

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 7

Received by
EPA Region 7
Hearing Clerk

In the Matter of

Midwest Metal Products Co.
800 66th Avenue SW
Cedar Rapids, Iowa 52404
EPA ID: IAD042192401

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) **Docket No. RCRA-07-2023-0050**
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**EXPEDITED SETTLEMENT
AGREEMENT AND FINAL ORDER**

Respondent.

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 Iowa with notice of the referenced violations of Subtitle C of RCRA as required by Section 3008(a)(2).
- 3) Midwest Metal Products Co. (“Respondent”) is the owner or operator of the facility located at 800 66th Avenue SW, Cedar Rapids, Iowa (“Facility”). The EPA inspected the Facility, on May 23, 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. 40 C.F.R. § 262.15(a)(4) requires that a satellite accumulation container holding hazardous waste must be closed at all times during accumulation. At the time of the EPA inspection, the aerosol puncturing unit operating as a satellite accumulation area was not closed. The lid of the puncturing apparatus was left open.
 - b. 40 C.F.R. § 262.15(a)(5)(ii) requires that a hazardous waste generator mark or label satellite accumulation containers with an indication of the hazards of the contents. At the time of the EPA inspection, the aerosol puncturing unit operating as a satellite accumulation container was not labeled with an indication of hazards of the contents.
 - c. 40 C.F.R. § 262.17(a)(5)(i)(C) requires that a large quantity generator (“LQG”) must mark or label its containers with the date upon which each period of accumulation begins clearly visible for inspection on each container. At the time of the EPA inspection, two hazardous waste accumulation containers were not marked or labeled with the date upon which accumulation began: 1) Drum outside paint booth building was being managed like a CAA with the intent of managing as a satellite accumulation area (“SAA”). Facility moved the container to be under the control of an operator; 2) Drum of waste filters in CAA marked with date of January 11, 2022.

Inspection date was at least thirty days beyond 90-day accumulation limit. Facility stated the marked date was when satellite accumulation began.

- d. 40 C.F.R. § 262.17(a)(6) references 40 C.F.R. § 262.255 which requires an LQG to maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes. At the time of the EPA inspection, the facility maintained a central accumulation area in the Chemical Shed. The inspector observed 18 containers (eight drums of waste corrosive liquid, seven drums of waste paint, and three drums of waste paint filters) in the CAA. The containers were on adjacent pallets stacked two containers high, with no minimal space between the pallets or containers.
 - e. 40 C.F.R. § 262.17(a)(7)(iii) requires LQG facility personnel to take part in an annual review of the initial training required in 40 C.F.R. § 262.17(a)(7)(i). In 2020, three employees did not participate in an annual review of such initial training.
- 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 Five Thousand Dollars (\$5,000.00) 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; and

Milady Peters, Paralegal
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:

pwarren@mwestmp.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,

Adam Jelinek

Name (print)

Sales/Operations Mgr

Title (print)



Signature

3/1/23

Date

APPROVED BY EPA:

Candace Bednar
Chemical Branch Chief
Enforcement and Compliance Assurance Division

Date

Christopher Muehlberger, Attorney
Office of Regional Counsel

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.

Karina Borromeo
Regional Judicial Officer

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, in the matter of Midwest Metal Products Co., EPA Docket No. RCRA-07-2023-0050, was sent this day in the following manner to the following addressees:

Copy via e-mail to Complainant:

Britt Bieri, Office of Regional Counsel
bieri.britt@epa.gov

Edwin Buckner, Enforcement and Compliance Assurance Division
buckner.edwin@epa.gov

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

Copy via e-mail to Respondent:

Paul Warren, Supervisor
Midwest Metal Products Co.
800 66th Avenue SW
Cedar Rapids, Iowa 52404
pwarren@mwestmp.com

Copy via e-mail to the State of Iowa:

Ed Tormey, Acting Administrator
Environmental Services Division
Iowa Department of Natural Resources
ed.tormey@dnr.iowa.gov

Mike Sullivan, Section Supervisor
Solid Waste and Contaminated Sites Section
Iowa Department of Natural Resources
michael.sullivan@dnr.iowa.gov

Dated this _____ day of _____, 2023.

Signed