



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL 7009 1680 0000 7663 6780
RETURN RECEIPT REQUESTED

Mr. Daniel Burton
President
Burton Metal Finishing, Inc.
1711 Woodland Avenue
Columbus, Ohio 43219

Re: Consent Agreement and Final Order
Burton Metal Finishing, Inc.
EPA I.D. No.: OHD180657975
Docket No: **RCRA-05-2014-0004**

Dear Mr. Burton:

Enclosed, please find an original signed fully-executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The original was filed on NOV 26 2013, with the Regional Hearing Clerk.

Please pay the civil penalty in the amount of \$9,000 in the manner prescribed in paragraphs 34 and 37 of the CAFO, and reference all checks with the Docket No.: **RCRA-05-2014-0004**.

Also, enclosed is a *Notice of Securities and Exchange Commission Registrant's Duty to Disclose Environmental Legal Proceedings*. Your payment is due within 30 calendar days of the effective date of the CAFO. Thank you for your cooperation in resolving this matter.

Sincerely,

Gary J. Victorine
Chief,
RCRA Branch

Enclosures



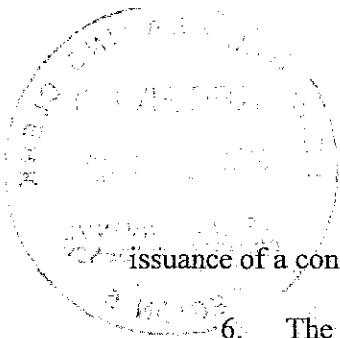
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:)	Docket No. RCRA-05-2014-0004
)	
Burton Metal Finishing, Inc.)	Proceeding to Commence and Conclude
Columbus, Ohio,)	an Action to Assess a Civil Penalty
)	
EPA I.D. No.: OHD180657975)	Under Section 3008(a) of the Resource
)	Conservation and Recovery Act,
Respondent.)	42 U.S.C. § 6928(a)
)	

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 3008(a) of the Solid Waste Disposal Act, as amended, also known as the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a), and Sections 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules) as codified at 40 C.F.R. Part 22.
2. The Complainant is the Director of the Land and Chemicals Division, United States Environmental Protection Agency (U.S. EPA), Region 5.
3. U.S. EPA provided notice of commencement of this action to the State of Ohio pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).
4. Respondent is Burton Metal Finishing, Inc., a corporation doing business in the State of Ohio.
5. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the



issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

6. 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.

7. Respondent consents to the assessment of the civil penalty specified in this CAFO, and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

8. Jurisdiction for this action is conferred upon U.S. EPA by Sections 3006 and 3008 of RCRA, 42 U.S.C. §§ 6926 and 6928.

9. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

10. 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.

11. Respondent certifies that it is complying fully with RCRA, 42 U.S.C. §§ 6901 – 6992k, and the regulations at 40 C.F.R. Parts 260 - 279.

Statutory and Regulatory Background

12. U.S. EPA has promulgated regulations, codified at 40 C.F.R. Parts 260 through 279, governing generators and transporters of hazardous waste and facilities that treat, store, and dispose of hazardous waste or used oil, pursuant to Sections 3001 – 3007 and 3014, among others, of RCRA, 42 U.S.C. §§ 6921 – 6927 and 6935.

13. Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, the Administrator of U.S. EPA may authorize a state to administer the RCRA hazardous waste program in lieu of the federal program when the Administrator finds that the state program meets certain conditions. Any violation of regulations promulgated pursuant to Subtitle C (Sections 3001-3023 of RCRA,

42 U.S.C. §§ 6921-6939e) or any state provision authorized pursuant to Section 3006 of RCRA constitutes a violation of RCRA, subject to the assessment of civil penalties and issuance of compliance orders as provided in Section 3008 of RCRA, 42 U.S.C. § 6928.

14. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of U.S. EPA granted the State of Ohio final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program effective June 30, 1989. 54 Fed. Reg. 27170 (June 28, 1989).

15. Under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), U.S. EPA may issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified period of time, or both. The Administrator of U.S. EPA may assess a civil penalty of up to \$25,000 per day for each violation of Subtitle C of RCRA according to Section 3008 of RCRA, 42 U.S.C. § 6928. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 note (1996), required U.S. EPA to adjust its penalties for inflation on a periodic basis. Pursuant to the Civil Monetary Penalty Inflation Adjustment Rule, published at 40 C.F.R. Part 19, U.S. EPA may assess a civil penalty of up to \$37,500 per day for each violation of Subtitle C of RCRA that occurred after January 12, 2009.

Factual Allegations and Alleged Violations

16. Respondent was and is a "person" as defined by OAC 3745-50-10(88), 40 C.F.R. § 260.10, and Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

17. Respondent was and is the "owner" or "operator," as those terms are defined under OAC 3745-50-10(84) and (83) and 40 C.F.R. § 260.10, of a facility located at 1711 Woodland Avenue, Columbus, Ohio (facility).

18. On January 13, 2011, U.S. EPA conducted a Compliance Evaluation Inspection of the facility (the inspection).

19. The facility consists of land and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste.

20. Respondent electroplates, polishes, anodizes and colors metal and aluminum parts for various industries.

21. At all times relevant to this CAFO, Respondent created solid wastes including: wastewater treatment filter cake sludge; alkaline waste; chromate waste; silver cyanide waste; spent trichloroethylene; powder coat waste; and other plating process waste.

22. Respondent characterized its wastewater treatment filter cake sludge; alkaline waste; chromate waste; silver cyanide waste; spent trichloroethylene; powder coat waste; and other plating process waste as hazardous waste D001, D002, D003, D005, D007, D011, F001, F006, and F007.

23. Respondent's processes at the facility produce several hazardous wastes identified or listed in OAC 3745-51-01 to 3745-51-35 or cause a hazardous waste to become subject to regulation under OAC Rules 3745-50-01 to 3745-270 [40 C.F.R. Parts 260-270].

24. Respondent is a "generator," as that term is defined in OAC 3745-50-10(45) [40 C.F.R. § 260.10].

25. At all times relevant to this CAFO, Respondent produced more than 1,000 kilograms (2,205 pounds) of hazardous waste each calendar month, and was a large quantity generator.

26. Respondent is subject to the regulations promulgated pursuant to Subtitle C of RCRA, 42 U.S.C. §§ 6921 - 6939e, or the analogous Ohio regulations as part of the applicable

state hazardous waste management program for the state of Ohio, or both.

27. At all times relevant to this CAFO, the State of Ohio has not issued a permit to Respondent to treat, store, or dispose of hazardous waste at the facility.

28. At all times relevant to this CAFO, Respondent did not have interim status for the treatment, storage, or disposal of hazardous waste at the facility.

29. On June 10, 2011 U.S. EPA issued a Notice of Violation to Respondent alleging certain violations of RCRA discovered during the inspection.

30. On September 30, 2011 and on multiple subsequent dates, Respondent submitted to U.S. EPA a written response to the Notice of Violation.

31. On multiple dates in 2011 and 2012, Respondent submitted to U.S. EPA written correspondence and information in response to the inspection and Notice of Violation.

32. Based on the inspection conducted on January 13, 2011, and a review of additional information received by U.S. EPA subsequent to that date, U.S. EPA has identified the following alleged violations by Respondent of the federal and authorized State of Ohio RCRA hazardous waste program regulations:

- a. Storage of hazardous waste without a permit or interim status, in violation of Section 3005 of RCRA, 42 U.S.C. § 6925(a) and the requirements of OAC 3745-50-40 to 3745-50-66; 3745-54 to 3745-57; 3745-205 and 3745-256 and 40 C.F.R. §§ 270.1(c) and 270.10(a) and (d), and 270.13;
- b. Failure to provide the facility's secondary containment structure with a leak detection system that is designed and operated so that it will detect the failure of either the primary and secondary containment structure or any release of hazardous waste or accumulated liquid in the secondary containment system within twenty-four hours, and failure to conduct and document the daily inspections required for the hazardous waste storage tanks, in violation of OAC 3745-55-93(B)(2) and (C)(3) and 3745-55-95(A),(B), and (C)(1) and (2), and (H) and 40 C.F.R. § 264.193(b)(2) and (c)(3) and § 264.195(a), (b), (c)(1) and (2), and (h);

- c. Failure to obtain written statements that attest that the facility's two cyanide hazardous waste tank systems were properly designed and installed and that repairs were performed, in violation of OAC 3745-55-92(G) and 40 C.F.R. § 264.192(g);
- d. Failure to maintain the records required by OAC 3745-54-16, in violation of OAC 3745-54-16(A)(1), (C), (D)(2), (D)(3), (D)(4) and (E) and 40 C.F.R. § 264.16(a), (c), (d)(2), (d)(3), (d)(4) and (e);
- e. Failure to submit copies of the facility's contingency plan and all revisions to the plan to all local police and fire departments, hospitals, and Ohio EPA and local emergency response teams, in violation of OAC 3745-54-53(B) and 40 C.F.R. § 264.53(b);
- f. Failure to determine if several spent solid wastes were hazardous wastes, in violation of OAC 3745-52-11 and 40 C.F.R. § 262.11;
- g. Failure to keep copies of signed manifests as records for at least three years from the date the waste was accepted by the initial transporter, in violation of OAC 3745-52-40(A) and 40 C.F.R. § 262.40(a);
- h. Failure to label or mark clearly containers or packages in which universal wastes were contained and contain universal waste in closed containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the waste, in violation of OAC 3745-273-13(D)(1) and 3745-273-14(E) and 40 C.F.R. § 273.13(d)(1) and 273.14(e); and
- i. Failure to label or mark clearly with the words "Used Oil" on containers used to store used oil at the facility, in violation of OAC 3745-279-22(C)(1) and 40 C.F.R. § 279.22(c)(1).

Civil Penalty

33. Pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), Complainant determined that an appropriate civil penalty to settle this action is \$9,000. In determining the penalty amount, Complainant took into account the seriousness of the violation and any good faith efforts to comply with the applicable requirements. Complainant also considered U.S. EPA's RCRA Civil Penalty Policy, dated June 23, 2003.

34. Respondent must pay the \$9,000 civil penalty in three installments with interest as follows:

	Due by:	Payment	Principal	Interest
Payment 1	30 days from Effective Date	\$3,007.50	\$3,000.00	\$7.50
Payment 2	180 days from Effective Date	\$3,025.00	\$3,000.00	\$25.00
Payment 3	365 days from Effective Date	\$3,015.42	\$3,000.00	\$15.42
	Totals:	\$9,047.92	\$9,000.00	\$47.92

Respondent must pay the installments by sending cashier's checks, payable to "Treasurer, United States of America," to:

U.S. EPA
 Fines and Penalties
 Cincinnati Finance Center
 P.O. Box 979077
 St. Louis, MO 63197-9000

The check must state Burton Metal Finishing, Inc. and the docket number of this CAFO.

37. A transmittal letter stating Respondent's name, the case title and the case docket number must accompany the payment. Respondent must send a copy of the check and transmittal letter to:

Regional Hearing Clerk (E-19J)
 U.S. EPA, Region 5
 77 West Jackson Blvd.
 Chicago, IL 60604

Bryan Gangwisch (LR-8J)
 RCRA Branch
 U.S. EPA, Region 5
 77 West Jackson Blvd.
 Chicago, IL 60604

Jacqueline Clark (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

38. This civil penalty is not deductible for federal tax purposes.

39. If Respondent does not pay an installment payment as set forth in paragraph 34, above, the entire unpaid balance of the civil penalty and any amount required by paragraph 40, below, shall become due and owing upon written notice by U.S. EPA to Respondent of the delinquency. U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties, and the United States enforcement expenses for the collection action. The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

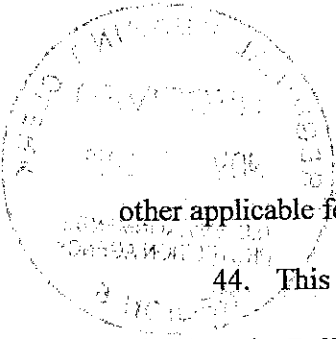
40. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

41. This CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts alleged in the CAFO.

42. This CAFO does not affect the right of U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

43. This CAFO does not affect Respondent's responsibility to comply with RCRA and



other applicable federal, state, local laws or permits.

44. This CAFO is a "final order" for purposes of 40 C.F.R. § 22.31, U.S. EPA's RCRA Civil Penalty Policy, and U.S. EPA's Hazardous Waste Civil Enforcement Response Policy (December 2003).

45. The terms of this CAFO bind Respondent, its successors, and assigns.

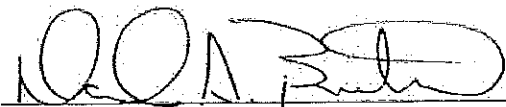
46. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

47. Each party agrees to bear its own costs and attorney's fees in this action.

48. This CAFO constitutes the entire agreement between the parties.


Burton Metal Finishing, Inc., Respondent

9/25/2013
Date


Daniel Burton
President
Burton Metal Finishing, Inc.

United States Environmental Protection Agency, Complainant

11/15/2013
Date


Margaret M. Guerriero
Director
Land and Chemicals Division

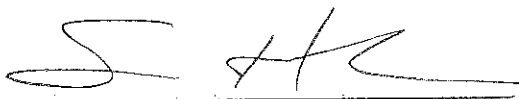
In the Matter of:
Burton Metal Finishing, Inc.
Docket No. RCRA-05-2014-0004



Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

11/20/13
Date



Susan Hedman
Regional Administrator
United States Environmental Protection Agency
Region 5

CASE NAME: BURTON METAL FINISHING, INC.
DOCKET NO: RCRA-05-2014-0004



CERTIFICATE OF SERVICE

I hereby certify that today I filed the original of this **Consent Agreement and Final Order** and this **Certificate of Service** in the office of the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region V, 77 West Jackson Boulevard, Chicago, Illinois 60604 -3590.

I further certify that I then caused a true and correct copy of the filed document to be mailed on the date below, via Certified Mail, Return Receipt Requested to:

Mr. Daniel Burton
President
Burton Metal Finishing, Inc.
1711 Woodland Avenue
Columbus, OH 43219

Certified Mail Receipt # 7009 1680 0000 7663 6780

Dated: NOV. 26 2013

Ruben B. Aridge
~~Margaret Gray~~ Ruben Aridge for
Administrative Program Assistant
U.S. Environmental Protection Agency

Region V
RCRA Branch
Land and Chemicals Division LR-8J
77 W. Jackson Blvd, Chicago, IL 60604-3590