

## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

## REGION 4

In the Matter of:

Beckman Coulter, Inc.,  
740 W 83<sup>rd</sup> Street, Hialeah, Florida 33014,  
EPA ID No.: FLD042558775

Respondent.

Docket No. RCRA-04-2023-2101(b)

Proceeding Under Section 3008(a) of the  
Resource Conservation and Recovery Act,  
42 U.S.C. § 6928(a)

**CONSENT AGREEMENT****I. NATURE OF ACTION**

1. This is an administrative penalty assessment proceeding brought under Section 3008(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a) (RCRA or the Act) and Sections 22.13(b) and 22.18 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at Title 40 of the Code of Federal Regulations (C.F.R.), Part 22.
2. This Consent Agreement and the attached Final Order shall collectively be referred to as the CAFO.
3. Having found that settlement is consistent with the provisions and objectives of the Act and applicable regulations, the Parties have agreed to settle this action pursuant to 40 C.F.R. § 22.18 and consent to the entry of this CAFO without Respondent's admission of violation or adjudication of any issues of law or fact herein.

**II. PARTIES**

4. Complainant is the Chief of the Chemical Safety and Land Enforcement Branch, Enforcement and Compliance Assurance Division, United States Environmental Protection Agency (EPA) Region 4, who has been delegated the authority on behalf of the Administrator of the EPA to enter into this CAFO pursuant to 40 C.F.R. Part 22 and Section 3008(a) of the Act.
5. Respondent is Beckman Coulter, Inc., a corporation doing business in the State of Florida. This proceeding pertains to Respondent's facility located at 740 W 83rd Street, Hialeah, Florida 33014 (Facility).

### III. GOVERNING LAW

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the State of Florida (State) has received final authorization to carry out a hazardous waste program in lieu of the federal program set forth in RCRA. The requirements of the authorized State program are found at Fla. Stat. § 403.702 *et seq.* and Fla. Admin. Code Ann. r. 62-730 *et seq.*
7. Pursuant to Section 3006(g) of RCRA, 42 U.S.C. § 6926(g), the requirements established by the Hazardous and Solid Waste Amendments of 1984 (HSWA), Pub. L. 98-616, are immediately effective in all states regardless of their authorization status and are implemented by the EPA until a state is granted final authorization with respect to those requirements. The State has received final authorization for certain portions of HSWA, including those recited herein.
8. Although the EPA has granted the State authority to enforce its own hazardous waste program, the EPA retains jurisdiction and authority to initiate an independent enforcement action pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2). This authority is exercised by the EPA in the manner set forth in the Memorandum of Agreement between the EPA and the State.
9. As the State's authorized hazardous waste program operates in lieu of the federal RCRA program, the citations for the violations of those authorized provisions alleged herein will be to the authorized State program; however, for ease of reference, the federal citations will follow in brackets.
10. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), Complainant has given notice of this action to the State before issuance of this CAFO.
11. Section 403.721 of the Florida Statutes, Fla. Stat. § 403.721 [Section 3002(a) of RCRA, 42 U.S.C. § 6922(a)], requires the promulgation of standards applicable to generators of hazardous waste. The implementing regulations for these standards are found at Fla. Admin. Code Ann. r. 62-730.160 [40 C.F.R. Part 262].
12. Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925], sets forth the requirement that a facility treating, storing, or disposing of hazardous waste must have a permit or interim status. The implementing regulations for this requirement are found at Fla. Admin. Code Ann. r. 62-730.180(1) (permitted) and Fla. Admin. Code Ann. r. 62-730.180(2) (interim status) [40 C.F.R. Parts 264 (permitted) and 265 (interim status)].
13. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.2], a "solid waste" is any discarded material that is not otherwise excluded from the regulations. A discarded material includes any material that is abandoned by being stored in lieu of being disposed.
14. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.3], a solid waste is a "hazardous waste" if it meets any of the criteria set forth in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.3(a)(2)] and is not otherwise excluded from regulation as a hazardous waste by Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.4(b)].

15. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.3(a)(2)(i) and 261.20], solid wastes that exhibit any of the characteristics identified in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.21-24] are characteristic hazardous waste and are provided with the EPA Hazardous Waste Numbers D001 through D043.
16. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.20 and 261.21], a solid waste that exhibits the characteristic of ignitability is a hazardous waste and is identified with the EPA Hazardous Waste Number D001.
17. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.20 and 261.22], a solid waste that exhibits the characteristic of corrosivity is a hazardous waste and is identified with the EPA Hazardous Waste Number D002.
18. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.20 and 261.23], a solid waste that exhibits the characteristic of reactivity is a hazardous waste and is identified with the EPA Hazardous Waste Number D003.
19. Pursuant to Fla. Admin. Code Ann. R. 62-730.030(1) [40 C.F.R. §§ 262.20 and 261.24], a solid waste that exhibits the characteristic of toxicity is a hazardous waste and is identified with the EPA Hazardous Waste Number associated with the toxic contaminant causing it to be hazardous.
20. Pursuant to Fla. Admin. Code Ann. R. 62-730.030(1) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for mercury is identified with the EPA Hazardous Waste Number D009.
21. Pursuant to Fla. Admin. Code Ann. R. 62-730.030(1) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for benzene is identified with the EPA Hazardous Waste Number D018.
22. Pursuant to Fla. Admin. Code Ann. R. 62-730.030(1) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for chloroform is identified with the EPA Hazardous Waste Number D022.
23. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.3(a)(2)(ii) and 261.30], a solid waste is a listed “hazardous waste” if it is listed in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. Part 261, Subpart D].
24. Listed hazardous wastes include the F-Listed wastes from nonspecific sources identified in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.31], including F003.
25. Listed hazardous wastes include the U-Listed wastes identified in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.33].
26. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.33], a solid waste that is from discarded commercial chemical products and has the primary hazardous properties of acrylic acid is identified with the EPA Hazardous Waste Number U008.

27. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.33], a solid waste that is from discarded commercial chemical products and has the primary hazardous properties of dichloromethane (DCM) is identified with the EPA Hazardous Waste Number U080.
28. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], “storage” means the holding of a hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.
29. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], a “container” is defined as any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.
30. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], a “facility” includes “all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste.”
31. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], a “person” includes a corporation.
32. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], an “owner” is “the person who owns a facility or part of a facility” and an “operator” is “the person responsible for the overall operation of a facility.”
33. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], a “generator” is defined as any person, by site, whose act or process produces hazardous waste identified or listed in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. Part 261], or whose act first causes a hazardous waste to become subject to regulation.
34. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.15(a)], a generator may accumulate as much as 55 gallons of non-acute hazardous waste in containers at or near the point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or without having interim status, as required by Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925], and without complying with Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.16(b) or § 262.17(a)], except as required in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.15(a)(7) and (8)], provided that the generator complies with the satellite accumulation area (SAA) conditions listed in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.15(a)] (hereinafter referred to as the “SAA Permit Exemption”).
35. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.15(a)(5)(i) and (ii)], which is a condition of the SAA Permit Exemption, a generator is required to (i) mark or label its containers with the words “Hazardous Waste” and (ii) with an indication of the hazards of the contents.
36. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 262.10], a Large Quantity Generator (LQG) is a generator who generates greater than or equal to 1,000 kilograms (2,200 lbs) of non-acute hazardous waste in a calendar month.

37. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.17], a LQG may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, as required by Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925], provided that the generator complies with the conditions listed in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.17] (hereinafter referred to as the “LQG Permit Exemption”).
38. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.17(a)(5)(i)(A-C)], which is a condition of the LQG Permit Exemption, a large quantity generator must mark or label its containers with the following: (A) the words “Hazardous Waste”; (B) an indication of the hazards of the contents; and (C) the date upon which each period of accumulation begins clearly visible for inspection on each container.
39. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.17(a)(6)], which incorporates Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.255], and is a condition of the LQG Permit Exemption, a generator is required to maintain 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.
40. Pursuant to Fla. Admin. Code Ann. r. 62-730.185(1) [40 C.F.R. § 273.9], a “Small Quantity Handler of Universal Waste” (SQHUW) is a universal waste handler who does not accumulate 5,000 kilograms or more of universal waste (batteries, pesticides, mercury-containing equipment, or lamps, calculated collectively) at any time.
41. Pursuant to Fla. Admin. Code Ann. r. 62-730.185(1) and Fla. Admin. Code Ann. r. 62-737.400(5)(b) [40 C.F.R. § 273.14(e)], a SQHUW must label or mark each lamp or container of lamps clearly with one of the following phrases: “Universal Waste-Lamp(s),” or “Waste Lamp(s),” or “Used Lamps.”
42. Pursuant to Fla. Admin. Code Ann. r. 62-730.185(1) and Fla. Admin. Code Ann. r. 62-737.400(5)(b) [40 C.F.R. § 273.14(a)], a SQHUW must label or mark each battery or container of batteries clearly with one of the following phrases: “Universal Waste—Battery(ies),” or “Waste Battery(ies),” or “Used Battery(ies).”
43. Pursuant to Fla. Admin. Code Ann. r. 62-730.185(1) and Fla. Admin. Code Ann. r. 62-737.400(7) [40 C.F.R. § 273.15(a) and (c)], a SQHUW may accumulate universal waste no longer than one year and must be able to demonstrate the length of time that the universal waste has accumulated from the date that it became a waste or was received.

#### **IV. FINDINGS OF FACTS**

44. Respondent’s Facility is located at 740 W 83<sup>rd</sup> Street, Hialeah, Florida 33014.
45. Respondent’s Facility develops, manufactures, and markets products that simplify, automate, and innovate complex biomedical testing.
46. Respondent generates 1,000 kilograms or more of hazardous wastes in a calendar month and accumulates less than 5,000 kilograms of universal waste. Therefore, Respondent is a LQG of

hazardous waste and a SQHUW. At all times relevant to this CAFO, the Respondent was an LQG of hazardous waste and a SQHUW.

47. Respondent generates hazardous wastes that include one or more of the following EPA Hazardous Waste Numbers at the Facility: D001, D002, D003, D009, D018, D022, F003, U008, and U080.
48. On August 26, 2021, the EPA and the Florida Department of Environmental Protection (FDEP) conducted a compliance evaluation inspection (CEI) at Respondent's Facility. The EPA's findings of the CEI were documented in a Report emailed to the Respondent on October 29, 2021.
49. At the time of the CEI, the inspectors observed that the following containers were not marked with an indication of hazards of the contents: one 55-gallon drum of reticulin stain reagent waste, which was identified as a hazardous waste with the EPA Hazardous Waste Number D001 and stored in a SAA in the Pooling Room of Building 700, and one 20-gallon container of hydrochloric acid waste, which was identified as a hazardous waste with the EPA Hazardous Waste Number D002 and stored in a SAA in the Receiving and Finishing area.
50. At the time of the CEI, the inspectors observed one 20-gallon container of hazardous waste hydrochloric acid (D002) in a SAA at the Receiving and Finishing area that was not marked with the words "Hazardous Waste."
51. At the time of the CEI, the inspectors observed that the following containers, which were stored in Respondent's central accumulation area (CAA) in Building 780, were not marked with the words "Hazardous Waste" and with an indication of the hazards of the contents: one 8-liter container of corrosive sodium hydroxide solution, which was identified as a hazardous waste with the EPA Hazardous Waste Number D002; one 30-gallon of polymer/xylene/DCM/ethanol and chloroform, which was identified as a hazardous waste with the EPA Hazardous Waste Numbers D001, D022, F003 and U080; eight 5-gallon containers of rejected dichloromethane waste (DCM), which were identified as a hazardous waste with the EPA Hazardous Waste Number U080, three 1-gallon containers of Photo-Flo 600 solution, which were identified as a hazardous waste with the EPA Hazardous Waste Number D001; and one 10-gallon container of expired corrosive solution, which was identified as a hazardous waste with the EPA Hazardous Waste Number D002.
52. At the time of the CEI, the inspectors observed the following containers in Respondent's CAA in Building 780 that were not marked with an indication of the hazards of the contents: one 55-gallon container of developer waste, identified as a hazardous waste with the EPA Hazardous Waste Number D002, and one gray 55-gallon container of solvent contaminated rags, which were identified as a hazardous waste with the EPA Hazardous Waste Numbers D001 and F003.
53. At the time of the CEI, the inspectors observed the following containers in Building 780, Respondent's CAA, that were missing an accumulation start date: one 30-gallon poly container of rejected laboratory filling marked flammable hazardous waste, which was identified as a EPA Hazardous Waste Number D001; one 30-gallon of polymer/xylene/DCM/ethanol and chloroform, which was identified as a hazardous waste

with the EPA Hazardous Waste Numbers D001, D022, F003 and U080; one 8-liter container of corrosive sodium hydroxide solution, which was identified as a hazardous waste with the EPA Hazardous Waste Number D002; eight 5-gallon containers of rejected dichloromethane waste, which were identified as a hazardous waste with the EPA Hazardous Waste Number U080; three 1-gallon containers of Photo-Flo 600 solution, which were identified as a hazardous waste with the EPA Hazardous Waste Number D001; one 10-gallon container of expired corrosive solution, which was identified as a hazardous waste with the EPA Hazardous Waste Number D002; and one gray 55-gallon container of solvent contaminated rags, which was identified as a hazardous waste with the EPA Hazardous Waste Number (D001 and F003).

54. At the time of the CEI, the inspectors observed that Respondent's CAA did not maintain adequate 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.
55. At the time of the CEI, the inspectors observed 19 boxes of used universal waste lamps in the CAA. The boxes were not marked with the words "Universal Waste-Lamp(s)," or "Waste Lamp(s)," or "Used Lamps" and were not dated to demonstrate the length of time that the universal waste boxes have been accumulated from the date it became wastes or were received.
56. At the time of the CEI, the inspectors observed three boxes of spent sealed lead acid batteries in the CAA. The boxes were not marked with the words "Universal Waste - Battery(ies)," or "Waste Battery(ies)," or "Used Battery(ies) and were not dated to demonstrate the length of time that the universal waste boxes have been accumulated from the date it became wastes or were received.

## **V. ALLEGED VIOLATIONS**

57. Respondent is a "person" as defined in Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10].
58. Respondent is the "owner" and "operator" of a "facility" located at 740 W 83<sup>rd</sup> Street in Hialeah, Florida, as those terms are defined in Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10].
59. Respondent generates wastes that are "solid waste" as defined in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 260.10].
60. Respondent is a "generator" of "hazardous waste" as those terms are defined in Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10] and Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.3].
61. Respondent is a "small quantity handler of universal waste" as defined in Fla. Admin. Code Ann. r. 62-730.185(1) [40 C.F.R. § 273.9].
62. The Respondent failed to mark a 55-gallon container storing reticulin stain reagent waste (D001 hazardous waste), located in the Pooling Room SAA of Building 700 and a 20-gallon

container of hydrochloric acid waste (D002 hazardous waste) stored in the Receiving and Finishing SAA, with an indication of the hazards of its contents. The EPA therefore alleges Respondent violated Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to comply with the marking and labeling requirement in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.15(a)(5)(ii)], which is a condition of the SAA Permit Exemption.

63. The Respondent failed to mark a 20-gallon container storing hydrochloric acid waste solution (D002 hazardous waste) stored in the Receiving and Finishing SAA, with the words “Hazardous Waste.” The EPA therefore alleges Respondent violated Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to comply with the marking and labeling requirement in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.15(a)(5)(i)], which is a condition of the SAA Permit Exemption.
64. The Respondent failed to mark the following containers stored in the Respondent’s CAA, with the words “Hazardous Waste” and/or the indication of the hazards of its contents: one 8-liter container of hazardous waste sodium hydroxide solution (D002); one 30-gallon container of hazardous waste polymer/xylene/DCM/ethanol and chloroform (D001, D022, F003 and U080); eight 5-gallon containers of rejected dichloromethane hazardous waste (U080); three 1-gallon containers of hazardous waste Photo-Flo 600 solution (D001); one 10-gallon container of hazardous waste expired corrosive hazardous waste (D002); one 55-gallon container of developer waste (D002); and one gray 55-gallon container of solvent contaminated rags (D001 and F003). The EPA therefore alleges Respondent violated Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to comply with the marking and labeling requirements in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.17(a)(5)(i)(A-B)], which is a condition of the LQG Permit Exemption.
65. The Respondent failed to mark the following containers in Respondent’s CAA with an accumulation start date: one 30-gallon poly container of flammable rejected laboratory filling (D001); one 30-gallon of polymer/xylene/DCM/ethanol and chloroform, which was identified as a hazardous waste with the EPA Hazardous Waste Numbers D001, D022, and F003; one 8-liter container of corrosive sodium hydroxide solution, which was identified as a hazardous waste with the EPA Hazardous Waste Number D002; eight 5-gallon containers of rejected dichloromethane waste, which were identified as a hazardous waste with the EPA Hazardous Waste Number U080; three 1-gallon containers of Photo-Flo 600 solution, which were identified as a hazardous waste with the EPA Hazardous Waste Number D001; one 10-gallon container of expired corrosive solution, which was identified as a hazardous waste with the EPA Hazardous Waste Number D002. The EPA therefore alleges Respondent violated Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to comply with the accumulation start date labeling requirement in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.17(a)(5)(i)(C)], which is a condition of the LQG Permit Exemption.



66. Respondent failed to maintain adequate aisle space in the CAA 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. The EPA therefore alleges Respondent violated Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.15(a)(6)], by not complying with the aisle space requirements in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.255].
67. Respondent failed to mark containers of universal waste lamps. The EPA therefore alleges Respondent violated Fla. Admin. Code Ann. r. 62-730.185(1) and Fla. Admin. Code Ann. r. 62-737.400(5)(b) [40 C.F.R. § 273.14(e)], by failing to label or mark each lamp or container of lamps clearly with one of the following phrases: “Universal Waste-Lamp(s),” or “Waste Lamp(s),” or “Used Lamps.”
68. Respondent failed to mark containers of universal waste batteries. The EPA therefore alleges Respondent violated Fla. Admin. Code Ann. r. 62-737.400(5)(b) [40 C.F.R. § 273.14(a)], by failing to label or mark each battery or container of batteries clearly with one of the following phrases: “Universal Waste - Battery(ies),” or “Waste Battery(ies),” or “Used Battery(ies).”
69. Respondent failed to demonstrate the length of time that boxes of universal waste lamps and batteries have been accumulated from the date it became wastes or were received in the less than 90-day storage area. The EPA therefore alleges that Respondent violated Fla. Admin. Code Ann. r. 62-730.185(1) and Fla. Admin. Code Ann. r. 62-737.400(7) [40 C.F.R. § 273.15(a) and (c)], by failing to demonstrate the length of time that universal wastes had been accumulated from the date that the universal waste became a waste or was received in the CAA.

## **VI. STIPULATIONS**

70. The issuance of this CAFO simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).
71. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:
  - a. admits that EPA has jurisdiction over the subject matter alleged in this CAFO;
  - b. neither admits nor denies the factual allegations set forth in Section IV (Findings of Facts) of this CAFO;
  - c. consents to the assessment of a civil penalty as stated below;
  - d. consents to the conditions specified in this CAFO;
  - e. waives any right to contest the allegations set forth in Section V (Alleged Violations) of this CAFO; and
  - f. waives its rights to appeal the Final Order accompanying this CAFO.

72. For the purpose of this proceeding, Respondent:
- a. agrees that this CAFO states a claim upon which relief may be granted against Respondent;
  - b. acknowledges that this CAFO constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement actions;
  - c. waives any and all remedies, claims for relief, and 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 CAFO, including any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706;
  - d. waives any rights it may possess at law or in equity to challenge the authority of EPA to bring a civil action in a United States District Court to compel compliance with the CAFO, and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action;
  - e. waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to EPA officials where the purpose of such discussion, memorandum, or communication is to persuade such official to accept and issue this CAFO; and
  - f. agrees to comply with the terms of this CAFO.
73. By executing this CAFO, Respondent certifies to the best of its knowledge that Respondent is currently in compliance with all relevant requirements of the Act and its implementing regulations, and that all violations alleged herein, which are neither admitted nor denied, have been corrected.
74. In accordance with 40 C.F.R. § 22.5, the individuals named in the certificate of service are authorized to receive service related to this proceeding and the parties agree to receive service by electronic means.

## VII. TERMS OF PAYMENT

75. Respondent consents to the payment of a civil penalty, which was calculated in accordance with the Act, in the amount of **THIRTY-ONE THOUSAND SEVEN HUNDRED SIXTY-SIX (\$31,766)**, which is to be paid within thirty (30) calendar days of the Effective Date of this CAFO.
76. Payment(s) shall be made by cashier's check, certified check, by electronic funds transfer (EFT), or by Automated Clearing House (ACH) (also known as REX or remittance express). If paying by check, the check shall be payable to: Treasurer, United States of America, and the Facility name and docket number for this matter shall be referenced on the face of the check.

- a. If Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

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

- b. If Respondent sends payment by non-U.S. Postal express mail delivery, the payment shall be sent to:

U.S. Bank  
Government Lockbox 979077  
U.S. EPA Fines & Penalties  
1005 Convention Plaza  
Mail Station: SL-MO-C2-GL  
St. Louis, Missouri 63101  
Contact Number: (314) 425-1819

- c. If paying by EFT, Respondent shall transfer the payment to:

Federal Reserve Bank of New York  
ABA: 021030004  
Account Number: 68010727  
SWIFT address: FRNYUS33  
33 Liberty Street  
New York, New York 10045  
Field Tag 4200 of the Fedwire message should read:  
“D 68010727 Environmental Protection Agency”

- d. If paying by ACH, Respondent shall remit payment to:

US Treasury REX / Cashlink ACH Receiver  
ABA: 051036706  
Account Number: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 – checking  
Physical location of US Treasury facility:  
5700 Rivertech Court  
Riverdale, Maryland 20737  
Contact: Craig Steffen, (513) 487-2091  
REX (Remittance Express): 1-877-372-2457

77. Respondent shall send proof of payment electronically, within 24 hours of payment of the civil penalty, to:

Regional Hearing Clerk  
U.S. EPA Region 4  
R4\_Regional\_Hearing\_Clerk@epa.gov

and

Parvez Mallick  
Enforcement and Compliance Assurance Division  
Chemical Safety and Land Enforcement Branch  
RCRA Enforcement Section  
U.S. EPA Region 4  
mallick.parvez@epa.gov

78. “Proof of payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, 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 Facility name and “Docket No. RCRA-04-2023-2101(b).”
79. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to remit the civil penalty as agreed to herein, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling the delinquent claim. Accordingly, EPA may require the Respondent to pay the following amounts on any amount overdue:
- a. Interest. Interest will begin to accrue on the civil penalty from the Effective Date of this CAFO. If the civil penalty is paid within 30 days of the Effective Date of this CAFO, Interest is waived. However, if the civil penalty is not paid in full within 30 days, Interest will continue to accrue on any unpaid portion until the unpaid portion of the civil penalty and accrued Interest are paid. Interest will be assessed at the rate of the United States Treasury tax and loan rate, as established by the Secretary of the Treasury, in accordance with 31 U.S.C. § 3717(a)(1), 31 C.F.R. § 901.9(b)(2), and 40 C.F.R. § 13.11(a).
  - b. Non-Payment Penalty. On any portion of a civil penalty or a stipulated penalty more than ninety (90) calendar days past due, Respondent must pay a non-payment penalty of not more than six percent (6%) per annum, which will accrue from the date the penalty payment became due and is not paid, as provided in 31 U.S.C. § 3717(e)(2) and 31 C.F.R. § 901.9(d). This non-payment penalty is in addition to charges which accrue or may accrue under subparagraphs (a) and (c) and will be assessed monthly. 40 C.F.R. § 13.11(c).
  - c. Monthly Handling Charge. Respondent must pay a late payment handling charge to cover the administrative costs of processing and handling the delinquent claim, based on either actual or average cost incurred. 31 C.F.R. § 901.9(b)(c), and 40 C.F.R. § 13.11(b). Administrative costs will be assessed monthly throughout the period the debt is overdue except as provided by 40 C.F.R. § 13.12.
80. In addition to what is stated in the prior Paragraph, if Respondent fails to timely pay any portion of the penalty assessed under this CAFO, EPA may:
- a. refer the debt to a credit reporting agency or a collection agency, 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 to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 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, 40 C.F.R. § 13.17; and/or
- d. refer the debt to the Department of Justice as provided in 40 C.F.R. § 13.33. In any such judicial action, the validity, amount, and appropriateness of the penalty and of this CAFO shall not be subject to review.

81. Penalties paid pursuant to this CAFO shall not be deductible for purposes of federal taxes.

### **VIII. EFFECT OF CAFO**

82. In accordance with 40 C.F.R. § 22.18(c), Respondent's full compliance with this CAFO shall only resolve Respondent's liability for federal civil penalties for the violations and facts specifically alleged above.
83. Full payment of the civil penalty, as provided in Section VII (Terms of Payment), shall satisfy the requirements of this CAFO, but shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. 40 C.F.R. § 22.18(c).
84. Any violation of this CAFO may result in a civil penalty for each day of continued noncompliance with the CAFO and/or the suspension or revocation of any federal or state permit issued to the violator, as provided in Section 3008(c) of the Act, 42 U.S.C § 6928(c).
85. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the Act and other federal, state, or local laws or statutes, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit, except as expressly provided herein.
86. Nothing herein shall be construed to limit the power of EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment as provided under the Act.
87. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of both Parties, and approval of the Regional Judicial Officer.
88. The provisions of this CAFO shall apply to and be binding upon Respondent and its successors, and assigns. Respondent shall direct its officers, directors, employees, agents, trustees, and authorized representatives to comply with the provisions of this CAFO, as appropriate.

89. Any change in the legal status of the Respondent, or change in ownership, partnership, corporate or legal status relating to the Facility, will not in any way alter Respondent's obligations and responsibilities under this CAFO.
90. By signing this Consent Agreement, 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.
91. By signing this Consent Agreement, the Complainant and the undersigned representative of Respondent each certify that one is fully authorized to execute and enter into the terms and conditions of this CAFO and has the legal capacity to bind the party one represents to this CAFO.
92. By signing this Consent Agreement, both Parties agree that each party's obligations under this CAFO constitute sufficient consideration for the other party's obligations.
93. By signing this Consent Agreement, Respondent certifies that the information it has supplied concerning this matter was at the time of submission, and continues to be, true, accurate, and complete for each such submission, response, and statement. Respondent acknowledges that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.
94. EPA also reserves the right to revoke this CAFO and settlement penalty if and to the extent that EPA finds, after signing this CAFO, that any information provided by Respondent was materially false or inaccurate at the time such information was provided to EPA. If such false or inaccurate material was provided, EPA reserves the right to assess and collect any and all civil penalties for any violation described herein. EPA shall give Respondent notice of its intent to revoke, which shall not be effective until received by Respondent in writing.
95. Unless specifically stated otherwise in this CAFO, each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.
96. It is the intent of the parties that the provisions of this CAFO are severable. If any provision or authority of this CAFO or the application of this CAFO to any party or circumstances is held by any judicial or administrative authority to be invalid or unenforceable, the application of such provisions to other parties or circumstances and the remainder of the CAFO shall remain in force and shall not be affected thereby.

#### **IX. EFFECTIVE DATE**

97. This CAFO shall become effective after execution of the Final Order by the Regional Judicial Officer, on the date of filing with the Hearing Clerk.

**[Remainder of Page Intentionally Left Blank**

**Complainant and Respondent will Each Sign on Separate Pages.]**

The foregoing Consent Agreement In the Matter of Beckman Coulter, Inc., Docket No. RCRA-04-2023-2101(b) , is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:



\_\_\_\_\_  
Signature

05/01/2023

\_\_\_\_\_  
Date

Printed Name: Emiel van den Bergh

Title: VP Operations Beckman Coulter Dx

Address: 250 S. Kraemer Blvd, Brea, 92821, CA

The foregoing Consent Agreement In the Matter of Beckman Coulter, Inc., Docket No. RCRA-04-2023-2101(b) , is Hereby Stipulated, Agreed, and Approved for Entry.

FOR COMPLAINANT:

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Kimberly L. Bingham, Chief  
Chemical Safety and Land Enforcement Branch  
Enforcement & Compliance Assurance Division  
U.S. Environmental Protection Agency, Region 4



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of:

Beckman Coulter, Inc.  
740 W 83<sup>rd</sup> Street, Hialeah, Florida 33014  
EPA ID No.: FLD042558775

Respondent.

Docket No. **RCRA-04-2023-2101(b)**

Proceeding Under Section 3008(a) of the  
Resource Conservation and Recovery Act,  
42 U.S.C. § 6928(a)

The Regional Judicial Officer is authorized to ratify this Consent Agreement which memorializes a settlement between Complainant and Respondent. 40 C.F.R. §§ 22.4(b) and 22.18(b)(3). The foregoing Consent Agreement is, therefore, hereby approved, ratified and incorporated by reference into this Final Order in accordance with 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 Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Final Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

**BEING AGREED, IT IS SO ORDERED.**

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Tanya Floyd  
Regional Judicial Officer

## CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order, in the Matter of Beckman Coulter, Inc. Docket No. RCRA-04-2023-2101(b) , were filed and copies of the same were emailed to the parties as indicated below.

**Via email to all parties at the following email addresses:**

To Respondent:        Jeryl Olson  
                                 Partner  
                                 Seyfarth Shaw LLP  
                                 jolson@seyfarth.com

To EPA:                 Parvez Mallick  
                                 Environmental Engineer  
                                 mallick.parvez@epa.gov

F. Marshall Binford  
Associate Regional Counsel  
binford.marshall@epa.gov

Quantindra Smith  
smith.quantindra@epa.gov

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Shannon L. Richardson, Regional Hearing Clerk  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960