

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

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| IN THE MATTER OF: |) | Docket No. RCRA-05-2023-0004 |
| |) | |
| |) | |
| Colwell Incorporated |) | EXPEDITED SETTLEMENT |
| EPA ID. No. IND984868836 |) | AGREEMENT AND |
| Respondent. |) | FINAL ORDER |

EXPEDITED SETTLEMENT AGREEMENT

The Director, Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency (“EPA”), Region V (“Complainant”) and Colwell Incorporated (“Respondent”) enter into this Resource Conservation and Recovery Act (“RCRA”) Expedited Settlement Agreement (“Agreement”) to settle the civil violations set forth in this Agreement for a penalty of \$3,750.

2. Complainant has determined Respondent violated the following sections of RCRA Subtitle C 42 U.S.C. § 6921 *et seq.*, and the Indiana hazardous waste management program, 329 Ind. Admin. 3.1-1 *et seq.*, at Respondent’s facility located at 231 S Progress Dr., Kendallville, IN (the “Facility”) based on observations made by EPA during a compliance evaluation inspection of the Facility on July 28, 2022 (the “Inspection”):
 - a) Under 329 Ind. Admin. Code 3.1-7-1, a generator of hazardous waste may accumulate hazardous waste on-site for 90 days or less without a permit or interim status, provided that the generator complies with all applicable conditions set forth in 329 Ind. Admin. Code 3.1-7-1, including, but not limited to, marking each container holding hazardous waste with the words “Hazardous Waste” or with other words that identify the contents of the containers. At the time of the Inspection, Respondent had not marked 3 containers of hazardous waste with the words “Hazardous Waste” or with words that identify the contents of the container and had not obtained a permit or interim status. Respondent’s storage of hazardous waste without a permit or without interim status violated Section 3005 of RCRA, 42 U.S.C. § 6925(a), and the requirements of 329 Ind. Admin. Code § 3.1-13-1.
 - 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 329 Ind. Admin. Code 3.1-9-1. 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. At the time of the Inspection, Respondent had not closed 7 containers holding hazardous waste during storage when it was not necessary to add or remove waste. Respondent’s failure to close 7 containers 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) Under 329 Ind. Admin. Code 3.1-7-1, a person who generates a solid waste, as defined in 329 Ind. Admin. Code 3.1-6-1, must make an accurate determination as to whether that waste is a hazardous waste. Under 329 Ind. Admin. Code 3.1-6-1(b) and 3.1-6-2(13), solvent-contaminated wipes that are sent for cleaning and reuse are not solid wastes from the points of generation, provided that, when accumulated, stored, and transported, the wipes are contained in non-leaking, closed containers that are labeled with “Excluded Solvent-Contaminated Wipes” or other words indicating the contents of the container. At the time of the Inspection, Respondent had not labeled five (5) containers containing solvent-contaminated wipes with the label “Excluded Solvent-Contaminated Wipes” or used other words indicating the contents of the container and had not made an accurate determination as to whether the non-exempt solvent-contaminated wipes in the five (5) containers were hazardous waste. Respondent’s failure to make an accurate determination as to whether the non-exempt solvent-contaminated wipes in the five (5) containers lacking the required label were hazardous waste is a violation of 329 Ind. Admin. Code 3.1-7-1.

3. EPA and Respondent agree that settlement of this matter for a penalty of three thousand seven hundred and fifty dollars (\$3,750) 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 EPA has jurisdiction over Respondent and Respondent’s conduct as alleged herein, (2) neither admits nor denies the factual allegations contained herein; (3) consents to the assessment of this penalty; and (4) waives any right to contest the allegations contained herein or to appeal the Final Order.
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) that Respondent will pay the civil penalty in accordance with this Agreement.
8. Within 30 days after the effective date of this Agreement, Respondent shall pay a civil penalty of \$3,750 for the RCRA violations identified in this Agreement. There are four options for paying this civil penalty:

a. By sending a cashier’s or certified check, payable to “Treasurer, United States of America” to:

- i. For checks sent by regular U.S. Postal Service mail:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center

P.O. Box 979077
St. Louis, Missouri 63197-9000

- ii. For checks sent by express mail:

U.S. Bank
Government Lockbox 979077 U.S. EPA Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, Missouri 63101

The face of the check must state the case title (“*In the Matter of: Colwell Incorporated*”) and the docket number of this Agreement.

- b. Or by wire transfer, payable to “Treasurer, United States of America,” and sent to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
SWIFT address FRNYUS33
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message is
“D68010727 Environmental Protection Agency”

In the comment or description field of the electronic funds transfer, state “*In the Matter of: Colwell Incorporated*” and the docket number of this Agreement.

- c. Or by ACH electronic funds transfer, payable to “Treasurer, United States of America,” and sent to:

US Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking

- d. Or by paying online and following the instructions found here:

WWW.PAY.GOV

Use the Search Public Forms option and enter ‘sfo 1.1’ in the search field.
Open form and complete required fields.

9. Respondent must send a notice of payment that states Respondent’s name, complete address, and the case docket number (along with a photocopy of the check, if applicable) to EPA at the following addresses, when it pays the penalty:

Regional Hearing Clerk
U.S. EPA, Region 5

r5hearingclerk@epa.gov

Andrea Dierich
Land Enforcement and Compliance Assurance Branch
U.S. EPA, Region 5
Dierich.andrea@epa.gov and
r5lecab@epa.gov

Elyse Voyen
Office of Regional Counsel
U.S. EPA, Region 5
voyen.elyse@epa.gov

10. The civil penalty is not deductible for federal tax purposes.
11. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties, and the United States enforcement expenses for the collection action. The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.
12. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount 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 \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.
13. 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.
14. 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.
15. Upon signing and returning this Agreement to EPA, Respondent waives the opportunity for a hearing pursuant to Section 3008(b) of RCRA, 42 U.S.C. § 6928(b).
16. Each party shall bear its own costs and fees, if any.
17. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. § 22.31(b), is effective upon filing.
18. 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: voyen.elyse@epa.gov (for Complainant), and nickm@colwellcolour.com (for Respondent).
19. Respondent understands that the ESA will become publicly available upon filing.

IT IS SO AGREED,

Name (print): JIM SKINNER

Title (print): EVP of Operations

Signature:  _____

Date 4/13/2023

APPROVED BY EPA:

MICHAEL
HARRIS

 Digitally signed by MICHAEL
HARRIS
Date: 2023.04.28 08:25:56
-05'00'

Michael D Harris
Division Director
Enforcement and Compliance Assurance Division

Date 4/28/2023

**In the Matter of:
Colwell Incorporated
Docket Number: RCRA-05-2023-0004**

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 COYLE Digitally signed by ANN
COYLE
Date: 2023.04.28
14:57:34 -05'00'

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