

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 7**

Received by  
EPA Region 7  
Hearing Clerk

<b>In the Matter of</b>	)	
	)	
Bertch Cabinet LLC	)	<b>Docket No. RCRA-07-2022-0138</b>
Jesup, Iowa	)	
EPA ID IAR000007799	)	<b>EXPEDITED SETTLEMENT</b>
	)	<b>AGREEMENT AND FINAL ORDER</b>
<b>Respondent.</b>	)	

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**EXPEDITED SETTLEMENT AGREEMENT**

- 1) The U.S. Environmental Protection Agency (“EPA”) is authorized to enter into this Expedited Settlement Agreement (“Agreement” or “ESA”) pursuant to Section 3008(a) of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6928(a), and 40 C.F.R. § 22.13(b).
- 2) The EPA has provided the State of Iowa with notice of the referenced violations of Subtitle C of RCRA as required by Section 3008(a)(2).
- 3) Bertch Cabinet LLC (“Respondent”) is the owner or operator of the facility located at 1230 12<sup>th</sup> Street, Jesup, Iowa (“Facility”). The EPA inspected the Facility, on March 28, 2022. As a result of the findings during the inspection and additional investigation, the EPA alleges that Respondent violated the following requirements of the RCRA hazardous waste management program:
  - a. 40 C.F.R. § 262.15(a)(5)(ii) - A generator must mark or label its container with an indication of the hazards of the contents. At the time of the inspection, the EPA determined that the Respondent did not mark or label one 5-gallon hazardous waste satellite accumulation of waste paint related material with an indication of the hazards of the contents.
  - b. 40 C.F.R § 262.17(a)(6) referencing 40 C.F.R § 262.255 - The large quantity generator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes. At the time of the inspection, the EPA determined that the Respondent did not maintain aisle space for seven 55-gallon hazardous waste storage containers of waste paint related material.
  - c. 40 C.F.R § 262.17(a)(6) referencing 40 C.F.R § 262.261(f) - The facility’s contingency plan must include an evacuation plan for generator personnel where there is a possibility that evacuation could be necessary. This plan must describe signal(s) to be used to begin evacuation, evacuation routes, and alternate evacuation

routes (in cases where the primary routes could be blocked by releases of hazardous waste or fires). At the time of the inspection, the EPA determined that the Respondent's contingency plan did not describe the evacuation routes and alternate routes.

- d. 40 C.F.R § 273.15(a) - A small quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated, or received from another handler, unless the requirements of paragraph (b) of 40 C.F.R. § 273.15 are met. At the time of the inspection, the EPA determined that the Respondent stored one 5-gallon pail of universal waste batteries, dated January 27, 2020, for longer than one year.
- 4) In determining the amount of the penalty to be assessed, EPA has taken into account the factors specified in Section 3008 of RCRA, 42 U.S.C. § 6928. After considering these factors, EPA has determined and Respondent agrees that settlement of this matter for a civil penalty of Five Thousand Dollars (\$5,000.00) is in the public interest. Respondent certifies that it has provided a deposit for payment for the full civil penalty amount, and that such payment identified Respondent by name and docket number, was made by certified or cashier's check made payable to the "United States Treasury" and sent to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000

or by alternate payment method described at <http://www.epa.gov/financial/makepayment>.

- 5) A copy of the check or other information confirming payment shall simultaneously be emailed to the following:

Regional Hearing Clerk  
[R7\\_Hearing\\_Clerk\\_Filings@epa.gov](mailto:R7_Hearing_Clerk_Filings@epa.gov); and

Milady Peters, Paralegal  
[peters.milady@epa.gov](mailto:peters.milady@epa.gov).

- 6) In signing this Agreement, Respondent: (1) admits that Respondent is subject to RCRA and its implementing regulations; (2) admits that EPA has jurisdiction over Respondent and Respondent's conduct as alleged herein, (3) neither admits nor denies the factual allegations contained herein; (4) consents to the assessment of this penalty; (5) agrees to release funds held on deposit as payment to the EPA for the civil penalty upon final EPA approval of this Agreement; (6) waives the opportunity for a hearing to contest any issue of fact or law set forth herein; (7) waives its right to appeal the Final Order accompanying this Agreement pursuant to Section 3008(b) of RCRA; and (8) consents to electronic service of the filed ESA to the following email address:

*curtis.wildeboer@bertch.com*. Respondent understands that the ESA will become publicly available upon filing.

- 7) By its signature below Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that: (1) the alleged violations have been corrected, (2) it is presently in compliance with all requirements of RCRA, 42 U.S.C. § 6901 *et. seq.*, its implementing regulations, and any permit issued pursuant to RCRA, and (3) Respondent is submitting proof of payment of the civil penalty with this Agreement.
- 8) The undersigned representative of Respondent certifies that he or she is fully authorized to enter the terms and conditions of this Consent Agreement and Final Order and to execute and legally bind Respondent to it. Upon the effective date of this Agreement, payment of the civil penalty shall constitute full settlement of the civil claims alleged herein.
- 9) EPA reserves all of its rights to take an enforcement action for any other past, present, or future violations by Respondent of RCRA, any other federal statute or regulation, or this Agreement.
- 10) Full payment of the civil penalty shall only resolve Respondent's liability for federal civil penalties for the violations alleged herein. The EPA reserves the right to take any enforcement action with respect to any other past, present, or future violations of RCRA or any other applicable law.
- 11) The penalty specified herein shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal, State and local taxes.
- 12) Each party shall bear its own costs and fees, if any.
- 13) This Agreement is binding on the parties signing below.

IT IS SO AGREED,

Al Peine

Name (print)

Vice President / General Manager

Title (print)

Al Peine

Signature

10-19-2022

Date

APPROVED BY EPA:

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Candace Bednar  
Chemical Branch Chief  
Enforcement and Compliance Assurance Division

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Date

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Britt Bieri, Attorney  
Office of Regional Counsel

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Date

FINAL ORDER

Pursuant to the authority of Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22, the foregoing Expedited Settlement Agreement resolving this matter is hereby ratified and incorporated by reference into this Final Order.

In accordance with 40 C.F.R. § 22.31(b), the effective date of the foregoing Expedited Settlement Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

IT IS SO ORDERED.

\_\_\_\_\_  
Karina Borromeo  
Regional Judicial Officer

Date \_\_\_\_\_

**CERTIFICATE OF SERVICE**  
**To be completed by EPA**

I certify that that a true and correct copy of the foregoing Expedited Settlement Agreement and Final Order, EPA Docket No. RCRA-07-2023-0138, was sent this day in the following manner to the following addressees:

Copy via e-mail to Complainant:

Britt Bieri, Office of Regional Counsel  
*bieri.britt@epa.gov*

Mike Martin, Enforcement and Compliance Assurance Division  
*martin.mike@epa.gov*

Milady Peters, Office of Regional Counsel  
*peters.milady@epa.gov*

Copy via e-mail to Respondent:

Curtis Wildeboer-Tomkins, Environmental Compliance Officer  
Bertch Cabinet LLC-Jesup  
*curtis.wildeboer@bertch.com*

Copy via e-mail to the State of Iowa:

Ed Tormey, Acting Administrator  
Environmental Services Division  
Iowa Department of Natural Resources  
*ed.tormey@dnr.iowa.gov*

Mike Sullivan, Section Supervisor  
Solid Waste and Contaminated Sites Section  
Iowa Department of Natural Resources  
*michael.sullivan@dnr.iowa.gov*

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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Signed