How to Enhance Your Credibility With Compliance Officials

By Thomas H. Martin, CEF

The metal finishing industry has spent billions of dollars on pollution control and abatement during the past 20 years. Platers were once polluters, however, and regulatory agencies still view electroplating operations as "suspect." Platers are frequently targeted by enforcement officials for compliance inspections and enforcement actions. In this edited version of a presentation made at SUR/FIN® '94, the author outlines some positive actions that platers can take to increase credibility and avoid the "red flags" that cause regulators to distrust metal finishers. The presentation has also been a popular talk, given by the author, at several Branch meetings.

Small plating shops are easy targets for compliance inspections and enforcement actions, because they cannot afford to have a full-time person on staff responsible for regulatory compliance. Small shops do not have large amounts of capital available to spend on legal counsel and law suits. There are numerous regulations, however, that still must be complied with. Some of these include: Clean Air Act (CAA); Clean Water Act (CWA); the Resource Conservation and Recovery Act (RCRA); and those regulations from the Department of Transportation (DOT) and the Occupational Safety and Health Administration (OSHA).

Metal finishers can increase their credibility with regulators. Three techniques that have been successful are:

(1) Make a good first impression.
(2) Know regulations and waste treatment.
(3) Sharpen communications skills.

Before learning how to increase credibility, however, we must learn about the components of credibility. Specific techniques may then be applied to each of the components.

What is Credibility?

Credibility is a perception, much like the attribute of charisma, which can be created in the mind of another person. There are three kinds of credibility: Initial, derived and terminal.[1]

- Initial credibility is based upon past reputation. A bad compliance record, for example, will lower initial credibility, while a good record will increase it. The position or status of a person within the organization, such as doctor or professor, will also increase initial credibility.
- Derived credibility results from face-to-face interviews and involves the total communication process, which includes both verbal and nonverbal behaviors. We are influenced not only by words, but by eye contact, gestures, personal appearance, and even office decorations.
- Terminal credibility is the product of initial and derived credibility, and has a direct influence on future initial credibility.[2] For example, will someone's "believability index" go up or down after the interview? To improve this index, a person should work hard to improve both initial and derived credibility.

Improving Initial Credibility

As the saying goes: "You only get one chance to make a first impression." Chances are very likely, however, that the inspector will already have an impression before visiting the regulated industry. Most regulators will review compliance records before making an inspection. Initial credibility will be based to large extent on the past. A company with a good compliance record will probably benefit from higher initial credibility.

A good compliance record, however, involves more than not having violations on discharge monitoring reports (DMRs). The newspapers are full of stories about people being fined and put in jail for falsifying DMRs and tampering with monitoring devices. All reports must be accurate, factual and filed on time. Most platers also file several annual reports that become public record. One such report, SARA Title III, Tier I and II, requires reporting hazardous chemicals on hand above threshold planning quantities by March 1 of each year. The information is accessible by the public under "Right to Know" laws. Another report due on March 1, and required of large quantity generators (LQG), is the Biannual Hazardous Waste Report. There is also the U.S. EPA Toxic Chemical Release Report (Form R), due on July 1. All this reporting provides an abundance of information, which is available to both the regulator and general public.

Initial credibility can be decreased by improper handling of a Notice of Violation (NOV). Most cities or states are required by EPA to send an NOV promptly, whenever a company is found in non-compliance. The recipient is required by law to respond to the NOV in a timely manner. A letter must be sent summarizing the cause of the transgression(s), and the corrective action being taken to prevent future violations. Spills should be reported immediately to the regulatory authority. Permit violations should be reported within 24 hours of becoming aware of them.

The construction of privately owned waste treatment systems is usually a matter of public record. Most states require permits for construction of wastewater treatment

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facilities. Regulatory compliance inspectors, therefore, will be familiar with the kind of equipment and chemical processes used to treat electroplating wastestreams. For example, most shops discharging more than 10,000 gal/day will have a continuous, flow-through system using conventional hydroxide precipitation chemistry to remove heavy metals. Because much of this information is stored on a computer data base, a regulator can learn a great deal about a company in a very short time. At least 50 percent of a company's initial credibility has been determined before the regulator conducts the inspection. The personal interview will either reinforce or minimize these preconceived beliefs.[3]

Compliance inspectors are trained to be astute observers, have excellent memories, and are generally fair in their dealings. All is not lost, therefore, if a company's compliance record is somewhat blemished. There are effective techniques to improve initial credibility during the interview and inspection. Good personal appearance and correct grammar are always a "plus." Office adornments, such as certificates and awards, also reflect underlying attitudes concerning the environment, as well as professional development.[4] If an office were designed for maximizing initial credibility with regulators, it would be organized with everything the manager needs close at hand. Three-ring binders, for example, with copies of DMRs, SARA Title III reports and U.S. EPA Form R should be available for inspection. Certificates, diplomas and licenses should also be displayed prominently, as well as plaques and awards. The "library" can contain reference books, such as 40 CFR, and binders from professional compliance seminars.

Although the purpose of an office decor may not be readily apparent, every item makes a statement about the occupant. There may be an "ice breaker" that would tend to promote "common ground" with a regulator, such as a school, associations or hobbies. The regulator may also be so impressed with the company representative's ability to organize materials that he or she will presume the facility is being managed in an environmentally responsible manner. Psychologists call this the "halo" effect, which dramatically increases initial credibility.[5]

Surface Finishing Regulation Flow Chart

Compiled by Thomas H. Martin, Delta Compliance Consultants, Delta Chemicals & Equipment Inc. Total Metals: Cu, Ni, Cr, Pb. (PSNS)=Pretreatment standards, new sources; (PSES)=Pretreatment standards, existing sources.

Improving Derived Credibility

Derived credibility results from the effective interaction between the company representative and the inspector during the "face-to-face" interview. Being able to speak regulatory language will help increase derived credibility. This means knowing and understanding the basic regulations of the metal finishing industry and how wastes are treated. Memorizing key parts of Title 40 of the Code of Federal Regulations (CFRs) would be impressive, but is not necessary. Every electroplater should at least know if the company is regulated under 40 CFR Part 413 or Part 433, or both.

If a company has been in the plating business for a long time, it is probably classified as an "electroplater" and falls under Part 413 Categorical Standards. Part 413 is more commonly known as the "grandfather" clause. The customers, however, must own at least 51 percent of the work being plated and if the company moves or installs new processes, it may be reclassified. The "electroplating" preexisting source standards are very desirable because they have the most liberal discharge limitations. Monitoring requirements also are reduced for discharges less than 10,000 gal/day.

On the other hand, if the electroplating operations were put in service after August 8, 1981, the process is classified as a "new source" and is regulated under the "metal finishing" categorical standards. These regulations are published in 40 CFR, Part 433, and have much stricter limitations on the effluent being discharged.

Much confusion exists concerning the classification of facilities. There could be four electroplating shops on the same city block and all could have different discharge limitations. The

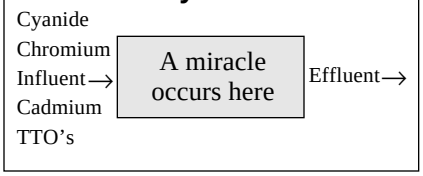
accompanying flow chart may help to eliminate some of the confusion.

During the inspection, a copy of the pretreatment permit or National Pollutant Discharge Elimination System (NPDES) permit may be requested. Locating a copy during the pressure of the inspection can be difficult. It is helpful to keep a copy of the permit in the same file with monthly monitoring reports.

Generally, regulators will be familiar with processes used to treat electroplating wastestreams, and will not appreciate evasive or inaccurate explanations of the system. Being knowledgeable about how the company treats wastes will help increase derived credibility. An excellent way to learn about the system is with a flow diagram, and help from the certified operator. Be prepared for much skepticism from the inspector, however, if the flow diagram looks like the "black box" illustration.

Typical electroplating wastewater treatment processes include chromium reduction, cyanide oxidation and the removal of heavy metals by hydroxide precipitation chemistry. Because the process produces sludge, it usually is regulated as a hazardous waste. Be prepared to produce manifests and answer any questions about disposal practices. Even if the sludge is not "listed" and is non-hazardous, many states require a permit for disposal. Indiana, for example, classifies sludge that is non-hazardous waste as "special waste," and disposal is only permitted in specific landfills.

Black Box Wastewater Treatment System



Perhaps one of the best credibility building "tools" available is effective communication during the interview. The better the inspector feels during the interview, the less prone the individual will be to "nit pick" while inspecting the facility. During the initial contact, work hard to develop rapport. Keep interruptions to a minimum by having the secretary hold all calls and visitors. Remember, communication involves both the spoken word and non-verbal behaviors, such as eye contact and gestures. Ideally, the verbal and non-verbal communication should convey the same message.[6] It's important to maintain good eye contact when answering questions, and avoid obvious manifestations of nervousness, such as clicking a pen, biting fingernails, or fidgeting. Derived credibility is increased by giving straightforward answers to questions and never playing "stupid." If the question can't be answered directly, tell the inspector, "I don't know, but I'll find out." Then, make a note to follow-up on the information requested.

Improving Terminal Credibility

Terminal credibility is the product of initial and derived credibility, and has a direct influence on future credibility. It is very important to "follow-up" on any promises made during the interview and inspection. It also helps

to get to know the regulator on a "first name" basis so he or she may be telephoned about regulatory matters. Terminal credibility is increased when the inspector receives a phone call that is not the result of an enforcement action, but perhaps a request for information.

Eight Steps That Work

Metal finishers can learn how to increase credibility with regulators and enforcement officials.

1. Foremost, make a good "first impression" by having a good compliance record.
2. Install waste treatment equipment that is the standard of the industry.
3. Organize the company office to reflect that the business is being managed in an environmentally safe and responsible manner.
4. Learn to speak the inspector's language by being familiar with regulations and the treatment of electroplating wastes.
5. During the inspection, work hard to develop rapport, and strive to make verbal and non-verbal communication convey the same message.
6. Give straightforward answers, and don't be afraid to say "I don't know, but I'll find out."
7. Be sure to "follow-up" on any promises made during the interview and inspection.
8. Try to get to know the regulator on a first name basis, and don't be afraid to contact him/her personally when you need information. o

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