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

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:

Docket No.: RCRA-05-2024-0002

**Dover Chemical Corporation
3676 Davis Road Northwest
Dover, Ohio 44622
EPA ID No.: OHD004210563**

**EXPEDITED SETTLEMENT
AGREEMENT AND
FINAL ORDER**

Respondent

EXPEDITED SETTLEMENT AGREEMENT

1. The Director, Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency (“EPA”), Region 5 (“Complainant”) and the Dover Chemical Corporation, Dover, Ohio (“Respondent”) 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 fourteen thousand dollars (\$14,000).
2. EPA inspected the facility located at 3676 Davis Road Northwest in Dover, Ohio (“the Facility”) on May 10, 2022. EPA alleges that Respondent violated the following sections of RCRA, and the Ohio hazardous waste management program at Respondent’s facility:
 - a. Under Ohio Admin. Code § 3745-52-34(C)(1)¹, a large quantity generator may accumulate hazardous waste at or near the point of generation and under the control of the operator of the process generating the waste without a permit or interim status, and without complying with Ohio Admin. Code § 3745-52-34(A) or (D).

At the time of the inspection, the following containers were being managed as satellite accumulation containers; however, the containers were not stored under the control of the operator of the process generating the waste.

¹ See Ohio Admin. Code § 3745-50 through 69, 205, 256, 266, 270, 273, and 279. EPA is enforcing Ohio hazardous waste management program requirements as approved and authorized by the United States on June 30, 1989 (see 54 FR 27170) and the revisions to the hazardous waste management program as approved and authorized by the United States on September 26, 2019 (see 84 FR 50766).

- One 55-gallon drum located in a plastic storage box outside of the Metalworking Research and Development Laboratory. The drum was labeled as "Hazardous Waste" and marked with the D001/F003 hazardous waste numbers. The plastic storage box was accessible by all plant employees and was not secured with a lock.
- One 55-gallon drum located in a plastic storage box outside of the Quality Control Laboratory. Waste from the second-floor QC lab drains into this drum, which was labeled as "Hazardous Waste" and marked with the D019/D022 waste numbers. The plastic storage box was accessible by all plant employees and was not secured with a lock.
- One 55-gallon drum located in a plastic storage box outside of the OPS Tech Research and Development Laboratory. Waste from the second-floor lab drains into this drum, which was labeled as "Hazardous Waste" and marked with the D001/D019/D022 hazardous waste numbers. The plastic storage box was accessible by all plant employees and was not secured with a lock.

b. Under Ohio Admin. Code §§ 3745-52-34(C)(1)(i) and 3745-66-73(A), a large quantity generator who accumulates hazardous waste in a satellite accumulation container must always keep the container closed during storage, except when it is necessary to add or remove waste.

At the time of the inspection, one 55-gallon drum located in a plastic storage box outside of the Metalworking Research and Development Laboratory was labeled as "Hazardous Waste" and marked with the D001/F003 hazardous waste numbers. The funnel in the bung hole of the drum was open, and waste was neither being added nor removed at that time.

c. Under Ohio Admin. Code §§ 3745-52-34(A)(4) and 3745-65-52(D), a large quantity generator must have a contingency plan that lists the names, addresses, and phone numbers of all persons qualified to act as emergency coordinator, and this list must be kept up to date.

At the time of the inspection, a former employee was listed in the facility Emergency Response Plan as the primary emergency coordinator.

d. Section 3005 of RCRA, 42 U.S.C. § 6925(a), and the regulations at 40 C.F.R. Part 270 and Ohio Admin. Code §§ 3745-50-40 to 3745-50-235 prohibit the treatment, storage, or disposal of hazardous waste without a permit or interim status. Under Ohio Admin. Code § 3745-52-34(A) and (B), however, a generator may accumulate hazardous waste on-site for up to 90 days (or for up to 120 days if granted an extension) without a permit or interim status. On May 10, 2022, the following observations were made at the facility:

- Inside the Functional Additives Warehouse Building 2, three 55-gallon drums were stored near blending tanks. Two of the containers were labeled as “Hazardous Waste,” however, no other information on the containers identified their contents. One drum was not marked in any way. All three containers appeared to be full. A Dover employee was unable to identify the potential source of the material in these containers.
- Also, in a lean-to outside of Building 2, numerous containers contained materials that were not identifiable during the inspection. Most containers were not labeled in any way, and Dover employees did not know the source or future disposition (use as raw material, sell as product, disposal as waste) of the materials.
- An employee stated that a third-party contractor had already been on the site sampling the containers to determine the contents.
- On October 14, 2022, Respondent provided a copy of a manifest (Tracking Number 024207150JJK) showing that 23 containers containing hazardous waste were shipped offsite to a permitted TSD for disposal on September 12, 2022.

The time period between May 10, 2022, and September 12, 2022, is 125 days. Therefore, these containers were held for at least 35 days longer than 90.

Respondent had not obtained a permit, interim status, or an extension to the 90-day conditional exemption period. Respondent, therefore, stored hazardous waste without a permit or interim status in violation of Section 3005 of RCRA, 42 U.S.C. § 6925(a), and the requirements of Ohio Admin. Code §§ 3745-50-40 to 3745-50-235.

3. The EPA and Respondent agree that settlement of this matter for a civil penalty of fourteen thousand dollars (\$14,000) is in the public interest.
4. 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. EPA provided notice of commencement of this action to the state of Ohio pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).
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) waives the opportunity for a hearing pursuant to Section 3008(b) of RCRA, 42 U.S.C. § 6928(b); and (6) waives any right to contest the allegations contained herein or to appeal the 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 alleged violations have been corrected, and (2) Respondent has paid the civil penalty in accordance with paragraph 8.

8. Respondent shall pay a civil penalty of fourteen thousand dollars (\$14,000) within 30 days of its receipt of the letter setting forth the opportunity for expedited settlement. Payment of civil penalty may be made online at www.pay.gov. To pay online at www.pay.gov use the Search Public Forms option and enter 'sfo 1.1' in the search field then open form and complete required fields. If Respondent is unable to pay the penalty online at www.pay.gov, contact Brenda Whitney at whitney.brenda@epa.gov to make alternative arrangements.
9. Respondent must send a notice of payment that states Respondent's name, complete address, and the case docket number to EPA at the following addresses, when it pays the penalty:

Regional Hearing Clerk
U.S. EPA, Region 5
r5hearingclerk@epa.gov

Brenda Whitney
Land Enforcement and Compliance Assurance Branch
U.S. EPA, Region 5
whitney.brenda@epa.gov and
R5LEcab@epa.gov

Nidhi K. O'Meara
Office of Regional Counsel
U.S. EPA, Region 5
omeara.nidhi@epa.gov

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 the Agreement.
12. EPA reserves all 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: omeara.nidhi@epa.gov (for Complainant), and mnolen@doverchem.com (for Respondent).
16. Respondent understands that the ESA will become publicly available upon filing.

IT IS SO AGREED,

Marc A. Nolan

Name (print)

President

Title (print)

Marc A. Nolan

Signature

1/31/24

Date

APPROVED BY EPA:

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division

**In the Matter of:
Dover Chemical Corporation, Dover, Ohio
Docket No.: RCRA-05-2024-0002**

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