

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3
Philadelphia, Pennsylvania 19103



In the Matter of:	:	
	:	
OMNOVA North America, Inc.	:	DOCKET NO.: RCRA-03-2024-0023
95 Hickory Dr.	:	
Auburn, PA 17922	:	CONSENT AGREEMENT AND FINAL ORDER
	:	
Respondent.	:	Proceeding under Section 3008(a) and (g) of the
	:	Resource Conservation and Recovery Act, as
OMNOVA North America, Inc.	:	amended, 42 U.S.C. § 6928(a) and (g)
95 Hickory Dr.	:	
Auburn, PA 17922	:	
	:	
Facility.	:	
	:	
	:	

CONSENT AGREEMENT

PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 3 (“Complainant”) and OMNOVA North America, Inc. (“Respondent”) (collectively the “Parties”), pursuant to Section 3008(a) and (g) of the Solid Waste Disposal Act, commonly known as the Resource Conservation and Recovery Act of 1976, as amended by, *inter alia*, the Hazardous and Solid Waste Amendments of 1984 (collectively referred to hereinafter as “RCRA” or the “Act”), 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. Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), authorizes the Administrator of the U.S. Environmental Protection Agency to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated the authority to enter into agreements concerning administrative penalties to the Complainant. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the “Consent Agreement and Final Order”) resolve Complainant’s civil penalty claims against Respondent under RCRA for the violations alleged herein.
2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

JURISDICTION

3. The U.S. Environmental Protection Agency (“EPA”) has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.
4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(4).
5. In accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), and by letter sent on December 20, 2022, EPA notified the Pennsylvania Department of Environmental Protection (“PADEP”) of EPA’s intent to commence this administrative action against Respondent in response to the violations of RCRA Subtitle C that are alleged herein.

GENERAL PROVISIONS

6. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.
7. Except as provided in Paragraph 6, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.
8. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this Consent Agreement and Final Order.
9. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and Final Order and waives its right to appeal the accompanying Final Order.
10. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
11. Respondent shall bear its own costs and attorney’s fees in connection with this proceeding.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

12. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.
13. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), EPA has authorized

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 current authorized Pennsylvania Hazardous Waste Management Regulations ("PaHWR"), 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 Pennsylvania hazardous waste regulations 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 Regulations citations used herein are to the 2005 Federal regulations, when referring to the Federal regulations incorporated by the Pennsylvania regulations.

14. At its facility, located at 95 Hickory Dr. Auburn, PA 17922 ("Facility"), Respondent owns and operates a facility (RCRA ID No. PAD000504746) that manufactures extruded specialty laminates and films for commercial use in furniture, cabinetry, flooring and other architectural or automotive applications. The primary hazardous wastes generated at the Facility includes waste solvents, ink, paint liners and waste plasticizers, which include EPA Hazardous Waste Numbers D001 (flammable), F003 and F005. Respondent reports to PADEP as a large quantity generator ("LQG"). Respondent does not maintain a RCRA Hazardous Waste permit.
15. Complainant alleges that, at all times relevant to the allegations described in this Consent Agreement, Respondent was and continues to be a foreign business corporation registered to conduct business in 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. Respondent was, at all times relevant to the allegations in this Consent Agreement, the "operator" and the "owner" of the "facility," described in Paragraph 14, as the terms "owner" and "operator" are defined in 25 Pa. Code § 260a.1, which incorporates by reference 40 C.F.R. § 260.10, and the term "facility" is defined in 25 Pa. Code § 260a.10.
16. At all times relevant to the allegations described in this Consent Agreement, Respondent "stored" "hazardous waste" at the Facility, including but not limited to flammable solvent waste with EPA Hazardous Waste Number(s) D001, as the term "storage" is defined in 25 Pa. Code § 260a.10, and the term "hazardous waste" is defined in 25 Pa. Code § 260a.1, which incorporates by reference 40 C.F.R. § 260.10.
17. On August 9, 2022, EPA representatives conducted a Compliance Evaluation Inspection ("CEI" or "Inspection") at the Facility to determine compliance with the applicable hazardous waste regulations. An Inspection Report dated September 26, 2022 was produced and was provided to the Respondent.
18. On April 27, 2023, EPA representatives sent Respondent a Notice of violation and

In the Matter of: OMNOVA North America, Inc.

EPA Docket No. RCRA-03-2024-0023

opportunity to confer letter (“NOPVOC”) to determine compliance with the applicable hazardous waste regulations.

19. Based on the August 9, 2022 CEI as well as information provided by Respondent in response to the NOPVOC, EPA alleges and finds that Respondent failed to comply with specific requirements of Subtitle C of RCRA, 42 U.S.C. § 6921- 6939g, its implementing regulations at 40 C.F.R. Parts 262, 264, 265, and 270 and the federally-authorized Pennsylvania hazardous waste management regulations set forth at 25 Pa. Code Ch. 260a-266a, 266b, and 268a-270a, as enumerated below.

Count I

Operating a hazardous waste storage facility without a permit or valid exemption to the permitting requirement

20. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
21. Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), prohibit an owner or operator of a hazardous waste storage facility from operating without a permit or valid exemption to the permitting requirement.
22. At the time of the August 9, 2022 CEI, Respondent did not have a permit to operate a hazardous waste storage facility and did not meet the conditions of the generator permit exemption requirements codified at 25 Pa. Code § 262a.1, which incorporates by reference 40 C.F.R. § 262.34.¹
23. At the time of the August 9, 2022 CEI, EPA observed that Respondent failed to meet the following conditions of the generator permit exemption:
 - a. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. §§ 262.34(a)(2)& (3), when it failed to ensure the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container and that while being accumulated on-site, each container and tank is labeled or marked clearly with the words, “Hazardous Waste” for the following containers:
 - i. 1 (one) 55-gallon drum of hazardous waste solvent in the HP Coater Mix Room with open bunghole, that was not labeled or marked clearly with the words “Hazardous Waste,” and undated;

¹ On November 28, 2016, EPA re-codified the generator permit exemption, effective on May 30, 2017. The federal requirements previously found in 40 C.F.R. § 262.34 are now re-codified at 40 C.F.R. §§ 262.15 – 262.17. PaHWR has not adopted by reference the new re-codified generator exemption found at 40 C.F.R. §§ 262.15 – 262.17.

In the Matter of: OMNOVA North America, Inc.

EPA Docket No. RCRA-03-2024-0023

- ii. 2 (two) 55-gallon drums of hazardous waste solvent in the Ink Mix Room that was not labeled or marked clearly with the words “Hazardous Waste,” and undated;
 - iii. 1 (one) 55-gallon drum of hazardous waste solvent in the Ink Mix Room with two open bungholes that was not labeled or marked clearly with the words “Hazardous Waste,” and undated;
 - iv. 7 (seven) 55-gallon hazardous waste drums in the main Hazardous Waste Accumulation Area (“HWAA”) shelf unit with unreadable labels;
 - v. 1 (one) 55-gallon hazardous waste drum in HWAA undated;
 - vi. 1 (one) 21-gallon container of spent ink rags in Calender Area. that was not labeled or marked clearly with the words “Hazardous Waste,” and undated;
 - vii. 1 (one) 21-gallon container of spent solvent rags in Laminating Area that was not labeled or marked clearly with the words “Hazardous Waste,” and undated; and
 - viii. 1 (one) 14-gallon container of spent solvent rags in Coating Area that was not labeled or marked clearly with the words “Hazardous Waste,” and undated.
- b. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. §§ 262.34(a)(1) and 265.173(a), when it failed to keep containers of hazardous waste closed, except when adding or removing material, during storage insofar as at the time of the CEI, inspectors observed:
- i. 1(one) 55-gallon drum of hazardous waste in the Calender Area with open bunghole;
 - ii. 1(one) 55-gallon drum of hazardous waste solvent in HP Coater Mix Room with open bunghole; and
 - iii. 1 (one) 55-gallon drum of hazardous waste solvent with two open bungholes in Ink Mix Room.
- c. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(c)(1) when it failed to ensure that the satellite hazardous waste accumulation areas be at or near the point of generation because the following was observed at the time of the CEI:
- i. 1 (one) 55-gallon drum of hazardous waste plasticizer in Maintenance Shop “Satellite” area which was not at or near the point of generation; and
 - ii. Hazardous waste generated in the R&D Lab stored in “Satellite” area outside the Lab, which was not at or near the point of generation.
- d. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. §§ 262.34(a)(4)

In the Matter of: OMNOVA North America, Inc.

EPA Docket No. RCRA-03-2024-0023

and 265.16 (c), when it failed to provide one employee with annual refresher RCRA training in calendar years 2020 and 2021 at the Facility.

- e. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. §§ 262.34(a)(4) and 265.16(d)(2), when it failed to maintain a written job description at the Facility for one position that related to hazardous waste management and when one job description made no mention of the hazardous waste responsibilities or qualifications for RCRA for a job that related to hazardous waste management.
 - f. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. §§ 262.34(a)(4) and 265.52(d) and (e), when it failed to have in its contingency plan updated emergency coordinators and solvent storage information; and a list of where emergency response equipment is located and its capabilities at the Facility.
24. At the time of the August 9, 2022 CEI, Respondent violated 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), by operating a hazardous waste storage facility without a permit or valid exemption to the permitting requirement.
25. In failing to comply with 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), Respondent violated RCRA Section 3005(a) and (e), 42 U.S.C. § 6925(a) and (e), and is subject to the assessment of penalties under Section 3008(g) of RCRA, 42 U.S.C. § 6928(g).

Count II

Failure to properly prepare Biennial Report

26. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
27. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.41(a)(5), provides (in pertinent part) that a generator who ships any hazardous waste off-site to a treatment, storage, or disposal facility within the United States must prepare and submit a single copy of a Biennial Report. The Biennial Report must cover generator activities during the previous year, and must include a description, EPA hazardous waste number (from 40 C.F.R. part 261, subpart C or D), Department Of Transportation hazard class, and quantity of each hazardous waste shipped off-site for shipments to a treatment, storage or disposal facility within the United States. This information must be listed by EPA identification number of each such off-site facility to which waste is shipped.
28. In Respondent's Biennial Report for the 2021 reporting year, which was certified and submitted by Respondent on February 25, 2022, the summary for the waste stream "Waste Plasticizer" incorrectly indicated a Waste Code of U118. Based upon

In the Matter of: OMNOVA North America, Inc.

EPA Docket No. RCRA-03-2024-0023

information provided by Respondent, "Waste Plasticizer" should have a Waste Code of U188.

29. Respondent violated 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.41(5), at the time of submission of its 2021 Biennial Report by failing to properly prepare its Biennial Report for the 2021 reporting year.
30. In failing to comply with 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.41(5), Respondent is subject to the assessment of penalties under Section 3008(g) of RCRA, 42 U.S.C. § 6928(g).

Count III

Failure to keep containers of hazardous waste closed during storage

31. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
32. 25 Pa. Code § 264a.1(a), which incorporates by reference 40 C.F.R. § 264.173(a), requires that a container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.
33. At the time of the August 9, 2022 CEI, EPA observed the following open containers of hazardous waste: one 55-gallon drum of hazardous waste in the Calender Area with an open bunghole; one 55-gallon drum of hazardous waste solvent in HP Coater Mix Room with an open bunghole; and one 55-gallon drum of hazardous waste solvent with two open bungholes in Ink Mix Room.
34. At the time of the August 9, 2022 CEI, Respondent violated Pa. Code § 264a.1(a), which incorporates by reference 40 C.F.R. § 264.173(a), by maintaining at the Facility several open containers of hazardous waste, as described in the prior paragraph.
35. In failing to comply with 25 Pa. Code § 264a.1(a), which incorporates by reference 40 C.F.R. § 264.173(a), Respondent is subject to the assessment of penalties under Section 3008(g) of RCRA, 42 U.S.C. § 6928(g).

Count IV

Failure to provide RCRA training

36. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
37. 25 Pa. Code 264a.1(a), which incorporates by reference 40 C.F.R. § 264.16(c) requires that facility personnel must successfully complete a program of classroom instruction or

In the Matter of: OMNOVA North America, Inc.

EPA Docket No. RCRA-03-2024-0023

on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with RCRA within six months after the date of their employment or assignment to a facility, or to a new position at a facility. Employees must not work in unsupervised positions until they have completed these training requirements. Thereafter, the facility personnel must take part in an annual review of the initial training.

38. Respondent's response to the April 27, 2023 NOPVOC indicated that one employee at the Facility failed to take RCRA annual training in 2020 and 2021.
39. Respondent violated 25 Pa. Code 264a.1(a), which incorporates by reference 40 C.F.R. § 264.16(c), by failing to have one employee take RCRA annual training in calendar years 2020 and 2021.
40. In failing to comply with 25 Pa. Code 264a.1(a), which incorporates by reference 40 CFR § 264.16(b) and (c), Respondent is subject to the assessment of penalties under Section 3008(g) of RCRA, 42 U.S.C. § 6928(g).

Count V

Failure to maintain adequate job descriptions

41. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
42. 25 Pa. Code 264a.1(a), which incorporates by reference 40 C.F.R. § 264.16(d)(2) requires that written job description for each position at the Facility related to hazardous waste management. This description may be consistent in its degree of specificity with descriptions for other similar positions in the same company location or bargaining unit, but must include the requisite skill, education, or other qualifications, and duties of employees assigned to each position.
43. At the time of the August 9, 2022 CEI, EPA observed that Respondent failed to maintain a written job description at the Facility for one position that related to hazardous waste management and that one job description made no mention of the hazardous waste responsibilities or qualifications for a job that related to hazardous waste management at the Facility.
44. At the time of the August 9, 2022 CEI, Respondent violated Pa. Code § 264a.1(a), which incorporates by reference 40 C.F.R. § 264.16(d)(2), when it failed to maintain adequate written job descriptions as described in the paragraph above.
45. In failing to comply with 25 Pa. Code 264a.1(a), which incorporates by reference 40 C.F.R. § 264.16(d)(2), Respondent is subject to the assessment of penalties under

In the Matter of: OMNOVA North America, Inc.

EPA Docket No. RCRA-03-2024-0023

Section 3008(g) of RCRA, 42 U.S.C. § 6928(g).

Count VI

Failure to maintain adequate contingency plan at the Facility

46. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
47. 25 Pa. Code 264a.1(a), which incorporates by reference 40 C.F.R. § 264.52(d) and (e) requires that a contingency plan at the Facility must (in relevant part): (d) list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator, and this list must be kept up to date. Where more than one person is listed, one must be named as primary emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates; and (e) include a list of all emergency equipment at the Facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment), where this equipment is required. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list, and a brief outline of its capabilities.
48. At the time of the August 9, 2022 CEI, EPA observed that Respondent failed to maintain at the Facility a contingency plan that contained the following: updated contact information for Emergency Coordinators and solvent storage information; and a list including specific locations and capabilities of emergency response equipment.
49. At the time of the August 9, 2022 CEI, Respondent violated 25 Pa. Code 264a.1(a), which incorporates by reference 40 C.F.R. § 264.52(d) and (e), by failing to maintain at the Facility an adequate contingency plan, as described in the paragraph above.
50. In failing to comply with 25 Pa. Code 264a.1(a), which incorporates by reference 40 C.F.R. § 264.52(d) and (e), Respondent is subject to the assessment of penalties under Section 3008(g) of RCRA, 42 U.S.C. § 6928(g).

Count VII

Failure to submit/maintain Land Disposal Restriction forms

51. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
52. 25 Pa. Code 268a.1(a), which incorporates by reference 40 C.F.R. § 268.7 requires in pertinent part:

In the Matter of: OMNOVA North America, Inc.

EPA Docket No. RCRA-03-2024-0023

40 C.F.R. § 268.7(a)(1):

A generator of hazardous waste must determine if the waste has to be treated before it can be land disposed.

40 C.F.R. § 268.7(a)(2) and (a)(3):

A generator of hazardous waste must provide one-time written notices to treatment or storage facilities informing them whether the waste meets or does not meet the treatment standard prior to disposal.

40 C.F.R. § 268.7(a)(8):

Generators must retain on-site a copy of all notices, certifications, waste analysis data, and other documentation produced pursuant to this section for at least three years from the date that the waste is the subject of such documentation was last sent to on-site or off-site treatment, storage, or disposal.

53. At the time of the August 9, 2022 CEI, EPA observed that the land disposal restriction (“LDR”) forms maintained on-site by Respondent did not state whether or not waste needs to be treated prior to disposal. Additionally, the LDR form for one disposal facility included no waste-related information. Lastly, Respondent did not maintain documentation of one-time written notices to treatment or storage facilities informing them whether the waste meets or does not meet the treatment standard prior to disposal.
54. At the time of the August 9, 2022 CEI Respondent violated 25 Pa. Code 268a.1(a), which incorporates by reference 40 C.F.R. § 268.7, because it did not maintain the documentation required pursuant to 40 C.F.R. §268.7(a)(2), (3), and (8).
55. In failing to comply with 25 Pa. Code 268a.1(a), which incorporates by reference 40 C.F.R. § 268.7, Respondent is subject to the assessment of penalties under Section 3008(g) of RCRA, 42 U.S.C. § 6928(g).

Count VIII

Failure to label/date containers of Universal waste

56. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
57. 25 Pa. Code § 266b.1(a) incorporates by reference the required standards in 40 C.F.R. Part 273, with certain exceptions not relevant here. In its pertinent part, 40 C.F.R. § 273.14 provides labeling requirements for different types of universal waste, including: (a) Universal waste batteries, or a container in which the batteries are contained, must be labeled or marked clearly with any one of the following phrases: “Universal Waste – Battery(ies),” or “Waste Battery(ies),” or “Used Battery(ies); and (e) Each lamp or a

In the Matter of: OMNOVA North America, Inc.

EPA Docket No. RCRA-03-2024-0023

container or package in which such lamps are contained must be labeled or marked clearly with one of the following phrases: “Universal Waste – Lamp(s),” or “Waste Lamp(s),” or “Used Lamp(s).”

58. In its pertinent part, 40 C.F.R. § 273.15(c) requires all small quantity handlers of universal waste who accumulate universal waste to be able to demonstrate the length of time that the waste has been accumulating. This demonstration can be made by:
- i) Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received;
 - ii) Marking or labeling each individual item of universal waste with the date it became waste or was received;
 - iii) Maintaining an inventory on-site that identifies the date each universal waste became a waste or was received;
 - iv) Maintaining an inventory system on-site that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received;
 - v) Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received;
or
 - vi) Any other method which clearly demonstrates the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.
59. EPA observed during the August 9, 2022 CEI, three (3) containers for universal waste batteries and three (3) containers of universal waste lamps stored near the Maintenance Shop were not labeled in accordance with 40 C.F.R. § 273.14. Additionally, Respondent was unable to demonstrate the length of time that the waste had been accumulating in accordance with 40 C.F.R. § 273.15(c).
60. At the time of the August 9, 2022 CEI, by their acts and/or omissions referenced in Paragraph 59 above, Respondent violated 25 Pa. Code § 266b.1(a) which incorporates by reference the required standards in 40 C.F.R. Part 273.
61. In failing to comply with 25 Pa. Code § 266b.1(a) which incorporates by reference the required standards in 40 C.F.R. Part 273, Respondent is subject to the assessment of penalties under Section 3008(g) of RCRA, 42 U.S.C. § 6928(g).

CIVIL PENALTY

62. In settlement of EPA’s claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of

In the Matter of: OMNOVA North America, Inc.

EPA Docket No. RCRA-03-2024-0023

THIRTY-FIVE THOUSAND SIXTY-EIGHT DOLLARS (\$35,068.00), which Respondent shall be liable to pay in accordance with the terms set forth below.

63. The civil penalty is based upon EPA's consideration of a number of factors, including the penalty criteria ("statutory factors") set forth in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3). These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's October 1990 RCRA Civil Penalty Policy, as revised in June 2003 ("RCRA Penalty Policy") which reflects the statutory penalty criteria and factors set forth at Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA's civil penalty policies to account for inflation.
64. Payment of the civil penalty amount, and any associated interest, administrative fees, and late payment penalties owed, shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:
- a. All payments by Respondent shall include reference to Respondent's name and address, and the Docket Number of this action, *i.e.*, EPA Docket No. RCRA-03-2024-0023;
 - b. All checks shall be made payable to the "United States Treasury";
 - c. All payments made by check and sent by regular mail shall be addressed and mailed to:

U.S. Environmental Protection Agency
Cincinnati Finance Center
P.O. Box 979078
St. Louis, MO 63197-9000
 - d. For additional information concerning other acceptable methods of payment of the civil penalty amount see:

<https://www.epa.gov/financial/makepayment>
 - e. A copy of Respondent's check or other documentation of payment of the penalty using the method selected by Respondent for payment shall be sent simultaneously by email to:

Jeffrey S. Nast
Senior Assistant Regional Counsel
U.S. EPA, Region 3 (3RC40)

In the Matter of: OMNOVA North America, Inc.

EPA Docket No. RCRA-03-2024-0023

nast.jeffrey@epa.gov

and

U.S. EPA Region 3 Regional Hearing Clerk
R3_Hearing_Clerk@epa.gov.

65. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment of the penalty as specified herein shall result in the assessment of late payment charges including interest, penalties and/or administrative costs of handling delinquent debts.
66. Payment of the civil penalty is due and payable immediately upon receipt by Respondent of a true and correct copy of the fully executed and filed Consent Agreement and Final Order. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed EPA by Respondent in accordance with 40 C.F.R. § 13.9(a).
67. INTEREST: In accordance with 40 C.F.R § 13.11(a)(1), interest on the civil penalty assessed in this Consent Agreement and Final Order will begin to accrue on the date Respondent is notified of its debt to the United States as established upon the ratification and filing of the fully executed Consent Agreement and Final Order with the Regional Hearing Clerk. However, EPA will not seek to recover interest on any amount of the civil penalties that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R § 13.11(a).
68. ADMINISTRATIVE COSTS: The costs of the EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). If Payment is not received within 30 calendar days of the effective date of this Consent Agreement, EPA will also assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
69. LATE PAYMENT PENALTY: A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge

In the Matter of: OMNOVA North America, Inc.

EPA Docket No. RCRA-03-2024-0023

on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

70. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.
71. The parties consent to service of the Final Order by e-mail at the following valid email addresses: nast.jeffrey@epa.gov (for Complainant), and allison.grittion@dinsmore.com (for Respondent).

GENERAL SETTLEMENT CONDITIONS

72. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement and Final Order will be available to the public and represents that, to the best of Respondent's knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.
73. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Consent Agreement and Final Order, including information about Respondent's ability to pay a penalty, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.
74. Respondent certifies to EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is in compliance with regard to the violations alleged in this Consent Agreement.

OTHER APPLICABLE LAWS

75. Nothing in this Consent Agreement and Final Order shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This Consent Agreement and Final Order does not constitute a waiver,

In the Matter of: OMNOVA North America, Inc.

EPA Docket No. RCRA-03-2024-0023

suspension or modification of the requirements of RCRA, or any regulations promulgated thereunder.

RESERVATION OF RIGHTS

76. This Consent Agreement and Final Order resolves only EPA's claims for civil penalties for the specific violations alleged against Respondent in this Consent Agreement and Final Order. 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. This settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice, 40 C.F.R. § 22.18(c). EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this Consent Agreement and Final Order after its effective date. Respondent reserves whatever rights or defenses it may have to defend itself in any such action.

EXECUTION /PARTIES BOUND

77. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and Final Order.

EFFECTIVE DATE

78. The effective date of this Consent Agreement and Final Order is the date on which the Final Order, signed by the Regional Administrator of EPA, Region 3, or his/her designee, the Regional Judicial Officer, is filed along with the Consent Agreement with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

ENTIRE AGREEMENT

79. This Consent Agreement and Final Order constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this Consent Agreement and Final Order.

In the Matter of: OMNOVA North America, Inc.

EPA Docket No. RCRA-03-2024-0023

In the Matter of: OMNOVA North America, Inc.

EPA Docket No. RCRA-03-2024-0023

For Respondent: **OMNOVA North America, Inc.**

Date: 1/19/2024

By: 
Gudrun Pechtold, CFO

In the Matter of: OMNOVA North America, Inc.

EPA Docket No. RCRA-03-2024-0023

For the Complainant: **U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION 3**

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement & Compliance Assurance Division of the United States Environmental Protection Agency, Region 3, agree to the terms and conditions of this Consent 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
Complainant

Attorney for Complainant:

By: _____

[Digital Signature and Date]

Jeffrey S. Nast
Sr. Assistant Regional Counsel
U.S. EPA – Region III

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3
Philadelphia, Pennsylvania 19103



In the Matter of:	:	
	:	
OMNOVA North America, Inc.	:	DOCKET NO.: RCRA-03-2024-0023
95 Hickory Dr.	:	
Auburn, PA 17922	:	
	:	
Respondent.	:	Proceeding under Section 3008(a) and (g) of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6928(a) and (g)
	:	
OMNOVA North America, Inc.	:	
95 Hickory Dr.	:	
Auburn, PA 17922	:	
	:	
Facility.	:	
	:	

FINAL ORDER

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 3, and Respondent, OMNOVA North America, Inc., have executed a document entitled "Consent 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 Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein took into account the statutory factors set forth in Section 3008(a)(3) of the Resource Conservation and Recovery Act ("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").

NOW, THEREFORE, PURSUANT TO Section 3008(a) and (g) of RCRA, as amended, 42 U.S.C. Section 6928(a) and (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 **THIRTY FIVE THOUSAND SIXTY EIGHT DOLLARS (\$35,068.00)**, in accordance with the payment provisions set forth in the Consent Agreement and in 40 C.F.R. § 22.31(c), 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 Consent Agreement and does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of RCRA, and the regulations promulgated thereunder.

The effective date of the attached Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

Date: _____

By: _____

Joseph J. Lisa
Regional Judicial and Presiding Officer
U.S. EPA Region III

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3
Philadelphia, Pennsylvania 19103**

In the Matter of:	:	
	:	
OMNOVA North America, Inc. 95 Hickory Dr. Auburn, PA 17922	:	DOCKET NO.: RCRA-03-2024-0023
Respondent.	:	Proceeding under Section 3008(a) and (g) of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6928(a) and (g)
	:	
OMNOVA North America, Inc. 95 Hickory Dr. Auburn, PA 17922	:	
Facility.	:	
	:	

CERTIFICATE OF SERVICE

I certify that the foregoing **Consent Agreement and Final Order** was filed with the EPA Region 3 Regional Hearing Clerk on the date that has been electronically stamped on the **Consent Agreement and Final Order**. 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:

Allison Wells Gritton, Esq.
Dinsmore & Shohl, LLC
allison.grittion@dinsmore.com

Copies served via email to:

Jeffrey S. Nast
Senior Assistant Regional Counsel
U.S. EPA, Region 3
nast.jeffrey@epa.gov

Martin Matlin
Senior Enforcement Officer/Inspector
U.S. EPA, Region 3
matlin.martin@epa.gov

Date: _____

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 3