

FILED

June 11, 2025

10:05AM

U.S. EPA REGION 7
HEARING CLERK

**CLEAN AIR ACT STATIONARY SOURCE
EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER**

DOCKET NO. CAA-07-2024-0117

Respondent: Deffenbaugh Industries, Inc.
800 Capitol Street, Suite 3000
Houston, Texas 77002

1. The U.S. Environmental Protection Agency (EPA) and Deffenbaugh Industries, Inc. (Respondent) enter into this Clean Air Act Stationary Source Expedited Settlement Agreement (Agreement) to settle the civil violations set forth in the attached Clean Air Act Stationary Source Inspection Findings, Alleged Violations, and Proposed Penalty Form (the Form), pursuant to Section 113 of the Clean Air Act (CAA), 42 U.S.C. § 7413, and 40 C.F.R. § 22.13(b), for a penalty of **\$33,589 (Assessed Penalty)**.
2. By signing this Agreement, Respondent: (a) admits that it is subject to the CAA and its implementing regulations; (b) admits that the EPA has jurisdiction over Respondent and Respondent's conduct as described in Table 2 of the Form; (c) neither admits nor denies the factual allegations contained herein; and (d) consents to the assessment of the penalty contained herein.
3. By signing this Agreement, Respondent waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including, but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the final order accompanying the Expedited Settlement Agreement.
4. Respondent owns and operates the Johnson County Landfill, located at 17955 Holliday Drive, Shawnee, Kansas 66217.
5. Respondent will complete the required corrective actions within the specified timeframes set forth in Table 3 of the Form.
6. Respondent acknowledges that there are significant penalties for submitting false information to the United States Government, including the possibility of a fine or imprisonment for knowing violations pursuant to section 113(c)(2) of the CAA, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001 and 1341.
7. Respondent agrees to pay the Assessed Penalty within thirty (30) calendar days of receipt of a copy of the ratified Agreement and Final Order. Such payment shall identify Respondent by name and docket number and shall be 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
PO Box 879078
St. Louis, Missouri 63197-9000

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

8. 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;

Milady Peters
peters.milady@epa.gov; and

Cassie Mance
Compliance Officer
mance.cassandra@epa.gov.

9. The Assessed Penalty is based upon EPA's consideration of the factors provided in CAA Section 113(e), 42 U.S.C. § 7413(e), and the EPA's Clean Air Act Stationary Source Civil Penalty Policy dated October 25, 1991¹.
10. The payment made by Respondent pursuant to this Agreement is a penalty within the meaning of Section 162(f) of the Internal Revenue Code, 26 U.S.C. § 162(f), and, therefore, Respondent shall not claim the payment as a tax-deductible expenditure for purposes of federal, state, or local law.
11. If Respondent fails to pay the Assessed Penalty in full within thirty (30) calendar days of the effective date of the Agreement and Final Order, the entire unpaid balance of the Assessed Penalty and accrued interest shall become immediately due and owing. Interest shall be at rates established pursuant to 26 U.S.C. § 6621(a)(2) from the date of the Final Order. 42 U.S.C. § 7413(d)(5).
12. If Respondent fails to timely pay the Assessed Penalty, Respondent may be subject to a civil action pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5) to collect the Assessed Penalty. In any collection action, the validity, amount, and appropriateness of the Assessed Penalty shall not be subject to review.
13. By its first signature below, EPA confirms the alleged violation(s) set forth in Table 2 in the Form. Upon signing and returning this Agreement to EPA, Respondent consents to the terms of this Agreement without further notice.
14. Respondent acknowledges that this Agreement is binding on the parties signing below and becomes effective on the date of filing with the Hearing Clerk, after ratification of the

¹ See "Amendments to the EPA's Civil Penalty Policies to Account for Inflation (effective January 15, 2024)" January 10, 2024 memorandum. See also "Civil Monetary Penalty Inflation Adjustment Rule," 88 Fed. Reg. 247 (December 27, 2023).

Agreement and Final Order by the Regional Judicial Officer.

15. This Agreement, upon approval and incorporation in the Final Order, concludes this action pursuant to Sections 22.13(b), and 22.18(b)(2), and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. §§ 22.13(b), and 22.18(b)(2), and (3).
16. This Agreement and Final Order is a complete and full resolution of Respondent's liability for federal civil penalties for the violations alleged in Table 2 of the Form.
17. The EPA reserves the right to commence action against any person, including Respondent, in response to any condition which the EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment.
18. Nothing in this Agreement and Final Order should be construed to limit the authority of the United States to pursue criminal sanctions.
19. This settlement is subject to all limitations on the scope of resolution and the reservation of rights set forth in 40 C.F.R. § 22.18(c).
20. EPA reserves any rights and remedies available to it under the CAA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this ESA and accompanying Final Order following its filing with the Regional Hearing Clerk.
21. Nothing in this Agreement relieves Respondent's obligation to comply with all applicable provisions of the CAA, 42 U.S.C § 7401 *et. seq.*, and the regulations promulgated thereunder.
22. The EPA and the United States Department of Justice jointly determined, pursuant to 42 U.S.C. § 7413(d) and 40 C.F.R. §19.4, that this matter, although it involves alleged violations that occurred more than one year before the initiation of this proceeding, is appropriate for an administrative penalty action.
23. Upon the EPA's final approval of the ESA, Respondent expressly waives its right to contest the allegations. Moreover, in entering into this Agreement, Respondent agrees to bear its own costs and attorney's fees related to this Agreement.
24. Respondent consents to electronic service of the filed Expedited Settlement Agreement and Final Order to the following email address: *mhey@wm.com*. Respondent understands that the Expedited Settlement Agreement and Final Order will become publicly available upon filing.

ACCEPT THE PROPOSED PENALTY

☒ I/we (Respondent) consent to the proposed penalty.

DECLINE THE PROPOSED PENALTY

☐ I/we (Respondent) decline the proposed penalty. If you choose to decline this proposed penalty, you may be subject to formal enforcement action and, in that event, will have an opportunity to a hearing related to any subsequent penalty assessment.

COST OF COMPLIANCE

Respondent certifies that it has expended \$ \$0 to correct the alleged violations and to come into compliance.

APPROVED BY EPA:

Signature: _____ Date: _____
David Cozad
Director
Enforcement and Compliance Assurance Division

APPROVED BY RESPONDENT:

Signature: Brad Pollack Date: 3/6/2025

Name and Title (print): President

FINAL ORDER

Pursuant to 40 C.F.R. § 22.18(b) of the EPA's Consolidated Rules of Practice and Section 113 of the Clean Air Act, 42 U.S.C. § 7413, and having relied upon the representations of the parties set forth in the Expedited Settlement Agreement, I have determined that the penalty assessed herein is based on a consideration of the EPA's Clean Air Act Stationary Source Civil Penalty Policy dated October 25, 1991 and the Expedited Settlement Agreement Pilot Program for the Clean Air Act Stationary Source Enforcement Program, and is consistent with the penalty assessment criteria set forth in in CAA Section 113(e), 42 U.S.C. § 7413(e).

THEREFORE, the foregoing Expedited Settlement Agreement is hereby approved and incorporated by reference into the Final Order. Respondent is ORDERED, as set forth above, to pay the civil penalty.

Signature

Karina Borromeo
Regional Judicial Officer
United States Environmental Protection Agency
Region 7

Date: _____

CERTIFICATE OF SERVICE
(For EPA use only)

I certify that that a true and correct copy of the foregoing Expedited Settlement Agreement and Final Order in the matter of Waste Management of Kansas, Inc., EPA Docket No. CAA-07-2024-0117, was sent this day in the following manner to the addressees:

Copy via Email to Complainant:

Erin Weekley
Office of Regional Counsel
Weekley.Erin@epa.gov

Kate Vetterick
Office of Regional Counsel
Vetterick.kate@epa.gov

Cassie Mance
Enforcement and Compliance Assurance Division
Mance.cassandra@epa.gov

Milady Peters
Office of Regional Counsel
Peters.milady@epa.gov

Copy via Email to Respondent:

Michael Hey
Senior District Manager
Waste Management of Kansas, Inc.
mhey@wm.com

Shelly (Michelle) Gale
Sr. Legal Counsel
Legal Department – Health, Safety & Environment
mgale1@wm.com

Dated this _____ day of _____, _____.

Signed