

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
Philadelphia, Pennsylvania 19103**

IN THE MATTER OF:

MetLab, Inc.

Respondent,

**MetLab, Inc.
1000 East Mermaid Lane
Wyndmoor, PA 19038**

Facility

)
) **DOCKET NO.: RCRA-03-2023-0029**
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)
) **EXPEDITED SETTLEMENT**
) **AGREEMENT AND FINAL ORDER**
)
)
) **Proceeding under Section**
) **3008(a) and (g) of the Resource**
) **Conservation and Recovery Act, as**
) **amended, 42 U.S.C. § 6928(a) and (g)**
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EXPEDITED SETTLEMENT AGREEMENT

1. MetLab, Inc. ("Respondent"), and the Director, Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III ("Complainant") enter into this Expedited Settlement Agreement ("Agreement") pursuant to Section 3008(a) and (g) of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C § 6928(a) and (g), and the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* ("Consolidated Rules of Practice"), 40 C.F.R. Part 22 (with specific reference to 40 C.F.R. §§ 22.13(b), 22.18(b)(2), and (3)). The Administrator has delegated the authority to enter into this Agreement to the Regional Administrator who, in turn, has delegated the authority to enter into agreements concerning administrative penalties to the Complainant.
2. The U.S. Environmental Protection Agency, Region III ("EPA") has jurisdiction over this matter pursuant to Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), and 40 C.F.R. §§ 22.1(a)(4) and 22.4 of the Consolidated Rules of Practice.
3. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), EPA has authorized the Commonwealth of Pennsylvania to administer a hazardous waste management program in lieu of the federal hazardous waste management program established under RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g. The provisions of the authorized Pennsylvania Hazardous Waste Management Regulations ("PaHWMR"), codified at 25 Pa Code Ch. 260a-266a, 266b, and 268a-270a, have thereby become requirements of RCRA Subtitle C and are enforceable by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a). EPA last authorized revisions to the PaHWMR on June 29, 2009, including incorporation by reference of the federal regulations which were in effect as of October 12, 2005. The Code of Federal Regulation citations used herein are to the 2005 Federal regulations in place as of

- October 12, 2005, when referring to the Federal regulations incorporated by the Pennsylvania regulations.
4. On August 11, 2022, EPA sent a letter to Pennsylvania, through the Pennsylvania Department of Environmental Protection (“PaDEP”), giving prior notice of this enforcement action in accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).
 5. At its facility, located at 1000 East Mermaid Lane, Wyndmoor, Pennsylvania (“Facility”), Respondent provides heat treatment and black oxide treatment of materials and manufactured parts, including various metals, plastics, and other media. On November 7, 2012, Respondent submitted a notification to PaDEP that the Facility was a small quantity generator (“SQG”) of hazardous waste at the Facility. PaDEP had assigned RCRA ID No. PAD002297299 to the Facility in August of 1980. Respondent does not have a permit for the treatment, storage or disposal of hazardous waste at the Facility.
 6. Complainant alleges that, at all times relevant to the allegations described in this Agreement, Respondent was and continues to be a corporation organized under the laws of the Commonwealth of Pennsylvania and is therefore a “person,” as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and 25 Pa. Code 260a.10, and at all times relevant to the allegations in this Agreement was the “operator” and the “owner” of a “facility,” described in Paragraph 5, as the term “facility” is defined in 25 Pa. Code 260a.10, and as the terms “owner” and “operator” are defined in 25 Pa. Code 260a.1, which incorporates by reference 40 C.F.R. § 260.10.
 7. At all times relevant to the allegations described in this Agreement, Respondent was a “generator” of, and has engaged in the “treatment” and “storage” in “containers” at the Facility of materials described below that are “solid wastes” and “hazardous wastes”, as the terms “treatment” and “storage” are defined in 25 Pa. Code 260a.10, and as the terms “generator”, “container”, “solid waste”, and “hazardous waste” are defined in 25 Pa. Code 260a.1, which incorporates by reference 40 C.F.R. § 260.10.
 8. On March 15, 2022, EPA representatives conducted a Compliance Evaluation Inspection (“Inspection” or “CEI”) at the Facility to determine compliance with the applicable hazardous waste regulations.
 9. Based on the observations during the Inspection, Complainant alleges and finds that Respondent failed to comply with specific requirements of Subtitle C of RCRA, 42 U.S.C. § 6921 *et seq.*, its implementing regulations at 40 C.F.R. Parts 262, 264, 265, and the federally-authorized Pennsylvania hazardous waste management program set forth in the Pennsylvania Hazardous Waste Management Regulations (“PaHWMR”), 25 Pa. Code Ch. 60a-266a, 266b, and 268a-270a.
 10. Complainant has identified the following violations at the Facility: Respondent failed to make hazardous waste determinations for several containers of solid waste, in violation of 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.11. These hazardous waste determinations are necessary in order to ensure wastes are properly managed according to applicable RCRA regulations.

- a. On at least July 28, 2021, Respondent shipped six 55-gallon containers of waste oil and water, which were solid waste, as non-hazardous waste, to a non-permitted facility owned and operated by Environmental Recovery Corporation (“ERC”) (PAD987266749), in Lancaster, Pennsylvania. ERC tested these containers upon arrival and determined that the pH of the liquid in three of the containers was in excess of 12.5, making the waste characteristically hazardous for corrosivity (D002). ERC rejected these three containers, and transported them to a RCRA-permitted treatment, storage and disposal facility (“TSDF”) owned and operated by CycleChem (PAD067098822), under Hazardous Waste Manifest No. 014826129FLE, on behalf of the Respondent. Therefore, on at least July 28, 2021, Respondent failed to perform a pH test and make a waste determination on three containers of solid waste, resulting in three separate violations of 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.11.
 - b. On at least December 3, 2021, Respondent shipped six 55-gallon containers of waste oil and water, which were solid wastes, as non-hazardous waste, to a non-permitted facility owned and operated by ERC. ERC tested these containers upon arrival and determined that the pH of the liquid in three of the containers was in excess of 12.5, making the waste characteristically hazardous for corrosivity (D002). ERC rejected these three containers, and transported them to a RCRA-permitted TSDF owned and operated by CycleChem under Hazardous Waste Manifest No. 014826038FLE, on behalf of the Respondent. Therefore, on at least December 3, 2021, Respondent failed to perform a pH test and make a waste determination on three containers of solid waste, resulting in three separate violations of 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.11.
 - c. On March 15, 2022, Respondent disposed of waste acetone-laden solvent-contaminated wipes (F003), in the trash, as observed by the EPA representatives. Therefore, on at least March 15, 2022, Respondent failed to make a waste determination on acetone-laden solvent-contaminated wipes, resulting in one violation of 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.11.
11. Complainant and Respondent agree that settlement of this matter for a total penalty of **EIGHT THOUSAND SEVEN HUNDRED FIFTY DOLLARS (\$8,750.00)** is in the public interest. In calculating this amount, Complainant considered the statutory factors set forth in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), and with specific reference to EPA’s October 1990 RCRA Civil Penalty Policy, as revised in June 2003 (“RCRA Penalty Policy”), and the 2021 RCRA Expedited Settlement Agreement Pilot.
 12. Respondent agrees that, within 30 days of the effective date of this Agreement, Respondent shall make a payment of **EIGHT THOUSAND SEVEN HUNDRED FIFTY DOLLARS (\$8,750.00)** by one of four methods: 1) electronic funds transfer (“EFT”), 2) Automated Clearinghouse, 3) Pay.gov, or 4) a cashier’s check or certified check made out to “**United States Treasury**” with the case name, address and docket number of this Agreement (RCRA-03-2023-0029), for the amount specified above:

a. Payment of the penalty amount by EFT:

Federal Reserve Bank of New York
ABA 021030004
Account 68010727
SWIFT address FRNYUS33
33 Liberty Street
New York, NY 10045
Beneficiary: Environmental Protection Agency

b. Payment of the penalty amount by Automated Clearinghouse (“ACH”):

U.S. Treasury REX/Cashlink ACH Receiver

ABA: 051036706
Account Number: 310006, Environmental Protection Agency

CTX Format Transaction Code 22- Checking

Physical Location of the U.S. Treasury Facility:
5700 Rivertech Court
Riverdale, MD 20737

Remittance Express (REX): 1-866-234-5681

c. Payments made through Pay.gov:

Payers can use their credit or debit cards (Visa, MasterCard, American Express & Discover) as well as checking account information to make payments. Follow these steps to make a payment:

- (1) You **DO NOT** need a username and password or account.
- (2) Enter **SFO 1.1** in the form search box on the top left side of the screen.
- (3) Open the form and follow the on-screen instructions.
- (4) Select your method of payment from the “Type of Payment” drop down menu.
- (5) Based on your selection, the corresponding line will open and no longer be shaded grey.
- (6) Enter the docket number of this Agreement into the field.

d. Payment of the penalty amount by regular U.S. Postal Service shall be sent via **certified mail** to:

U.S. Environmental Protection Agency
P.O. Box - Cincinnati Finance Center Box 979077
St. Louis, MO 63197-9000

- e. Payment of the penalty amount by overnight mail (FedEx or other non-U.S. Postal Service express mail) shall be sent to:

U.S. Environmental Protection Agency
Government Lock Box - Cincinnati Finance Center Box 979077
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101

- f. A list of the payment methods is also provided at this website
<https://www.epa.gov/financial/makepayment>.

- 13. Within 24 hours of payment, Respondent shall also send proof of payment (a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer), by electronic mail to:

Andrew Van Woert, Enforcement Officer (3ED22)
U.S. EPA, Region III
vanwoert.andrew@epa.gov

and

Regional Hearing Clerk (3RC00)
U.S. EPA, Region III
R3_Hearing_Clerk@epa.gov

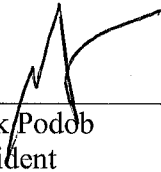
- 14. In signing this Agreement, Respondent: admits the jurisdictional allegations in this Agreement; neither admits nor denies the specific factual allegations in this Agreement, except as provided in the jurisdictional admission above; agrees not to contest EPA's jurisdiction with respect to the execution of this Agreement, the issuance of the attached Final Order, or the enforcement the Agreement; expressly waives its right to a hearing on any issue of law or fact in this Agreement and any right to appeal the accompanying Final Order; consents to the issuance of the Agreement and agrees to comply with its terms; agrees to bear its own costs and attorney's fees; and agrees not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.
- 15. 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, and (2) any documentation or information provided to EPA was true and accurate.
- 16. This Agreement and the attached Final Order constitute a settlement by EPA of its claims for civil penalties for the violations alleged in this Agreement.
- 17. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial

endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Sections 22.18(c) and 22.31(a) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under RCRA, the RCRA regulations promulgated, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this Agreement, following its filing with the Regional Hearing Clerk.

- 18. Late payment of the agreed upon penalty may subject Respondent to interest, administrative costs and late payment penalties in accordance with 40 C.F.R. § 13.11.
- 19. This Agreement is effective upon filing, in accordance with 40 C.F.R. § 22.31(b).
- 20. The undersigned representative certifies that she/he is fully authorized to execute this Agreement and to legally bind MetLab, Inc.
- 21. As permitted under 40 CFR § 22.6, the Regional Hearing Clerk will serve copies of this Agreement and Final Order by e-mail to the parties at the following valid e-mail addresses: vanwoert.andrew@epa.gov (for Complainant), and mpodob@metlabheattreat.com (for Respondent).

For Respondent: MetLab, Inc.

Date: 3/30/2023

By: 

Mark Podob
President

For Complainant: U.S. Environmental Protection Agency, Region III

After reviewing the Agreement and other pertinent matters, I, the undersigned Director of the Enforcement and Compliance Assurance Division of the United States Environmental Protection Agency, Region III, agree to the terms and conditions of this Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

By: _____

[Digital Signature and Date]

Karen Melvin, Director

Enforcement & Compliance Assurance Division

U.S. EPA, Region III

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
Philadelphia, Pennsylvania 19103-2029**

IN THE MATTER OF:

MetLab, Inc.

Respondent,

**MetLab, Inc.
1000 East Mermaid Lane
Wyndmoor, PA 19038,**

Facility

DOCKET NO.: RCRA-03-2023-0029

**EXPEDITED SETTLEMENT
AGREEMENT AND FINAL ORDER**

**Proceeding under Section
3008(a) and (g) of the Resource
Conservation and Recovery Act, as
amended, 42 U.S.C. § 6928(a) and (g)**

FINAL ORDER

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency - Region III, and Respondent, MetLab, Inc., have executed a document entitled "Expedited Settlement Agreement," which I hereby ratify as a Consent Agreement in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* ("Consolidated Rules of Practice"), 40 C.F.R. Part 22, (with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Expedited Settlement Agreement are accepted by the undersigned and incorporated herein as if set forth at length.

Based upon the representations of the parties in the attached Expedited Settlement Agreement, the penalty agreed to therein took into account the statutory factors set forth in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), and with specific reference to EPA's October 1990 RCRA Civil Penalty Policy, as revised in June 2003 ("RCRA Penalty Policy"), and the 2021 RCRA Expedited Settlement Agreement Pilot.

NOW, THEREFORE, PURSUANT TO 3008(g) of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. Section 6928(g), and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of **EIGHT THOUSAND SEVEN HUNDRED FIFTY DOLLARS (\$8,750.00)**, in accordance with the payment provisions set forth in the Expedited Settlement Agreement, and comply with the terms and conditions of the Consent Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Expedited Settlement Agreement and does

not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of Subtitle C of the Resource Conservation and Recovery Act, 42 U.S.C. § 6921 et seq., and the regulations promulgated thereunder.

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.

By: _____
[Digital Date and Signature]
Joseph J. Lisa
Regional Judicial and Presiding Officer
U.S. EPA, Region III

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
Philadelphia, Pennsylvania 19103**

IN THE MATTER OF:)	DOCKET NO.: RCRA-03-2023-0029
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MetLab, Inc.)	
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MetLab, Inc.)	Proceeding under Section
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Wyndmoor, PA 19038)	Conservation and Recovery Act, as
)	amended, 42 U.S.C. § 6928(a) and (g)
Facility)	
)	
)	

CERTIFICATE OF SERVICE

I certify that on _____, the foregoing *Consent Agreement and Final Order*, was filed with the EPA Region III Regional Hearing Clerk. I further certify that on the date set forth below, I caused to be served a true and correct copy of the foregoing to each of the following persons, in the manner specified below, at the following addresses:

Copies served via email to:

Mark Podob, President
MetLab, Inc.
1000 East Mermaid Lane
Wyndmoor, PA 19038
mpodob@metlabheattreat.com

Andrew Van Woert, Enforcement Officer
U.S. EPA, Region III
Vanwoert.andrew@epa.gov

[Digital Signature and Date]
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region III