



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 5

77 West Jackson Street, Chicago, IL 60604

INDUSTRIAL STORMWATER EXPEDITED SETTLEMENT AGREEMENT

Docket Number: CWA-05-2026-0009

Pro Tech Metal Finishing, Inc. ("Respondent") is a "person," within the meaning of Section 502(5) of the Clean Water Act (CWA), 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2.

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency ("EPA"), Region 5, finds that Respondent is responsible for unauthorized discharge(s) of stormwater in violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a), as further described in Attachment A, "Industrial Stormwater Non-Filer Factual Allegations and Alleged Violations," which is incorporated herein by reference.

Respondent admits that it is subject to Section 301 of the CWA, 33 U.S.C. § 1311, and that EPA has jurisdiction over any "person" who "discharges pollutants" from a "point source" to "waters of the United States." Respondent neither admits nor denies the factual allegations herein.

EPA is authorized to enter into this Expedited Settlement Agreement, which constitutes a Consent Agreement and Final Order ("CAFO"), under the authority vested in the Administrator of EPA by Section 309(g) of the CWA, 33 U.S.C. § 1319(g), and by 40 C.F.R. §§ 22.13(b) and 22.18(b)(2)-(3).

The parties enter into this CAFO to settle the civil violation(s) alleged in this CAFO for a penalty of \$5000 "Assessed Penalty." The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest. EPA has determined that this penalty is appropriate. Respondent consents to the assessment of this penalty.

Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the

allegations in this CAFO, and its right to appeal this CAFO. Respondent also 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 its right to challenge the lawfulness of the final order accompanying this Consent Agreement.

Respondent certifies, subject to civil and criminal penalties for making a false statement to the United States Government, that it has taken the actions necessary to correct the violations alleged herein by either a) developing and implementing a Stormwater Pollution Prevention Plan and submitting to the permit authority all information necessary to obtain applicable industrial stormwater permit coverage (e.g. a Notice of Intent); or b) acting to meet eligibility requirements for a waiver from industrial stormwater permit requirements as allowed by the permit authority and submitting the relevant forms (such as the No Exposure Certification form), to the permit authority. Additionally, Respondent certifies that any information it provided to EPA in regard to this CAFO, including documentation of the actions taken to correct the violations identified herein, is true, accurate and complete.

Within ten (10) days of the effective date of this CAFO, Respondent must pay the Assessed Penalty in full, in accordance with the payment instructions set forth in Attachment B, "Industrial Stormwater Non-Filer Penalty Payment Instructions and Terms," which is incorporated herein by reference. The Final Order below describes when this CAFO becomes effective.

If Respondent fails to pay the Assessed Penalty in full by the due date, the late payment terms set forth in Attachment B shall apply.

Full satisfaction of the terms of this CAFO by Respondent

shall not in any case affect the right of the EPA or the United States to pursue appropriate injunctive relief or other equitable relief or criminal sanctions for any violations of law. Full satisfaction of the terms of this CAFO by Respondent shall only resolve Respondent's liability for federal civil penalties under Section 309(g) of the CWA, 33 U.S.C. § 1319(g), for the violations alleged in this CAFO.

This CAFO does not affect Respondent's responsibility to comply with the CWA and other applicable federal, state, or local laws, regulations, or permits.

The terms of this CAFO bind Respondent and its successors and assigns. Each person signing this CAFO certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to the terms of this CAFO.

Each party agrees to bear its own costs and attorney's fees in this action, except Respondent is liable for the United States' enforcement costs, including attorney's fees, in the event of a collection proceeding, as described in Attachment B.

Pursuant to 40 C.F.R. § 22.18(b)(3), this Consent Agreement does not dispose of this proceeding without execution of the Final Order. The Final Order will not be issued until after completion of the requirements of Section 309(g)(4) of the CWA, 33 U.S.C. § 1319(g)(4), and 40 C.F.R. § 22.45(b), which require, among other things, public notice and a reasonable opportunity to comment on any proposed penalty order. Further, under Section 309(g) of the CWA, 33 U.S.C. § 1319(g), and 40 C.F.R. § 22.45, this Consent Agreement may be withdrawn before execution of the Final Order.

When final and effective, this CAFO is a "final order" for purposes of 40 C.F.R. §§ 22.13, 22.18, 22.31, 22.45 and the EPA's Interim Clean Water Act Settlement Penalty Policy (Mar. 1995).

The parties consent to service of this CAFO by email at the addresses provided by the parties in the Certificate of Service. Respondent understands that the CAFO will become publicly available upon proposal for public comment and upon filing.

This CAFO constitutes the entire agreement between the parties.

Pro Tech Metal Finishing, Inc., Respondent:

Name
(print): Ashlee Kuhl

Title
(print): President

Signature: 

Date: 12/23/2025

United States Environmental Protection Agency, Complainant:

Carolyn Persoon
Acting Division Director,
Enforcement and Compliance Assurance Division

Date: _____

Final Order

In accordance with Section 309(g)(5) of the CWA, 33 U.S.C. § 1319(g)(5), and 40 C.F.R. § 22.45, this CAFO shall become effective 30 days after the date of issuance unless, if applicable, a commenter files a petition for judicial review pursuant to 33 U.S.C. § 1319(g)(8) or a request for hearing pursuant to 33 U.S.C. § 1319(g)(4)(C), or, if applicable, 30 days after the request or petition is denied. The date of issuance is the date the undersigned signed this Final Order. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18, 22.31, and 22.45. IT IS SO ORDERED.

By: _____ Date: _____

Ann Coyle
Regional Judicial Officer
U.S. Environmental Protection Agency, Region 5

Attachment A

Industrial Stormwater Expedited Settlement Agreement

Factual Allegations and Alleged Violations

1. Pro Tech Metal Finishing, Inc. (Respondent) owns and operates a metal finishing facility located at 214 Heckner Drive, Ligonier, IN 46767 (Facility). The Facility is identified by Standard Industrial Classification (SIC) Code 3449.
2. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants into navigable waters except in compliance with, *inter alia*, a National Pollutant Discharge Elimination System (NPDES) permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.
3. In accordance with Section 402(p) of the CWA, 33 U.S.C. § 1342(p), and the regulations promulgated thereunder at 40 CFR § 122.26, an NPDES permit is required for the discharge of stormwater associated with industrial activity into a navigable water.
4. Pursuant to 40 CFR § 122.26(b)(14), “stormwater discharge associated with industrial activity” means the discharge from any conveyance that is used for collecting and conveying stormwater and that is directly related to manufacturing, processing or raw materials storage areas at an industrial plant, and facilities classified within SIC 34, including 3449, are engaging in “industrial activity” for purposes of this definition. Thus, Respondent is engaging in “industrial activity” at the Facility for purposes of 40 CFR § 122.26(b)(14).
5. EPA’s industrial stormwater guidance anticipates potential stormwater discharges from facilities engaged in industrial activity to occur due to rain events greater than 0.1 inch. EPA’s September 2019 Memorandum approving the “Expedited Settlement Agreement Pilot for Industrial Stormwater Non-Filers Under the Clean Water Act,” which is applicable to this matter, utilizes 0.5 inches of rain and 0.25 inches of rain as the respective benchmarks for stormwater discharge from unpaved and paved facilities.
6. Through an evaluation, which included a review of records and performance of an industrial stormwater inspection at the Facility on February 6, 2024, EPA found:
 - A. The Facility had paved outdoor areas of industrial activity, such as metal finishing plating bath waste storage areas, which were exposed to and had the potential to contaminate stormwater. Stormwater exposed to these areas of industrial activity is stormwater associated with industrial activity.
 - B. According to rainfall data for the period of January 1, 2021 to February 6, 2024, there were 35 months in which one or more rain events of 0.25 inches or more occurred in the vicinity of the Facility.

- C. Due to the hydrology of the Facility and triggering rain events, stormwater associated with industrial activity generally traveled toward conveyances, specifically stormwater drains, on the south side parking lot of the building. This parking lot had several stormwater drains in close proximity to the stored chemicals. These conveyances directed the stormwater, via storm sewer, to the Elkhart River.
- 7. Respondent discharged stormwater that was exposed to industrial activity at the Facility from conveyances at the Facility.
- 8. The discharge described in Paragraph 7 is “stormwater discharge associated with industrial activity,” as defined in 40 CFR § 122.26(b)(14).
- 9. The convenances described in Paragraph 6.C. are “point sources,” as defined in Section 502(14) of the CWA, 33 U.S.C. § 1362(14).
- 10. Elkhart River is a “navigable water” under Section 502(7) of the CWA, 33 U.S.C. § 1362(7).
- 11. As of the date of EPA’s stormwater inspection, Respondent did not have and had not applied for an NPDES Permit for its stormwater discharges associated with industrial activity.
- 12. Based on the foregoing, EPA has determined that Respondent discharged stormwater associated with industrial activity from point sources at the Facility to navigable waters without an NPDES permit, in violation of Section 301 of the CWA, 33 U.S.C. § 1311.

Attachment B

Industrial Stormwater Non-Filer Penalty Payment Instructions and Terms

1. Within 10 days after the Effective Date of this CAFO, Respondent must pay in full the Assessed Penalty of \$5000.
2. Respondent must pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>. When making a payment, Respondent must:
 - A. Identify every payment with Respondent's name and the document number of this CAFO, CWA-05-2026-0009.
 - B. Concurrently with any payment or within 24 hours of any payment, Respondent must serve proof of such payment to the following persons:

Regional Hearing Clerk, U.S. EPA
r5hearingclerk@epa.gov

Joseph Forth, Water Enforcement and Compliance Branch, U.S. EPA
Forth.Joseph@epa.gov

Hala Kuss, Office of Regional Counsel, U.S. EPA
Kuss.Hala@epa.gov

Cincinnati Finance Center, U.S. EPA
CINWD_AcctsReceivable@epa.gov

“Proof of Payment” means, as applicable, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent’s name.

3. Pursuant to 33 U.S.C. § 1319(g)(9), 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this CAFO, the entire unpaid balance of the Assessed Penalty and all accrued interest will become immediately due and owing, and EPA is authorized to recover the following amounts.

- A. Interest. Interest begins to accrue from the Effective Date. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until the unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. Interest will be assessed at prevailing rates, per 33 U.S.C. § 1319(g)(9). The rate of interest is the IRS standard underpayment rate.
- B. Handling Charges. The United States' enforcement expenses including, but not limited to, attorneys' fees and costs of collection proceedings.
- C. Late Payment Penalty. A twenty percent (20%) quarterly non-payment penalty.

4. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this CAFO, EPA may take additional actions. Such actions EPA may take include, but are not limited to, the following.

- A. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14;
- B. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.
- C. Suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, per 40 C.F.R. § 13.17.
- D. Request that the Attorney General bring a civil action in the appropriate district court to recover the full remaining balance of the Assessed Penalty, in addition to interest and the amounts described above, pursuant to 33 U.S.C. § 1319(g)(9). In any such action, the validity, amount, and appropriateness of the Assessed Penalty will not be subject to review.

5. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to principal that is the outstanding Assessed Penalty amount.

6. **Tax Treatment of Penalties.** Penalties, interest, and other charges paid pursuant to this CAFO are not deductible for purposes of federal taxes.