



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 5

IN THE MATTER OF: ) Docket No.: RCRA-05-2025-0001
Conn Selmer Incorporated )
500 Industrial Parkway, Elkhart, Indiana )
EPA ID. No. IND000821561 )
Respondent )
EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER

EXPEDITED SETTLEMENT AGREEMENT

- 1. The Director, Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency ("EPA"), Region 5 ("Complainant") and Conn Selmer Incorporated ("Respondent") enter into this Resource Conservation and Recovery Act ("RCRA") Expedited Settlement Agreement ("ESA" or "Agreement") to settle the civil violations set forth in this Agreement for a penalty of \$12,500.
2. EPA inspected Conn Selmer Incorporated on March 1, 2024, and reviewed information you provided on July 1, 2024. Complainant has determined Respondent violated the following sections of RCRA, and the Indiana hazardous waste management program, Title 329 Indiana Administrative Code, Article 3.1, at Respondent's facility located at 500 Industrial Parkway, Elkhart, Indiana (the "Facility"):
a. Section 3005 of RCRA, 42 U.S.C. § 6925(a), and the regulations at 40 C.F.R. Part 270 and 329 Ind. Admin. Code § 3.1-13 prohibit the treatment, storage, or disposal of hazardous waste without a permit or interim status. Under 329 Ind. Admin. Code § 3.1-7-1, however, a generator of hazardous waste may accumulate hazardous waste on-site for 90 days or less without a permit or interim status, provided, among other things, the hazardous waste is contained in containers, tanks, drip pads or containment buildings; and the generator clearly labels each container of hazardous waste with the words, "Hazardous Waste," and clearly marks each container with the date upon which accumulation began. At the time of the inspection, March 1, 2024:
- One (1) roll-off container of hazardous wastewater treatment sludge from electroplating operations was marked with an accumulation date of November 30, indicating that it had been stored for 92 days;

- One (1) container of hazardous waste “brass activation from cyanide room” was not clearly marked with the date upon which the period of accumulation began;
- One (1) container of hazardous wastewater treatment sludge was not clearly marked with the words “Hazardous Waste;” and
- Hazardous wastewater treatment sludge was located on the floor in the vicinity of the filter press and Respondent had not obtained a permit or interim status.

Respondent 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 329 Ind. Admin. Code §§ 3.1-13-1, 3.1-13-2(1), (2), (3), (4), 3.1-13-3 through 3.1-13-17 [40 C.F.R. §§ 270.1(c) and 270.13] because it failed to comply with the aforementioned generator permit exemption requirements.

- b. Failure to comply with any of the conditions of 329 Ind. Admin. Code § 3.1-7-1, subjects the generator of hazardous waste to the requirements of 329 Ind. Admin. Code Article 3.1 Rule 9. Under 329 Ind. Admin. Code § 3.1-9-1, a container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste. On March 1, 2024, Respondent had not closed one (1) container holding hazardous wastewater treatment sludge from electroplating operations when it was not necessary to add or remove waste. Respondent’s failure to close (1) container holding hazardous waste during storage when it was not necessary to add or remove waste violated 329 Ind. Admin. Code § 3.1-9-1.
- c. Failure to comply with any of the conditions of 329 Ind. Admin. Code § 3.1-7-1 subjects the generator of hazardous waste to the requirements of 329 Ind. Admin. Code 329 Article 3.1, Rule 9. Under Ind. Admin. Code 329 § 3.1-9-1, facility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches facility personnel to perform their duties in a way that ensures the facility’s compliance with the requirements of RCRA. This program must be directed by a person trained in hazardous waste management procedures and must include instruction that teaches facility personnel hazardous waste management procedures (including contingency plan implementation) relevant to the positions in which they are employed. Facility personnel must successfully complete this training program within six months after the date of their employment or assignment to a facility or to a new position at a facility, whichever is later, and must take part in an annual review of this initial training thereafter. Under 329 Ind. Admin. Code § 3.1-9-1, owners and operators must maintain records that document initial and annual training has been provided to facility personnel. At the time of the inspection, March 1, 2024, the last record documenting training of

facility personnel was from 2018. Respondent's failure to conduct annual training for years 2019 through 2023 violated Ind. Admin. Code § 3.1-9-1.

- d. Failure to comply with any of the conditions of 329 Ind. Admin. Code § 3.1-7-1, subjects the generator of hazardous waste to the requirements of 329 Ind. Admin. Code Article 3.1 Rule 9. Under 329 Ind. Admin. Code § 3.1-9-1, at all times, there must be at least one employee either on the generator's premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures and implementing the necessary emergency procedures (i.e., the Emergency Coordinator). The contingency plan for the facility must list names and emergency telephone numbers of all persons qualified to act as emergency coordinator, and this list must be kept up to date. Where more than one person is listed, one must be named as primary emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates. At the time of the inspection, March 1, 2024, the contingency plan listed Tori Patterson as the emergency coordinator, who was no longer employed at the facility. Alternate emergency coordinators were not identified in the order in which they will assume responsibilities as alternates. Respondent's failure to update its list of emergency coordinators, as identified above, violated 329 Ind. Admin. Code § 3.1-9-1.
  - e. Under 329 Ind. Admin. Code § 3.1-7-1, a generator must accurately determine whether its waste is hazardous and keep records that document those determinations. Records must be maintained for at least three years from the date that the waste was last sent to on-site or off-site treatment, storage, or disposal. At the time of the inspection, March 1, 2024, hazardous waste determination records were not available. Hazardous waste determination records were not included in Respondent's July 1, 2024, submittal to EPA. Respondent's failure to maintain waste determination records violated 329 Ind. Admin. Code § 3.1-7-1.
  - f. Under 329 Ind. Admin. Code § 3.1-16-1, a handler of universal waste lamps must contain any lamp in containers and packages that are closed. At the time of the inspection, one box of universal waste lamps at the hazardous waste storage area was not closed. Respondent's failure to close the container of universal waste lamps or containers or packages containing universal waste lamps, as described above, violated 329 Ind. Admin. Code 3.1-16-1.
3. The EPA and Respondent agree that settlement of this matter for a civil penalty of twelve thousand five hundred dollars (\$12,500) 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 Indiana 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 as provided at 40 C.F.R. § 22.15(c); (6) waives any right to contest this Expedited Settlement Agreement and Final Order and its right to appeal this Expedited Settlement Agreement and Final Order; and (7) 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 ESA.
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 have paid a civil penalty of twelve thousand five hundred dollars (\$12,500) within 30 days of its receipt of the letter setting forth the opportunity for expedited settlement. Respondent shall pay the penalty 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>.
9. Respondent shall have sent a notice of payment that states Respondent's name, complete address, and the case docket number to EPA at the following addresses, when it paid the penalty:

Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 5  
[r5hearingclerk@epa.gov](mailto:r5hearingclerk@epa.gov)

Todd Brown  
Land Enforcement and Compliance Assurance Branch  
U.S. Environmental Protection Agency, Region 5  
[Brown.todd@epa.gov](mailto:Brown.todd@epa.gov) and  
[r5lecab@epa.gov](mailto:r5lecab@epa.gov)

Robert L. Thompson  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 5  
[thompson.robertl@epa.gov](mailto:thompson.robertl@epa.gov)

U.S. Environmental Protection Agency  
Cincinnati Finance Center  
CINWD\_AcctsReceivable@epa.gov

10. The civil penalty is not deductible for federal tax purposes.
11. Within 30 days of its receipt of the letter setting forth the opportunity for expedited settlement, Respondent will submit to EPA copies of the records which document the hazardous waste determinations under 329 Ind. Admin. Code § 3.1-7-1 and 40 C.F.R. § 262.11, for all hazardous waste shipped off-site in the three-year period preceding receipt of the letter setting forth the opportunity for expedited settlement. These records must identify the material as a hazardous waste. These records must comprise the generator's knowledge of the waste and support the generator's determination, as described at 40 C.F.R. §§ 262.11(c) and (d). The records must include, but are not limited to, the following types of information: The results of any tests, sampling, waste analyses, or other determinations made in accordance with this section; records documenting the tests, sampling, and analytical methods used to demonstrate the validity and relevance of such tests; records consulted in order to determine the process by which the waste was generated, the composition of the waste, and the properties of the waste; and records which explain the knowledge basis for the generator's determination, as described at paragraph 40 C.F.R. § 262.11(d)(1).
12. 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.
13. EPA reserves all of 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.
14. Each party shall bear its own costs and fees, if any.
15. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. § 22.31(b), is effective upon filing.
16. 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: thompson.robertl@epa.gov (for Complainant), and dditommaso@connselmer.com (for Respondent).
17. Respondent understands that the ESA will become publicly available upon filing.

IT IS SO AGREED,

David Di Tommaso

Name (print)

EHS Manager

Title (print)

David Di Tommaso

Signature

12/30/24

Date

APPROVED BY EPA:

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Michael D. Harris  
Division Director  
Enforcement and Compliance Assurance Division

**In the Matter of:  
Conn Selmer Incorporated  
Docket No.: RCRA-05-2025-0001**

**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:

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