



**John R. Kasich**, Governor  
**Mary Taylor**, Lt. Governor  
**Craig W. Butler**, Director

February 24, 2021

The Victory White Metal Co.  
3027 E. 55<sup>th</sup> Street  
Cleveland, OH 44127

**Re: The Victory White Metal Company  
Director's Final Findings and Orders (DFFO)  
DFFO  
RCRA C - Hazardous Waste  
Cuyahoga County  
OHR000214445**

**Subject:** Final Findings and Orders of the Director

Dear Sir or Madam:

Transmitted herewith are the Final Findings and Orders of the Director concerning the matter indicated for The Victory White Metal Company.

Enclosed is the invoice for the total penalty amount of \$4,400.00 required by the orders. The penalty payment(s) shall be made by official check(s) made payable to "Treasurer, State of Ohio."

If you have any questions, please contact Elissa Miller at (614) 644-3037.

Sincerely,

Tonya Andrews, Administrative Professional 3  
Division of Environmental Response and Revitalization

Enclosure

cc: Zak Kabelen, DERR, CO  
Mitch Mathews, DERR, CO  
Natalie Oryshkewych, DERR, NEDO  
Frank Zingales, DERR, NEDO  
Nyall McKenna, DERR, NEDO  
Elissa Miller, Legal  
Ben Krafcik, bkrafcik@vwmc.com



Mike DeWine, Governor  
Jon Husted, Lt. Governor  
Laurie A. Stevenson, Director

## Ohio EPA Invoice

Date Printed: February 24, 2021

Receivable ID: 1410531

*Please include this Receivable ID with all correspondence*

Victory White Metal

3027 E. 55th Street

Cleveland, OH 44127

Due Date:

March 24, 2021

Amount Due:

\$4,400.00

Effective Date: February 24, 2021

Revenue Description: DERR - Findings and Orders - Hazardous Waste Cleanup (FFOHW)

Program Name: RCRA C - Hazardous Waste

Reason: Settlement of Ohio EPA's claims for civil penalties

### How to Pay Fee Online:

1. Go to Ohio EPA's homepage: <https://epa.ohio.gov/>
2. In the Blue Banner hover your mouse over the "Do Business" and click on "Pay Fees Online"
3. Scroll down and click on the folder tab labelled "Online Payment Options". On this tab you will find instruction on how to pay a fee online and a link to Ohio EPA's [eBusiness Center](#).
4. To use the eBusiness center you will need an account. If you do not have an account, there is a link below the User ID and Password window that will take you to the *eBusiness Center Create an Account* page.
5. If you are paying your receivable with a credit card no PIN is required. If you plan to pay using a bank account and routing information you will need to request a PIN.

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CUT OFF THIS STUB AND MAIL IT WITH YOUR CHECK. DO NOT MAIL TOP PORTION.

Pay to: Treasurer, State of Ohio. Please write the Revenue ID on your check. Please send this stub with your check. DO NOT SEND LETTERS OR OTHER FORMS.

Ohio EPA  
PO Box 77005  
Cleveland, OH 44194-7005

Due Date:	3/24/2021
Revenue ID:	1410531
Amount Due	\$4,400.00
Type Code:	FFOHW
Transaction ID:	

1410531 0000440000 FFOHW 000000000 7

By: Kelly A. Mac Date: \_\_\_\_\_

**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

2/23/2021

**In the Matter of:**

**The Victory White Metal Company**  
3027 E. 55<sup>th</sup> St.  
Cleveland, OH 44127

**Respondent**

**Director's Final  
Findings and Orders**

**PREAMBLE**

It is agreed by the parties hereto as follows:

**I. JURISDICTION**

These Director's Final Findings and Orders (Orders) are issued to The Victory White Metal Company (Respondent) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) §§ 3734.13 and 3745.01.

**II. PARTIES BOUND**

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of Respondent shall in any way alter Respondent's obligations under these Orders.

**III. DEFINITIONS**

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3734. and the rules promulgated thereunder.

**IV. FINDINGS**

The Director of Ohio EPA has determined the following findings:

1. Respondent is a "person" as defined in ORC § 3734.01(G) and OAC rule 3745-50-10(P).
2. Respondent operates a lead alloy casting and extruding business at a property located at 3027 E. 55<sup>th</sup> Street, Cleveland, Cuyahoga County, Ohio 44127 (Facility) and has been assigned U.S. EPA identification number OHR000214445.
3. At the Facility, Respondent generates "hazardous waste" as that term is defined

by ORC § 3734.01(J) and OAC rules 3745-50-10(H) and 3745-51-03. The hazardous waste generated at the Facility includes used floor absorbents which is characteristically hazardous for D008 (lead-toxicity), as described in OAC rule 3745-51-24. Ohio EPA has determined that Respondent is subject to the hazardous waste laws and rules applicable to a Small Quantity Generator (SQG) of hazardous waste as defined in OAC rule 3745-50-10(S).

4. On June 10, 2020, a complaint was received by Ohio EPA which alleged that Respondent was mismanaging unknown materials and used oil at the Facility. Specifically, the complaint alleged, *inter alia*, that several 55-gallon drums containing used oil were present outside in the parking lot of the Facility.
5. On June 19, 2020, Ohio EPA conducted a compliance inspection of the Facility in response to the complaint referenced in Finding No. 4. of these Orders. During the inspection, Respondent indicated that a contractor had been contacted for the proper shipment of the 55-gallon drums of used oil. Respondent explained these drums contained used oil collected in response to releases of used oil from machinery at the Facility. The releases were collected using a shop vac and floor absorbent. At the time of the inspection Respondent was unsure of the management of the floor absorbent.
6. On June 23, 2020, Ohio EPA requested in an electronic mail that Respondent provide more information based upon the inspection referenced in Finding No. 5 of these Orders. Ohio EPA requested that Respondent evaluate the used floor absorbent, submit photographs of areas where used oil was stored at the Facility, and provide documentation of the proper shipment of the containers of used oil.
7. On June 25, 2020, Ohio EPA participated in a follow-up telephone conversation with Respondent. During the conversation, Respondent stated they were in the process of evaluating the used floor absorbent. Additionally, Respondent provided photographs of 11, 55-gallon drums containing used oil. These 55-gallon drums were not properly labeled with the words "Used Oil."
8. On July 2, 2020, Respondent provided Ohio EPA with a bill of lading showing the used oil was shipped off-site on June 29, 2020. Respondent also notified Ohio EPA that a sample of the used floor absorbent was sent for analysis.
9. On July 7, 2020, Respondent submitted the sample and analysis results of the used floor absorbent to Ohio EPA which demonstrated it exceeded the regulatory levels for lead and is a D008 hazardous waste. The same day, Ohio EPA participated in a telephone conversation with Respondent to discuss used oil management and the results of the used floor absorbent waste characterization.

Respondent estimated approximately two drums of hazardous waste used floor absorbent are generated monthly. Respondent explained that previously, the used floor absorbent was placed into sealed bags and then placed in the solid waste dumpster and taken to a solid waste landfill. During a call on July 14, 2020, Respondent indicated that this had been the procedure for disposal for the previous five years.

10. Based upon the inspection referenced in Finding No. 5. of these Orders and the information provided by Respondent and referenced in Findings Nos. 7. and 9. of these Orders, Ohio EPA determined that Respondent, *inter alia*:
  - a. Caused the unlawful transportation of hazardous waste to an unauthorized facility, in violation of ORC § 3734.02(F). Specifically, Respondent caused the unlawful transportation of hazardous waste used floor absorbents to a facility not authorized to manage hazardous waste for approximately five years;
  - b. Failed to evaluate the used floor absorbent to determine if it is a hazardous waste, in violation of OAC rule 3745-52-11; and
  - c. Failed to label 11, 55-gallons drums with the words "Used Oil" in violation of OAC rule 3745-279-22(C)(1).
11. By letter dated July 27, 2020, Ohio EPA notified Respondent of the violations referenced in Finding No. 10. of these Orders. Additionally, based upon documentation provided and referenced in Findings Nos. 8. and 9. of these Orders, this letter also notified Respondent that the violations described in Findings Nos. 10.b. and 10.c. of these Orders were resolved.
12. On August 10, 2020, Respondent provided a response to the Notice of Violation letter referenced in Finding No. 11. of these Orders. Specifically, Respondent notified Ohio EPA that a contractor had been hired to begin shipping the drums of hazardous waste used floor absorbent to a permitted facility and the first shipment would occur on August 12, 2020. Additionally, Respondent indicated that maintenance on leaking equipment would commence to reduce the amount of used oil leaks and floor absorbent used.
13. On August 20, 2020, Respondent provided a copy of a hazardous waste manifest to Ohio EPA demonstrating the proper shipment of hazardous waste used floor absorbents to an authorized facility on August 12, 2020.
14. On September 2, 2020, Ohio EPA received an application for a U.S. EPA identification number from Respondent.

15. Based upon the information provided by Respondent about the past management of the hazardous waste used floor absorbent referenced in Finding No. 9. of these Orders and the request for a U.S. EPA identification number by Respondent referenced in Finding No. 14. of these Orders, Ohio EPA determined that Respondent, *inter alia*:
  - a. Failed to obtain a U.S. EPA identification number before shipping hazardous waste off-site, in violation of OAC rule 3745-52-12; and
  - b. Failed to prepare and use a hazardous waste manifest for the transportation of hazardous waste to a facility not authorized to accept hazardous waste, in violation of OAC rules 3745-52-20 to 3745-52-27.
16. By letter dated, September 15, 2020, Ohio EPA notified Respondent of the violations referenced in Finding No. 15. of these Orders. Additionally, this letter notified Respondent that based upon documentation provided by Respondent referenced in Findings Nos. 13. and 14. of these Orders, the violations described in Findings Nos. 15.a. and 15.b. of these Orders have been resolved.
17. Because Respondent lawfully transported the hazardous waste used floor absorbent referenced in Finding No. 9. of these Orders to a permitted facility on August 12, 2020, and provided to Ohio EPA a description of corrective actions and on-site hazardous waste management activities for the future management of the hazardous waste used floor absorbent, the Director has determined that there is no further action required of Respondent at this time regarding the violation described in Finding No.10.a. of these Orders.

## **V. ORDERS**

Respondent shall achieve compliance with Chapter 3734. of the ORC and the regulations promulgated thereunder according to the following compliance schedule:

1. Within 30 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$4,400.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734. and which will be deposited into the environmental protection remediation fund established pursuant to ORC § 3734.281. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for \$4,400.00. The official check shall be submitted to Ohio EPA, Office of Fiscal Administration, Department L-2711, Columbus, Ohio 43260-2711, together with a letter identifying the Respondent. Notification of penalty payment shall be sent to the Hazardous Waste Program Compliance

Assurance Manager, Ohio EPA, Division of Environmental Response and Revitalization, P.O. Box 1049, Columbus, Ohio 43216-1049 or via electronic mail at Mitchell.mathews@epa.ohio.gov.

#### **VI. TERMINATION**

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official check[s] required by Section V. of these Orders.

#### **VII. OTHER CLAIMS**

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, the operation of Respondent's Facility.

#### **VIII. OTHER APPLICABLE LAWS**

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state, and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

#### **IX. MODIFICATIONS**

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

#### **X. NOTICE**

All documents (except penalty payment checks) required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency  
Northeast District Office  
Division of Environmental Response and Revitalization  
2110 East Aurora Road  
Twinsburg, Ohio 44087  
Attn: Hazardous Waste Program Manager

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Manager, Hazardous Waste Compliance Assurance Section  
Ohio Environmental Protection Agency  
Lazarus Government Center  
Division of Environmental Response and Revitalization  
P.O. Box 1049  
Columbus, Ohio 43216-1049

For deliveries to the building:

Manager, Hazardous Waste Compliance Assurance Section  
Ohio Environmental Protection Agency  
Lazarus Government Center  
Division of Environmental Response and Revitalization  
50 West Town Street  
Columbus, Ohio 43215

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

## **XI. RESERVATION OF RIGHTS**

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XII. of these Orders.

## **XII. WAIVER**

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated, or modified.

**XIII. EFFECTIVE DATE**

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**XIV. SIGNATORY AUTHORITY**

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

**IT IS SO ORDERED AND AGREED:**

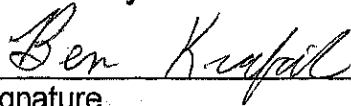
**Ohio Environmental Protection Agency**



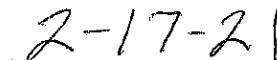
\_\_\_\_\_  
Laurie A. Stevenson  
Director

**IT IS SO AGREED:**

**The Victory White Metal Company**



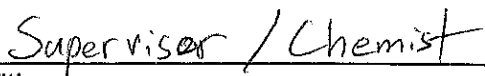
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Signature



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Date



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Printed or Typed Name



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Title