

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION IX



In the matter of:	)	U.S. EPA Docket No.
	)	
	)	RCRA-09-2025-0041
Univar Solutions USA, LLC	)	
CAD981382849	)	CONSENT AGREEMENT AND
	)	FINAL ORDER PURSUANT TO
Respondent.	)	40 C.F.R. SECTIONS 22.13 AND
	)	22.18
	)	

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**CONSENT AGREEMENT**

**A. PRELIMINARY STATEMENT**

1. This is a civil administrative enforcement action instituted pursuant to Section 3008(a)(1) of the Resource Conservation and Recovery Act (“RCRA”), as amended, 42 U.S.C. § 6928(a)(1), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, as codified at 40 C.F.R. Part 22 (“Consolidated Rules”).
2. The Administrator has delegated enforcement authority under Section 3008 of RCRA, 42 U.S.C. § 6928, to the Regional Administrator of the EPA Region 9, who in turn has delegated this authority to the Director of the Enforcement and Compliance Assurance Division, hereinafter, “Complainant.”
3. Respondent is Univar Solutions USA, LLC (“Respondent”).
4. This Consent Agreement and Final Order (“CA/FO”), which contains the elements of a complaint required by 40 C.F.R. § 22.14(a)(1)-(3) and (8), simultaneously commences and concludes this penalty proceeding, as authorized by 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).
5. Complainant and Respondent agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their respective interest and in the public interest.

**B. PARTIES BOUND**

6. This CA/FO shall apply to and be binding on Respondent, Respondent's officers, directors, partners, agents, employees, contractors, successors and assigns. Action or inaction of any persons, firms, contractors, employees, agents, or corporations acting under, through, or for Respondent shall not excuse any failure of Respondent to fully perform its obligations under this CA/FO. Changes in ownership, real property interest, or transfer of personal assets shall not alter Respondent's obligations under this CA/FO.

### C. STATUTORY AND REGULATORY FRAMEWORK

7. Subtitle C of RCRA requires the EPA Administrator to promulgate regulations establishing a hazardous waste management program. Section 3006 of RCRA, 42 U.S.C. § 6926, provides, *inter alia*, that authorized state hazardous waste management programs are carried out under Subtitle C of RCRA. Therefore, a violation of any requirement of a law under an authorized state hazardous waste program is a violation of a requirement of Subtitle C of RCRA.
8. The State of California received authorization to administer the hazardous waste management program in lieu of the federal program pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, and 40 C.F.R. Part 271, on or about August 1, 1992. This authorization was updated on September 26, 2001 (*see* 66 FR 49118, September 26, 2001), on October 7, 2011 (*see* 76 FR 62303, October 7, 2011), and again on January 14, 2020 (*see* 85 FR 2038, as corrected [*see* 86 FR 29207, June 1, 2021]). The authorized hazardous waste program is established pursuant to the Hazardous Waste Control Law, Chapter 6.5 of Division 20 of the California Health and Safety Code, and the regulations promulgated thereunder at Title 22, Division 4.5 of the California Code of Regulations, 22 C.C.R. § 66001 *et seq.* The State is authorized for all the hazardous waste management regulations referenced in this CA/FO.<sup>1</sup>
9. A violation of the State of California's authorized hazardous waste program, found at Health & Safety Code § 25100 *et seq.*, constitutes a violation of Subtitle C of RCRA and, therefore, a person who violates California's authorized hazardous waste program is subject to the powers vested in the EPA Administrator by Section 3008 of RCRA, 42 U.S.C. § 6928.
10. Section 3008 of RCRA, 42 U.S.C. § 6928, authorizes the EPA Administrator to issue orders assessing a civil penalty and/or requiring compliance immediately or within a specified time for violation of any requirement of Subtitle C of RCRA, Section 3001 of RCRA *et seq.*, 42 U.S.C. § 6921 *et seq.*

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<sup>1</sup> EPA is enforcing California hazardous waste management program requirements as approved and authorized by the United States. All citations to the "C.C.R." refer to Division 4.5 of Title 22 of the California Code of Regulations as they existed at the time of their most recent federal authorization. As a convenience, corresponding Federal citations are provided in brackets.

#### **D. GENERAL ALLEGATIONS**

11. On December 14, 2022, EPA conducted a compliance evaluation inspection (“CEI”) at Respondent’s facility at 4465 E Florence Avenue, in Fresno, California, with an EPA ID number of CAD981382849 (the “Facility”).
12. Based upon the findings EPA made during the inspection, and additional information obtained subsequent to the inspection, EPA determined that Respondent violated California Health & Safety Code § 25100 *et seq.* and the regulations adopted pursuant thereto, as approved and authorized by the United States.
13. Respondent is a “person” as defined in 22 C.C.R. § 66260.10 [see also 40 C.F.R. § 260.10].
14. Respondent is the “owner” and/or “operator” of a facility as defined in 22 C.C.R. § 66260.10 [see also 40 C.F.R. § 260.10].
15. Respondent is a “generator” of hazardous waste as defined in 22 C.C.R. § 66260.10 [see also 40 C.F.R. § 260.10].
16. Respondent is or has been engaged in “treatment,” “storage,” and/or “disposal” of “hazardous waste” as defined in 22 C.C.R. §§ 66260.10 and 66261.3 [see also 40 C.F.R. §§ 260.10 and 261.3].
17. At the Facility, Respondent generates and accumulates, or has generated and accumulated, “hazardous waste” as defined in California Health & Safety Code § 25117, and 22 C.C.R. §§ 66260.10 and 66261.3 [see also RCRA § 1004(5), and 40 C.F.R. §§ 260.10 and 261.3]. These hazardous wastes include but are not limited to the following hazardous waste codes: D001, D002, D005, and D035.

#### **E. ALLEGED VIOLATIONS**

##### **Count I**

##### **Operating without a permit due to storage of hazardous waste in excess of 90 days**

18. Paragraphs 1 through 17 above are incorporated herein by reference.
19. 22 C.C.R. § 66270.1(c) requires that each person owning or operating a facility where hazardous waste is transferred, treated, stored, or disposed must have a permit [see also 40 C.F.R. § 270.1(c)].

20. 22 C.C.R. § 66262.34(a)<sup>2</sup> [see also 40 C.F.R. § 262.17(a)] provides that a generator may accumulate hazardous waste on-site for 90 days or less without a permit or grant of interim status provided the generator meets certain conditions applicable to the accumulation of that waste. Failure to meet the conditions of the exemption subjects the generator to the permit requirements of 22 C.C.R. § 66270.1 [see also 40 C.F.R. § 270.1].
21. A condition of the exemption under 22 C.C.R. § 66262.34(a) [see also 40 C.F.R. § 262.17(a)] from the permit requirements of 22 C.C.R. § 66270.1 [see also 40 C.F.R. § 270.1] is that the generator does not accumulate hazardous waste on-site for more than 90 days.
22. At the time of the CEI, Respondent was a generator of hazardous waste including, but not limited to, ignitable wastes (Waste Code D001), corrosive waste (D002), reactive wastes (D003), and discarded paint cans with toxicity characteristic (D001, D005, and D035).
23. At the time of the CEI, Respondent did not apply for or have a permit or grant of interim status to store hazardous waste under 22 C.C.R. § 66270.1 [see also 40 C.F.R. § 270.1].<sup>3</sup>
24. Based on information gathered during the CEI, and additional information obtained subsequent to the CEI, EPA determined that from February 6, 2022—December 14,

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<sup>2</sup> 22 C.C.R. § 66262.34 has been updated and renumbered subsequent to its most recent federal authorization and can now be found at 22 C.C.R. § 66262.17. See footnote 1.

<sup>3</sup> Additionally, Respondent had not been granted an extension of the 90-day storage limit and an exemption for accumulation of limited amounts of hazardous waste did not apply under 22 C.C.R. § 66262.34.

Pursuant to 22 C.C.R. § 66262.34(c), as approved and authorized by the United States, a generator who accumulates hazardous waste onsite for over 90 days is not an operator of a storage facility if the generator has been granted an extension to the 90-day period or if the generator accumulates a limited amount of waste in compliance within the limitations set forth at 22 C.C.R. § 66262.34(e) for satellite accumulation areas. At the time of the CEI, Respondent had not been granted an extension of the 90-day storage limit and an exemption for accumulation of limited amounts of hazardous waste did not apply under 22 C.C.R. § 66262.34.

22 C.C.R. § 66262.34(e), as approved and authorized by the United States, permits a generator to accumulate as much as 55 gallons of hazardous waste at or near any point of generation without a permit or grant of interim status for up to one year, provided that, among other things, the initial date of waste accumulation is clearly marked and visible for inspection on each container used for accumulation of hazardous waste and each container is labelled with the composition and physical state of the wastes and name and address of the person producing the waste. EPA alleges that Respondent did not meet the conditions for exemption under 22 C.C.R. § 66262.34(e) because Respondent stored waste in excess of the 55-gallon volume limitation for satellite area accumulation, Respondent did not accumulate waste at or near the point of generation, and with respect to at least one (1) container, Respondent did not comply with applicable labelling requirements.

2022, Respondent had stored seven (7) hazardous waste containers over the 90-day accumulation limit.

25. EPA alleges that by failing to satisfy the requirements of 22 C.C.R § 66262.34(a) [*see also* 40 C.F.R. § 262.17(a)], Respondent failed to meet the conditional requirements for permit exemption and therefore operated a hazardous waste management facility without a permit in violation of 22 C.C.R. § 66270.1 [*see also* 40 C.F.R. § 270.1].

#### **F. CIVIL PENALTY**

26. Respondent agrees to pay a civil penalty in the amount of ONE HUNDRED TEN THOUSAND EIGHT HUNDRED AND ONE DOLLARS (\$110,801) (“Assessed Penalty”) within thirty (30) calendar days of the Effective Date of this CA/FO. The Effective Date of this CA/FO as defined in Section M, below, is the date the Final Order, signed by the Regional Judicial Officer, is filed with the Regional Hearing Clerk.

27. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due 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>.

28. When making a payment, Respondent shall:

- a. Identify every payment with Respondent’s name and the docket number of this Agreement, RCRA-09-2025-0041.
- b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of such payment to the following persons via electronic mail:

**Regional Hearing Clerk**

U.S. Environmental Protection Agency, Region 9

[R9HearingClerk@epa.gov](mailto:R9HearingClerk@epa.gov)

Daniel Fernandez

Enforcement and Compliance Assurance Division

U.S. Environmental Protection Agency - Region 9

[fernandez.daniel@epa.gov](mailto:fernandez.daniel@epa.gov)

and

U.S. Environmental Protection Agency

Cincinnati Finance Center

[CINWD\\_AcctsReceivable@epa.gov](mailto:CINWD_AcctsReceivable@epa.gov)

“Proof of payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent’s name.

29. Interest, Charges, and Penalties on Late Payments. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay the full amount of the Assessed Penalty per this Agreement, EPA is authorized to recover, in addition to the amount of the unpaid Assessed Penalty, the following amounts.

- a. Interest. Interest begins to accrue from the Effective Date. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. To protect the interests of the United States the rate of interest is set at the IRS standard underpayment rate, any lower rate would fail to provide Respondent adequate incentive for timely payment.
- b. Handling Charges. Respondent will be assessed monthly a charge to cover EPA’s costs of processing and handling overdue debts. If Respondent fails to pay the Assessed Penalty in accordance with this Agreement, EPA will assess a charge to cover the costs of handling any unpaid amounts for the first thirty (30) day period after the Effective Date. Additional handling charges will be assessed every thirty (30) days, or any portion thereof, until the unpaid portion of the Assessed Penalty as well as any accrued interest, penalties, and other charges are paid in full.
- c. Late Payment Penalty. A late payment penalty of six percent (6%) per annum, will be assessed monthly on all debts, including any unpaid portion of the Assessed Penalty, interest, penalties, and other charges, that remain delinquent more than ninety (90) days. Any such amounts will accrue from the Effective Date.

30. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Agreement, EPA may take additional actions. Such actions EPA may take include, but are not limited to, the following.

- a. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.

- b. Collect the debt by administrative offset (*i.e.*, the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.
  - c. Suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, per 40 C.F.R. § 13.17.
  - d. Refer this matter to the United States Department of Justice for litigation and collection, per 40 C.F.R. § 13.33.
31. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.
32. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Agreement shall not be deductible for purposes of federal taxes.

#### **G. ADMISSIONS AND WAIVERS OF RIGHTS**

33. In accordance with 40 CFR § 22.18(b), for the purpose of this proceeding, Respondent:
- a. admits the jurisdictional allegations of this CA/FO;
  - b. neither admits nor denies specific factual allegations contained in this CA/FO;
  - c. consents to the assessment of any stated civil penalty, to the issuance of any specified compliance or corrective action order, and to any conditions specified in this CA/FO; and
  - d. waives any right to contest the allegations and its right to appeal the proposed final order accompanying this consent agreement.
34. In executing this CA/FO, Respondent waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the final order accompanying the CA/FO.

#### **H. CERTIFICATION OF COMPLIANCE**

35. In executing this CA/FO, Respondent certifies under penalty of law to EPA that it has taken all steps necessary to return to full compliance with RCRA, 42 U.S.C. § 6901 *et seq.*, and its implementing regulations.

**I. DELAY IN PERFORMANCE/STIPULATED PENALTIES**

36. In the event Respondent fails to meet any requirement set forth in this CA/FO, Respondent shall pay stipulated penalties as follows: FIVE HUNDRED DOLLARS (\$500) per day for the first to fifteenth day of delay, ONE THOUSAND DOLLARS (\$1,000) per day for the sixteenth to thirtieth day of delay, and FIVE THOUSAND DOLLARS (\$5,000) per day for each day of delay thereafter. For the purposes of this Section, Respondent's obligation to meet any and all requirements set for this in this CA/FO shall include completion of any and all activities required under this CA/FO in a manner acceptable to EPA and within the specified time schedules in and approved under this CA/FO.

37. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations.

38. Stipulated penalties shall begin to accrue on the day after performance is due and shall continue to accrue through the final day until performance is complete. All stipulated penalties owed to EPA shall be due within thirty (30) days of receipt by Respondent of a notification of noncompliance. Such notification shall describe the noncompliance and shall indicate the amount of penalties due.

39. In addition to any stipulated penalties assessed, interest and penalties shall accrue in accordance with 40 C.F.R. § 13.11.

40. Payment of stipulated penalties shall be made in accordance with the procedure set forth for payment of penalties in Section F of this CA/FO.

41. The payment of stipulated penalties specified in this Section shall not be deducted by Respondent or any other person or entity for federal taxation purposes.

42. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this CA/FO.

**J. RESERVATION OF RIGHTS**

43. In accordance with 40 C.F.R. § 22.18(c), full compliance with this CA/FO shall only resolve Respondent's liability for federal civil penalties for the violations specifically alleged herein and does not in any case affect the right of the EPA to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

44. This CA/FO is not a permit or modification of any existing permit issued pursuant to any federal, state, or local laws or regulations. This CA/FO shall in no way relieve or affect Respondent's obligations under any applicable federal, state or local laws, regulations, or permits.

#### **K. OTHER CLAIMS**

45. Nothing in this CA/FO shall constitute or be construed as a release from any other claim, cause of action or demand in law or equity by or against any person, firm, partnership, entity or corporation for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from the Facility.

#### **L. MISCELLANEOUS**

46. This CA/FO can be signed in counterparts.

47. The headings in this CA/FO are for convenience of reference only and shall not affect interpretation of this CA/FO.

48. Each party to this action shall bear its own costs and attorneys' fees.

49. EPA and Respondent consent to entry of this CA/FO without further notice.

50. By signing this CAFO, Respondent acknowledges that this CAFO will be available to the public and agrees that this CAFO does not contain any confidential business information or personally identifiable information.

51. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to annually send to the Internal Revenue Service ("IRS") a completed IRS Form 1098-F ("Fines, Penalties, and Other Amounts") with respect to any court order or settlement agreement (including administrative settlements) that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor's violation of any law or the investigation or inquiry into the payor's potential violation of any law, including amounts paid for "restitution or remediation of property" or to come "into compliance with a law." EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number ("TIN"), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires, and Respondent herein agrees, that:

- a. Respondent shall complete an IRS Form W-9 (“Request for Taxpayer Identification Number and Certification”), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
- b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent’s correct TIN or that Respondent has applied and is waiting for issuance of a TIN;
- c. Respondent shall email its completed Form W-9 to EPA’s Cincinnati Finance Division at [sherrer.dana@epa.gov](mailto:sherrer.dana@epa.gov), on or before the date that Respondent’s initial penalty payment is due, pursuant to Paragraph 42 of the CA/FO, and EPA recommends encrypting IRS Form W-9 email correspondence; and
- d. In the event that Respondent has certified in its completed IRS Form W-9 that it does not yet have a TIN but has applied for a TIN, Respondent shall provide EPA’s Cincinnati Finance Division with Respondent’s TIN, via email, within five (5) days of Respondent’s receipt of a TIN issued by the IRS.

**M. EFFECTIVE DATE**

52. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), the effective date of this CA/FO (“Effective Date”) shall be the date that the Final Order contained in this CA/FO, having been approved and issued by the Regional Judicial Officer, is filed with the Regional Hearing Clerk.

IT IS SO AGREED.

In the Matter of Univar Solutions USA, LLC  
Consent Agreement and Final Order

FOR RESPONDENT UNIVAR SOLUTIONS USA, LLC:

3-4-2025  
Date

Jack Spicuzza  
Jack Spicuzza  
Vice President, EHSQ

FOR COMPLAINANT, U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION IX:

**AMY MILLER-  
BOWEN**

Digitally signed by AMY MILLER-  
BOWEN  
Date: 2025.04.16 13:07:03 -07'00'

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Amy C. Miller-Bowen, Director  
Enforcement and Compliance Assurance Division  
U.S. Environmental Protection Agency, Region IX

**FINAL ORDER**

IT IS HEREBY ORDERED that this Consent Agreement and Final Order pursuant to 40 C.F.R. Sections 22.13 and 22.18 (U.S. EPA Docket No. RCRA-09-2025-0041) be entered and that Respondent pay a civil penalty of ONE HUNDRED TEN THOUSAND EIGHT HUNDRED AND ONE DOLLARS (\$110,801), due within thirty (30) days from the Effective Date of this Consent Agreement and Final Order, in accordance with all terms and conditions of this Consent Agreement and Final Order.

This Final Order shall be effective upon filing by the Regional Hearing Clerk.

**BEATRICE  
WONG** Digitally signed by  
BEATRICE WONG  
Date: 2025.05.07  
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Beatrice Wong  
Regional Judicial Officer  
United States Environmental Protection Agency,  
Region IX

**CERTIFICATE OF SERVICE**

I certify that the original of the fully executed Consent Agreement and Final Order in the matter of Univar Solutions USA, LLC (Docket No. RCRA-09-2025-0041) was filed with Regional Hearing Clerk, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, and that a true and correct copy of the same was served on the parties, via electronic mail, as indicated below:

**RESPONDENT:** Ryan Barker  
Univar Solutions  
4465 East Florence Ave  
Fresno, CA 93725  
Ryan.Barker@univarsolutions.com

**COMPLAINANT:** Laura Friedli  
Assistant Regional Counsel  
U.S. EPA – Region IX  
Hazardous Waste Section I (ORC-3-1)  
75 Hawthorne Street  
San Francisco, CA 94105  
Friedli.Laura@epa.gov

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Ponly Tu  
Regional Hearing Clerk  
U.S. EPA – Region IX