

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 7

Received by  
EPA Region 7  
Hearing Clerk

<b>In the Matter of</b>	)	
	)	
Unverferth Manufacturing	)	<b>Docket No. RCRA-07-2022-0001</b>
Company, Inc. – Brent Division	)	
Shell Rock, Iowa	)	
EPA ID. No. IAD984566794	)	<b>EXPEDITED SETTLEMENT</b>
	)	<b>AGREEMENT AND FINAL ORDER</b>
<u>Respondent.</u>	)	

**EXPEDITED SETTLEMENT AGREEMENT**

1. The U.S. Environmental Protection Agency (“EPA”) is authorized to enter into this Expedited Settlement Agreement (“Agreement”) pursuant to Section 3008 of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6928, and 40 C.F.R. § 22.13(b).
2. By copy of this letter, the EPA is providing the Iowa with notice of the referenced violations of Subtitle C of RCRA as required by Section 3008(a)(2).
3. Unverferth Manufacturing Company, Inc. (“Respondent”) is the owner or operator of a facility located at 27612 Temple Avenue, Shell Rock, Iowa 50670 (“Facility”). An inspection was performed at the Facility on March 15, 2021. The EPA alleges that Respondent violated the following requirements of the RCRA:
  - a. 40 C.F.R. § 262.20(a)(1) requires that a generator that transports, or offers for transport, a hazardous waste for offsite treatment, storage, or disposal, or a treatment, storage, or disposal facility that offers for transport a rejected hazardous waste load, must prepare a Manifest. The March 15, 2021 inspection revealed that Respondent utilizes rags to wipe excess methyl ethyl ketone solvent off paint guns and equipment being painted. These rags are then disposed of in the facility’s general trash cans without preparing a Manifest, in violation of 40 C.F.R. § 262.20(a)(1).
  - b. 40 C.F.R. § 262.11(a) requires that a person who generates a solid waste, as defined in 40 C.F.R. 261.2, must make an accurate determination as to whether that waste is a hazardous waste at the point of waste generation in order to ensure wastes are properly managed according to applicable RCRA regulations. The March 15, 2021 inspection revealed that Respondent utilizes rags to wipe excess methyl ethyl ketone solvent off paint guns and equipment being painted. At this point in time, Respondent did not identify if the rags were hazardous waste, in violation of 40 C.F.R. § 262.11(a).

- c. 40 C.F.R. § 262.262(b) requires that a large quantity generator that first becomes subject to these provisions after May 30, 2017 or a large quantity generator that is otherwise amending its contingency plan must at that time submit a quick reference guide of the contingency plan to the local emergency responders identified at paragraph (a) of 40 C.F.R. § 262.262 or, as appropriate, the Local Emergency Planning Committee. On March 15, 2021, EPA requested as part of the inspection the Facility’s quick reference guide. At the inspection, Respondent was unable to demonstrate that it had provided a quick reference guide to the appropriate persons, in a violation of 40 C.F.R. § 262.262(b).
  - d. 40 C.F.R. § 262.260(a) requires that a large quantity generator must have a contingency plan for the facility. 40 C.F.R. § 262.261(f) requires that the contingency plan must include an evacuation plan for generator personnel where there is a possibility that evacuation could be necessary. This plan must describe signal(s) to be used to begin evacuation, evacuation routes, and alternate evacuation routes. The March 15, 2021 inspection revealed that Respondent did not have an evacuation plan in its contingency plan, in violation of 40 C.F.R. § 262.261(f).
  - e. 40 C.F.R. § 262.260(a) requires that a large quantity generator must have a contingency plan for the facility. 40 C.F.R. § 262.261(e) requires that the contingency plan must 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. The March 15, 2021 inspection revealed that Respondent did not have a list of emergency equipment in its contingency plan, in violation of 40 C.F.R. § 262.261(e).
2. The EPA and Respondent agree that settlement of this matter for a civil penalty of six thousand two hundred and fifty dollars (\$6,250.00) 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>.
3. 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*

4. 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: *mill@unverferth.com*.
5. 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) Respondent is submitting proof of payment of the civil penalty with this Agreement.
6. 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.
7. 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.
8. 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 FIFRA or any other applicable law.
9. The penalty specified herein shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal, State and local taxes.
10. Each party shall bear its own costs and fees, if any.
11. This Agreement is binding on the parties signing below.

IT IS SO AGREED,

Michael Van Mill  
Name (print)

Operations Manager  
Title (print)

Michael Van Mill                      3-18-2022  
Signature                                      Date

APPROVED BY EPA:

---

Candace Bednar  
Chemical Branch Chief  
Enforcement and Compliance Assurance Division

Date

---

Katherine Kacsur, Attorney  
Office of Regional Counsel

Date

FINAL ORDER

Pursuant to the authority of Section 3008(a) and (g) of RCRA, 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, 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 Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy via e-mail to Complainant:

Kate Kacsur, Office of Regional Counsel  
*kacsur.katherine@epa.gov*

Marc Matthews, Enforcement and Compliance Assurance Division  
*Matthews.marc@epa.gov*

Copy via e-mail to Respondent:

Mike Van Mill, Operations Manager and Registered Agent  
Unverferth Manufacturing Company. Inc. – Brent Division  
*mill@unverferth.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*

Amie Davidson, Chief  
Contaminated Sites Section  
Iowa Department of Natural Resources  
*amie.davidson@dnr.iowa.gov*

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Signed