

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 7

Received by  
EPA Region 7  
Hearing Clerk

<b>In the Matter of</b>	)	
	)	
Metal Finishing Co., Inc.	)	<b>Docket No. RCRA-07-2023-0012</b>
1423 S. McLean Boulevard	)	
Wichita, Kansas 67213	)	<b>EXPEDITED SETTLEMENT</b>
RCRA ID No.: KSD007241185	)	<b>AGREEMENT AND FINAL ORDER</b>
	)	
<u>Respondent.</u>	)	

**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 Kansas with notice of the referenced violations of Subtitle C of RCRA as required by Section 3008(a)(2).
- 3) Metal Finishing Co., Inc. (“Respondent”) is the owner or operator of the facility located at 1423 S. McLean Boulevard, Wichita, Kansas 67213 (“Facility”). The EPA inspected the Facility, on March 3-4, 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. K.A.R. 28-31-265 - 40 C.F.R. § 262.34(c)(1)(i) referencing 40 C.F.R. § 265.173(a) requires that a container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste. At the time of the EPA inspection, four containers were not closed:
    - one 55-gallon hazardous waste storage drum with aluminum oxide waste not in the closed position and lacking a locking ring,
    - one 55-gallon satellite accumulation container with PPE and masking material hazardous waste not in the closed position,
    - one 15-gallon satellite container of spent MEK hazardous waste with the funnel lid not in the closed position
    - one satellite accumulation container with rags and masking material hazardous waste not in the closed position.
  - b. K.A.R. 28-31-265 - 40 C.F.R. § 262.34(a)(1)(i) referencing 40 C.F.R. § y265.1064(g)(6) requires identification, either by list or location (area or group) of equipment that contains or contacts hazardous waste with an organic concentration of

at least 10 percent by weight for less than 300 hours per calendar year. At the time of inspection, the facility did not have documentation of equipment present at the facility that contained or contacted hazardous waste with organic concentration of at least 10 percent by weight volume for less than 300 hours per calendar 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 Six Thousand Two Hundred and Fifty Dollars (\$6,250.00) 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: [dhousby@metalfinishingco.com](mailto:dhousby@metalfinishingco.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,

*Robert H. Babst, Jr.*

\_\_\_\_\_  
Name (print)

*President*

\_\_\_\_\_  
Title (print)

*Robert H. Babst, Jr.*

\_\_\_\_\_  
Signature

*12/20/22*

\_\_\_\_\_  
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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Christopher Muehlberger, 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.

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Karina Borromeo  
Regional Judicial Officer

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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-07-2023-0012, was sent this day in the following manner to the following addressees:

Copy via e-mail to Complainant:

Christopher Muehlberger, Office of Regional Counsel  
*muehlberger.christopher@epa.gov*

Tiffany DeLong, Enforcement and Compliance Assurance Division  
*delong.tiffany@epa.gov*

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

Copy via e-mail to Respondent:

Mr. David Housby, Environmental and Safety Manager  
Metal Finishing Co., Inc.  
1423 S. McLean Boulevard  
Wichita, Kansas 67213  
*dhousby@metalfinishingco.com*

Copy via e-mail to the State of Iowa:

Julie Coleman, Director  
Bureau of Waste Management  
Kansas Department of Health and Environment  
*julie.coleman@ks.gov*

Amy Thompson  
Compliance and Enforcement, Waste Reduction, and Assistance Section  
Kansas Department of Health and Environment  
*amy.thompson@ks.gov*

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

\_\_\_\_\_  
Signed