Register on October 30, 2006. A draft copy of the Federal Register notice is attached for your review.

In the Federal Register notice, OSHA provides procedures and a form that companies can sign and send into OSHA to "opt-in" to the provisions of the agreement. As of October 30, 2006, the Settlement Agreement, the Federal Register notice and the Opt-In form (entitled, "Declaration of Party Status") will be available on OSHA's website at [http://www.osha.gov/SLTC/hexavalentchromium/hexchrom\\_settlement.html](http://www.osha.gov/SLTC/hexavalentchromium/hexchrom_settlement.html).

Companies will have until November 30, 2006 to sign the Settlement Agreement.

## ***Legal Challenge of OSHA's Rule Will Continue***

Even though the surface finishing industry has withdrawn from the litigation, the remaining parties, most notably Public Citizen, will continue with the litigation process. Courts must by law give deference to the regulatory decisions of agencies, so a victory by Public Citizen in this legal action would be uncertain. Even if Public Citizen can successfully convince the Third Circuit that OSHA was arbitrary and capricious in failing to set the PEL lower than 5 ug/m<sup>3</sup>, OSHA would have to develop a new proposed rule consistent with the court's direction and submit it for public comment. The Third Circuit may issue a final ruling at the earliest next summer, which means that OSHA could promulgate a new regulation in a approximately two to three years after the court's decision.

If OSHA proposed a PEL lower than 5 ug/m<sup>3</sup> for the surface finishing industry, the industry would raise in its comments similar economic feasibility arguments that OSHA used to conclude that a PEL of 1 ug/m<sup>3</sup> would alter the competitive structure of the metal finishing industry and would, therefore, be economically infeasible. Other industries that did not, or could not, present the same evidence

would potentially be subject to a lower PEL should a new rulemaking be mandated.

### **Additional Regulatory Clarifications on Compliance with OSHA Rule**

In addition to the Settlement Agreement, OSHA also agreed to provide to the surface finishing industry a side letter of interpretation that provides regulatory clarifications on the applicability of some of the new provisions of the hexavalent chromium worker exposure standard, including:

- 1) Demarcation of Regulated Areas;
- 2) Rotation of Employees in Workplace;
- 3) Use of Personal Protective Equipment ;
- 4) Change Rooms; and
- 5) Housekeeping Requirements.

The industry's efforts to press for these clarifications will provide useful guidance for facilities in complying with the new standard, particularly with some of the new requirements that may be triggered at the action level of 2.5 ug/m<sup>3</sup>. A copy of the letter will be available on the associations' websites.

### **Contact Information**

If you have any questions about the Settlement Agreement or the regulatory clarifications, please contact Jeff Hannapel or Christian Richter in the industry's GR office at [jhannapel@thepolicygroup.com](mailto:jhannapel@thepolicygroup.com) or [crichter@thepolicygroup.com](mailto:crichter@thepolicygroup.com).

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**If you would like to be a Chicago Branch Research Sponsor or Patron or have any questions please contact Will Picciotti at 630-758-1072.**

### **We Need Bar Sponsors!**

Sponsors will now be allowed to have a small exhibit on a silent table during the meeting they sponsor! Contact Ray Horton for more details at 815-544-9797.

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