



REGION 9

SAN FRANCISCO, CA 94105

July 30, 2024

Via Email

Receipt Confirmation Requested

Bill Nebe
Operations Manager II
Univar Solutions USA, Inc.
4465 E Florence Ave
Fresno, CA 93725
bill.nebe@univarsolutions.com

RE: Notice of Intent to File a Complaint Pursuant to Section 3008(a) of the Resource Conservation and Recovery Act (RCRA), Univar Solutions USA, Inc. (EPA Identification Number: CAD981382849)

Dear Bill Nebe:

This letter is to notify you that the United States Environmental Protection Agency ("EPA") is preparing to issue a civil administrative complaint against Univar Solutions USA, Inc. ("Univar"), located at 4465 E Florence Ave in Fresno, California ("Facility") pursuant to Section 3008(a) of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. § 6928(a). This action is for violations discovered during a routine compliance evaluation inspection performed at the Facility on December 14, 2022.

The alleged violations against the Facility include:

1. Storage of hazardous waste without a permit in violation of 22 C.C.R. § 66270.1(c) [40 C.F.R. § 270.1(c)];¹
2. Failure to properly label a satellite accumulation area hazardous waste accumulation container in violation of 22 C.C.R. § 66262.15(a)(5), formerly 22 C.C.R. § 66262.34(e) [40 C.F.R. § 262.15(a)(5)]; and
3. Storage of universal waste-batteries for over one year without a permit in violation of 22 C.C.R. § 66273.35(a) [40 C.F.R. § 273.15(a)].

¹ EPA is enforcing California hazardous waste management program requirements, in the California Code of Regulations (C.C.R.), Title 22, Division 4.5, as approved and authorized by the United States. Under Section 3006 of RCRA, 42 U.S.C. § 6926, violations of the State of California's authorized hazardous waste management program are federally enforceable. For ease of reference, corresponding Federal citations are provided in brackets.

Some of these alleged violations are described in greater detail in the EPA's Inspection Report dated March 29, 2023, which was sent to Univar on March 29, 2023.

Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), as adjusted by the "Civil Monetary Penalty Inflation Adjustment Rule" (88 Fed. Reg. 89,309, December 27, 2023), authorizes a civil penalty of up to \$90,702 per day per violation for violations occurring after November 2, 2015, and where, as here, penalties are assessed on or after December 27, 2023.

EPA anticipates filing a Complaint, Compliance Order and Notice of Right to Request a Hearing ("Complaint") against the Facility within the next thirty (30) calendar days unless the Facility advises EPA of substantial reasons not to proceed. EPA is extending to the Facility the opportunity to submit any information that EPA should consider before issuing the Complaint. Relevant information may include any evidence of reliance on compliance assistance, additional compliance tasks performed after the inspection, or financial factors bearing on the Facility's ability to pay a civil penalty. Even if you are unaware of any mitigating or exculpatory factors, we are extending to you the opportunity to commence settlement discussions concerning the above-described violations.

Any penalty discussed in settlement negotiations for violations of RCRA and its implementing regulations will be calculated pursuant to EPA's June 2003 "RCRA Civil Penalty Policy." The penalty policies are subject to inflation adjustments under the applicable Civil Monetary Penalty Inflation Adjustment Rule, as well as potential changes in EPA guidance. Also, EPA's Supplemental Environmental Project (SEP) Policy 2015 Update describes the terms under which a commitment to perform an environmental project may be included in civil enforcement settlements.

Please note that, pursuant to regulations located at 40 C.F.R. Part 2, Subpart B, you are entitled to assert a business confidentiality claim covering any part of any submitted information as defined in 40 C.F.R. § 2.201(c). Failure to assert such a claim makes the submitted information subject to public disclosure upon request and without further notice to you, pursuant to the Freedom of Information Act, 5 U.S.C. § 552, et seq.

Thank you for your prompt attention to this matter. If you are interested in commencing settlement negotiations or have any questions regarding this notice, please contact Dan Fernandez, EPA RCRA Inspector, at (415) 972-3299 or at fernandez.daniel@epa.gov, or have your attorney contact Laura Friedli, Office of Regional Counsel, at (415) 972-3325 or at friedli.laura@epa.gov.

Sincerely,

**RICHARD
SAKOW**

Digitally signed by
RICHARD SAKOW
Date: 2024.07.30
16:03:47 -07'00'

Rick Sakow, Manager
Hazardous Waste and Chemical Section
Enforcement and Compliance Assurance Division

cc:

Dan Fernandez; EPA Region 9; fernandez.daniel@epa.gov

Laura Friedli; EPA Region 9; friedli.laura@epa.gov

Kristine Schaefer-Green; California Department of Toxic Substances Control; kristine.schaefer-green@dtsc.ca.gov