



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

JUL 26 2018

SENT VIA E-MAIL

REPLY TO THE ATTENTION OF:

Ed Austin, Ph.D.
Associate Director, Environmental, Health, Safety, and Security
6000 North Teutonia Avenue
Milwaukee, Wisconsin 53209
ed.austin@epa.gov

Re: Expedited Settlement Agreement and Final Orders

Aldrich Chemical Company, LLC
6000 North Teutonia Avenue
Milwaukee, Wisconsin 53209
WID006112973
Docket No: RCRA-05-2018-0019

Aldrich Chemical Company, LLC
230 Emmber Lane
Milwaukee, Wisconsin 53233
WID000808147
Docket No: RCRA-05-2018-0018

Dear Dr. Austin:

Enclosed, please find two signed and fully-executed Expedited Settlement Agreement and Final Orders (ESA) in resolution of the above cases. The originals were filed on July 26, 2018 with the Regional Hearing Clerk (RHC).

In the matter of Docket No: RCRA-05-2018-0019 associated with EPA Identification Number WID006112973, please pay the civil penalty in the amount of \$5,000 in the manner prescribed in paragraphs 9-13 of the ESA.

In the matter of Docket No: RCRA-05-2018-0018 associated with EPA Identification Number WID000808147, please pay the civil penalty in the amount of \$5,000 in the manner prescribed in paragraphs 9-13 of the ESA.

Reference all checks with the Respondent's site name and respective docket numbers. Your payment is due within 30 calendar days of the effective date of the ESAs.

Thank you for your cooperation in resolving these matters. If you have any questions or concerns regarding these matters, please contact Brenda Whitney, of my staff, at 312-353-4796 or at whitney.brenda@epa.gov.

Sincerely,

Julie Morris, Acting Chief
RCRA Branch

Enclosures

cc: Steven Sisbach, WDNR (steven.sisbach@wisconsin.gov) (w/ESA)

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:

Aldrich Chemical Co., LLC
Milwaukee, Wisconsin
230 Emmer Lane
EPA ID No.: WID000808147

Respondent.



Docket No. RCRA-05-2018-0018

EXPEDITED SETTLEMENT
AGREEMENT AND FINAL
ORDER

EXPEDITED SETTLEMENT AGREEMENT

1. Aldrich Chemical Co., LLC ("Respondent") is a corporation doing business in the State of Wisconsin and is the owner or operator of the facility located at 230 Emmer Lane in Milwaukee, Wisconsin (the "Facility").
2. The U.S. Environmental Protection Agency ("EPA") inspected Respondent's Facility on March 22, 2017 (the "Inspection"), to determine compliance with the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §§ 6901 *et seq.*, and its implementing regulations and the EPA approved and authorized State of Wisconsin hazardous waste management program as set forth in the Wisconsin Administrative Code Chapters NR 600-699.
3. EPA issued a Notice of Violation ("NOV") to Respondent on August 30, 2017 that alleged the following violations of RCRA:
 - a. Hazardous Waste Accumulation - Under Wis. Admin. Code § NR 662.034(1) and (2) [40 C.F.R. § 262.34(a) and (b)], a large quantity generator may accumulate hazardous waste on-site for 90 days or less without a license or interim status unless the generator has been granted an extension of the 90-day period.

At the time of the Inspection on March 22, 2017, one 55-gallon drum of hazardous waste in the "Old Tote Room" 90-day storage area was marked with a start date of accumulation of December 20, 2016. This container was shipped off-site on March 23, 2017. The container was stored a total of 94 days.

- b. Date When Each Period of Accumulation Begins - Under Wis. Admin. Code § NR 662.034(1)(b) [40 C.F.R. § 262.34(a)(2)], a large quantity generator of hazardous waste may accumulate hazardous waste on-site for 90 days or less without a license or interim license provided each container is marked clearly and visibly for inspection with the date upon which each period of accumulation began.

At the time of the Inspection, the Facility was storing hazardous waste in the following containers without having the start date of accumulation marked clearly and visibly for inspection:

- Two totes in the second floor 90-day tote storage area were situated in a way that was not possible for labels that may have been marked with start dates of accumulation to have been inspected;
- One 55-gallon steel drum and one 55-gallon fiberboard drum in the “Old Rinse Station” 90-day storage area; and,
- Three 55-gallon drums of off-specification hydrochloric acid in the Old Tote Room 90-day storage area.

- c. Hazardous Waste Container Labeling - Under Wis. Admin. Code § NR 662.034(1)(c) [40 C.F.R. § 262.34(a)(3)], a large quantity generator may accumulate hazardous waste on-site for 90 days or less without a license or interim license provided each container accumulating hazardous waste is labeled or clearly marked with the words “Hazardous Waste.”

At the time of the Inspection, three drums of off-specification hydrochloric acid in the Facility’s Old Tote Room 90-day storage area were not marked with the words “Hazardous Waste.”

- d. Weekly Inspections - Under Wis. Admin. Code §§ NR 662.034(1)(a)1. and 665.0174 [40 C.F.R. §§ 262.34(a)(1)(i) and 265.174], a large quantity generator may accumulate hazardous waste on-site for 90 days or less without a license or interim license provided it inspects areas where containers are stored, at least weekly, looking for leaks and for deterioration caused by corrosion or other factors.

At the time of the Inspection, the Facility’s weekly inspection records did not clearly identify the 90-day storage areas that were being inspected. At least six 90-day storage areas were observed during the Inspection. Facility employees could not explain which storage areas matched the areas listed on the inspection sheets.

- e. Aisle Space - Under Wis. Admin Code §§ NR 662.034(1)(d) and 665.0035 [40 C.F.R. §§ 262.34(a)(4) and 265.35], a large quantity generator may accumulate hazardous waste on-site for 90 days or less without a license or interim license provided it maintains aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.

At the time of the Inspection, the Facility failed to maintain aisle space in between containers located in the second floor 90-day tote storage area and in between containers in the “Old Tote Room” 90-day storage area on the first floor.

4. Respondent submitted a response to the NOV on October 17, 2017 describing actions that it had undertaken to correct the alleged violations.

5. The parties agree that settlement of all five alleged violations for a total civil penalty of five thousand dollars (\$5,000), without the filing of a complaint or the adjudication of any issue of fact or law, is in their interest and in the public interest.
6. EPA is authorized to enter into this Expedited Settlement Agreement (“Agreement”) pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928, and 40 C.F.R. § 22.13(b).
7. By signing this Agreement, Respondent: (a) admits that it is subject to Wisconsin’s hazardous waste rules published in the Wisconsin Administrative Code; (b) admits that EPA has jurisdiction over Respondent, and the violations alleged in the NOV and this Agreement; (c) neither admits nor denies the factual allegations contained herein; (d) consents to the assessment of the civil penalty specified herein; and (e) waives any right to contest the allegations contained herein.
8. By its signature below, Respondent certifies, subject to civil and criminal penalties for making a false statement to the United States Government, that the alleged violations have been corrected and that Respondent is complying with the applicable sections of RCRA and its implementing regulations.
9. Within thirty (30) days after the effective date of this Agreement, Respondent agrees to pay a civil penalty of five thousand dollars (\$5,000) for the violations of RCRA alleged in the NOV and in this Agreement, by sending a cashier’s or certified check, payable to “Treasurer, United States of America” to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

The check must state the case title (“In the Matter of: Aldrich Chemical Co. Emmer Lane Facility”) and the docket number of this Agreement.

Respondent may also pay the civil penalty online at:

www.pay.gov

Use the Search Public Forms option and enter “sfo 1.1” in the search field, open the form and then complete the required fields.

Within ten (10) calendar days after payment, Respondent agrees to send a notice of payment which includes Respondent’s name, complete address, and the case docket number (along with a photocopy of the check or a statement of affirmation regarding an electronic funds transfer) to EPA at the following addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard (E-19J)
Chicago, IL 60604

Brenda Whitney
Environmental Engineer
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard (LR-17J)
Chicago, IL 60604

Naeha Dixit
Assistant Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard (C-14J)
Chicago, IL 60604

10. Respondent acknowledges that the civil penalty assessed herein is not deductible for federal tax purposes.
11. If Respondent does not timely pay the civil penalty as agreed to herein, EPA may refer this matter to the Attorney General who will recover such amount, plus interest, in the appropriate district court of the United States pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a). The validity, amount, and appropriateness of the civil penalty are not reviewable in any such collection action.
12. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount of the civil penalty that is overdue under this Agreement. Interest will accrue on any amount overdue at a rate established pursuant to 31 U.S.C. § 3717. Respondent must pay a fifteen dollar (\$15) handling charge each month that any portion of the penalty is more than thirty (30) days past due. In addition, Respondent must pay a six percent (6%) per year penalty on any principal amount ninety (90) days past due.
13. Respondent's payment of the civil penalty shall constitute a full settlement of the violations alleged in the NOV and in this Agreement, and resolves Respondent's liability for federal civil penalties for these alleged violations.
14. EPA reserves all of its rights to take any enforcement action for any other past, present, or future violations of RCRA by Respondent or for any other violations of any federal statute or regulation or this Agreement.
15. Upon signing and returning this Agreement to EPA, Respondent waives any and all remedies, claims for relief, opportunities for hearing, and any otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this Agreement, including but not limited to the opportunity for a hearing or appeal pursuant to Section 3008(b) of RCRA, 42 U.S.C. § 6928(b), 40 C.F.R. § 22.15(c),

and Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706. Respondent also consents to EPA's approval of this Agreement without further notice.

16. EPA is authorized to enter into this Agreement under the authority vested in the EPA Administrator by Section 3008 of RCRA, 42 U.S.C. § 6928, and by 40 C.F.R. § 22.13(b). This Agreement is a "final order" under 40 C.F.R. § 22.31.
17. Each party shall bear its own costs and fees associated with resolving this matter.
18. Consistent with the "Standing Order Authorizing E-Mail Service of Order and Other Documents Issued by the Regional Administrator or Regional Judicial Officer Under the Consolidated Rules," dated March 27, 2015, the parties consent to service of this Agreement by e-mail at the following valid e-mail addresses: whitney.brenda@epa.gov and dixit.naeha@epa.gov (for EPA) and ed.austin@sial.com (for Respondent). The parties waive their right to service by the methods specified in 40 C.F.R. § 22.6.
19. This Agreement is binding on the parties signing below and any of Respondent's successors or assigns and, in accordance with 40 C.F.R. 22.31(b), is effective upon filing with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 5.

IT IS SO AGREED:

APPROVED BY ALDRICH CHEMICAL CO., LLC, MILWAUKEE, WISCONSIN



(Signature)

6-21-2018
Date

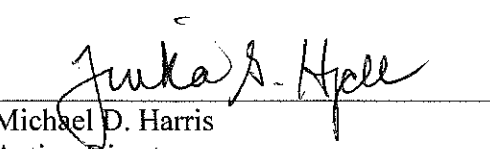
JEFFREY CASSELLE

(Printed Name)

V.P.

(Title)

APPROVED BY EPA:



Michael D. Harris
Acting Director
Land and Chemicals Division
U.S. Environmental Protection Agency
Region 5

7-18-18
Date

In the Matter of:


Aldrich Chemical Co., LLC, Emmer Lane Facility, Milwaukee, Wisconsin


Docket Number: RCRA-05-2018-0018

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, U.S. Environmental Protection Agency, Region 5. 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:

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

 _____
Date

In the matter of: **Aldrich Chemical Company, LLC**
EPA ID Number: WID000808147
Docket Number: RCRA-05-2018-0018

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Expedited Settlement Agreement and Final Order**, Docket Number RCRA-05-2018-0018, which was filed on July 26, 2018, in the following manner to the addressees:

Copy by e-mail to

Respondent:

(Authorized in CAFO)

Ed Austin, Ph.D.

ed.austin@sial.com

6000 North Teutonia Avenue

Milwaukee, Wisconsin 53209

Copy by e-mail to

Attorney for Complainant:

Naeha Dixit

dixit.naeha@epa.gov

Copy by e-mail to

Case Assignee:

Brenda Whitney

whitney.brenda@epa.gov

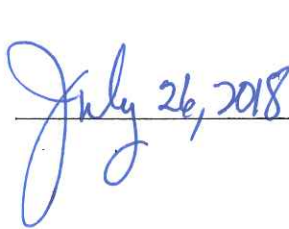
Copy by e-mail to

Regional Judicial Officer:

Ann Coyle

coyle.ann@epa.gov

Dated: July 26, 2018



LaDawn Whitehead

Regional Hearing Clerk

U.S. Environmental Protection Agency, Region 5