

FILED

Sep 10, 2024

3:22 pm

**U.S. EPA REGION 5
HEARING CLERK**

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:)	Docket No.: RCRA-05-2024-0023
)	
)	
Univar Solutions USA LLC)	
4401 Valley Industrial Blvd S)	EXPEDITED SETTLEMENT
Shakopee, Minnesota 55379)	AGREEMENT AND
EPA ID No.: MND000686709)	FINAL ORDER
)	
Respondent)	
)	

EXPEDITED SETTLEMENT AGREEMENT

1. The Director, Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency (“EPA”), Region 5 (“Complainant”) and Univar Solutions USA LLC (“Respondent” or “you”) enter into this Resource Conservation and Recovery Act (“RCRA”) Expedited Settlement Agreement (“Agreement”) to settle the civil violations set forth in this Agreement for a penalty of \$5,000.
2. The EPA inspected Univar Solutions USA LLC on September 7, 2023 (the “Inspection”), and reviewed information you provided on May 9, 2024. Complainant has determined Respondent failed to comply with the following requirements of the Facility’s hazardous waste Permit issued by the State of Minnesota under Minnesota’s EPA-authorized hazardous waste program and of the EPA-authorized Minnesota hazardous waste management program, Minn. R. 7045,¹ at Respondent’s facility located at 4401 Valley Industrial Boulevard S, Shakopee, Minnesota (the “Facility”):
 - a. Under the Facility’s Permit Condition, 5.0.61, Respondent is required to conduct inspections at the Facility and for all hazardous waste management units as required under the inspection plan set forth in the Permit Application and must follow Minn. R. 7045.0452, subpart 5, and 7045.0526, subpart 5.

¹ See Minn. R. 7045. The EPA is enforcing Minnesota hazardous waste management program requirements as approved and authorized by the EPA on January 28, 1985 (see 50 Fed. Reg. 3756–8) and the revisions to the hazardous waste program as approved and authorized by the EPA effective June 23, 2011 (see 76 Fed. Reg. 36879–83).

At the time of the Inspection, Respondent had not followed the Permit's inspection plan and had not conducted the following inspections for eight weeks between May 2023 and August 2023: 1) Weekly Security Devices Inspections; 2) Weekly Tank Inspections; 3) Weekly Containment Waste Storage Inspections; 4) Monthly Emergency Equipment Inspections; and 5) Daily Loading/Unloading Area Inspections.

- b. Under the Facility's Permit Condition, 5.0.80, Respondent is required to amend the contingency plan whenever the designated emergency coordinator changes.

At the time of the Inspection, Respondent's designated emergency coordinator had changed, but Respondent had not amended the contingency plan.

- c. Under the Facility's Permit Condition 5.0.243, Respondent is authorized to store restricted wastes for up to one (1) year unless the Minnesota Pollution Control Agency ("MPCA") can demonstrate that such storage was not solely for the purpose of accumulating such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment, or disposal.

At the time of the Inspection, one 55-gallon container was rejected from a Treatment Storage and Disposal Facility and sent back to Respondent on February 2, 2022. The container was storing hazardous waste, with waste codes D001, D035, F003, and F005. The container had been stored on-site at the Facility for greater than one year and had not been sent back to the original generator or for off-site disposal.

- d. Under Minn. R. 7045.0214, a generator must determine whether its waste is hazardous within 60 days of generating the waste.

At the time of the Inspection, Respondent was storing several cardboard boxes, labeled as dry powder/filter cake and as non-hazardous, at the Facility. However, the EPA observed a substance leaking from the bottom of these boxes. Respondent had therefore failed to make a determination whether the waste generated, that was leaking from the bottom of these boxes labeled as containing non-hazardous dry powder/filter cake, was hazardous. In addition, Respondent was storing seven (7) 55-gallon containers in the Part B Hazardous Waste Storage Area, generated from a spill of hazardous waste. However, Respondent had not made a waste determination on the spilled material within 60 days of the generated waste.

- 3. The EPA and Respondent agree that settlement of this matter for a civil penalty of five thousand dollars (\$5,000) is in the public interest.
- 4. The EPA is authorized to enter into this Agreement pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and 40 C.F.R. §§ 22.13(b), and 22.18(b)(2)–(3).

5. The EPA provided notice of commencement of this action to the State of Minnesota pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).
6. By signing this Agreement, Respondent: (1) admits that Respondent is subject to RCRA and its implementing regulations; (2) admits that the EPA has jurisdiction over Respondent and Respondent's conduct as alleged herein; (3) admits the factual allegations contained herein; (4) consents to the assessment of this penalty; (5) waives the opportunity for a hearing as provided at 40 C.F.R. § 22.15(c); and (6) waives any right to contest the allegations in this Expedited Settlement Agreement and Final Order and Respondent's right to appeal this Expedited Settlement Agreement and Final Order.
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 violations alleged in this Agreement have been corrected; and (2) Respondent has paid the civil penalty in accordance with paragraph 8.
8. Respondent shall have paid a civil penalty of five thousand dollars (\$5,000) within 30 days of its receipt of the letter setting forth the opportunity for expedited settlement. Respondent shall pay the penalty using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.
9. Respondent shall have electronically sent a notice of payment including Respondent's name, complete address, and the case docket number RCRA-05-2024-0023 to the EPA at the following addresses, upon payment of the penalty:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5
r5hearingclerk@epa.gov

Jamie Paulin
Land Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency, Region 5
paulin.jamie@epa.gov and
r5lecab@epa.gov

Samuel Horowitz
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
horowitz.samuel@epa.gov

U.S. Environmental Protection Agency
Cincinnati Finance Center

10. The civil penalty is not deductible for federal tax purposes.
11. This Agreement resolves only Respondent's liability for federal civil penalties under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for the violations alleged in this Agreement.
12. The EPA reserves all of its rights to take enforcement action for any other past, present, or future violations by Respondent of RCRA, any other federal statute or regulation, or this Agreement.
13. Each party shall bear its own costs and fees, if any.
14. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. § 22.31(b), is effective upon filing.
15. In accordance with 40 C.F.R. § 22.6, the parties consent to service of this Agreement by e-mail at the following valid e-mail addresses: horowitz.samuel@epa.gov (for Complainant), and joshua.hammer@univarsolutions.com (for Respondent).
16. Respondent understands that this Agreement will become publicly available upon filing.

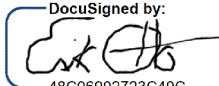
IT IS SO AGREED,

Erik Otto

Name (print)

Regulatory Manager

Title (print)

DocuSigned by:

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Signature

August 29, 2024 | 09:08 PDT

Date

APPROVED BY EPA:

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division

In the Matter of:

Univar Solutions USA LLC **Docket No.:** RCRA-05-2024-0023

FINAL ORDER

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

IT IS SO ORDERED:

Ann L. Coyle
Regional Judicial Officer
United States Environmental Protection Agency
Region 5