

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
Philadelphia, Pennsylvania 19103

FILED

Dec 05, 2023

10:19 am

U.S. EPA REGION 3  
HEARING CLERK

IN THE MATTER OF: )  
 )  
Agilent Technologies, Inc. )  
 )  
Respondent, )  
 )  
Agilent Technologies – Little Falls )  
2850 Centerville Road )  
Wilmington, Delaware 19808 )  
Facility )  
 )  
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DOCKET NO.: RCRA-03-2024-0022

EXPEDITED SETTLEMENT  
AGREEMENT AND FINAL ORDER

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

**EXPEDITED SETTLEMENT AGREEMENT**

1. Agilent Technologies, Inc. (“Respondent”), and the Director, Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III (“Complainant”) enter into this Expedited Settlement Agreement (“Agreement”) pursuant to Section 3008(a) and (g) of the Resource Conservation and Recovery Act (“RCRA”), as amended, 42 U.S.C. § 6928(a) and (g), and the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (“Consolidated Rules of Practice”), 40 C.F.R. Part 22 (with specific reference to 40 C.F.R. §§ 22.13(b), 22.18(b)(2), and (3)). The Administrator has delegated the authority to enter into this Agreement to the Regional Administrator who, in turn, has delegated it to the Complainant.
2. The U.S. Environmental Protection Agency, Region III (“EPA”) has jurisdiction over this matter pursuant to Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), and 40 C.F.R. §§ 22.1(a)(4) and 22.4 of the Consolidated Rules of Practice.
3. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), EPA has authorized the state of Delaware to administer a hazardous waste management program in lieu of the federal hazardous waste management program established under RCRA Subtitle C, 42 U.S.C. §§ 6921 – 6939g. The provisions of the current authorized Delaware Hazardous Waste Management Program, codified at the Delaware Regulations Governing Hazardous Waste (“DeRGHW”) Parts 260 – 279 and Parts 122 and 124, have thereby become requirements of RCRA Subtitle C and are enforceable by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a). At the time of the violations alleged in this Agreement, the version of the DeRGHW authorized by EPA on October 10, 2017 were in force.
4. On June 27, 2023, EPA sent a letter to the state of Delaware, through the Delaware

Department of Natural Resources and Environmental Control (“DNREC”), giving prior notice of this enforcement action in accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

5. At its facility, located at 2850 Centerville Road, Wilmington, Delaware (“Facility”), Respondent manufactures and tests analytical equipment, specifically gas chromatography equipment. On July 26, 2021, Respondent submitted a notification to DNREC that the Facility was a small quantity generator (“SQG”) of hazardous waste at the Facility, and DNREC assigned RCRA ID No. DED984073163 to the Facility. Respondent does not have a permit for the treatment, storage or disposal of hazardous waste at the Facility.
6. Complainant alleges that, at all times relevant to the allegations described in this Agreement, Respondent was and continues to be a corporation and is therefore a “person,” as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and DeRGHW, and at all times relevant to the allegations in this Agreement was the “operator” and the “owner” of a “facility,” described in Paragraph 5, as the terms “facility,” “owner” and “operator” are defined in DeRGHW.
7. At all times relevant to the allegations described in this Agreement, Respondent “stored” waste solvents, waste hydrochloric acid, and waste solvent-contaminated sharps with EPA Hazardous Waste Number(s) D001, D002, F002, F003, and F005, which are “hazardous waste(s)” at the Facility, as the terms “stored” and “hazardous waste” are defined in DeRGHW.
8. On January 17 & 18, 2023, EPA representatives conducted a Compliance Evaluation Inspection at the Facility to determine compliance with the applicable hazardous waste regulations. On April 13, 2023, EPA sent an information request letter to the Respondent pursuant to RCRA, requesting information about the Facility regarding its compliance with the applicable hazardous waste regulations. On May 24, 2023, Respondent provided a response to EPA’s information request.
9. Based on the observations during the Inspection and on the information Respondent provided in response to EPA’s information request, Complainant alleges and finds that Respondent failed to comply with specific requirements of Subtitle C of RCRA, 42 U.S.C. §§ 6921 – 6939g, its implementing regulations at 40 C.F.R. Parts 262, 264, 265, and the federally-authorized state of Delaware hazardous waste management regulations set forth in the Delaware Hazardous Waste Management Program, set forth in the Delaware Regulations Governing Hazardous Waste (“DeRGHW”) Parts 260 – 279, and Parts 122 and 124.
10. Complainant has identified the following five violations at the Facility:
  - a. Count I – Failure to Operate with a Permit, Interim Status, or Valid Exemption to Permit Requirement.  
On at least January 17, 2023, Respondent operated the Facility without a permit, interim status, or a valid exemption to the permitting requirement, in violation of DeRGHW § 122.1(c). The following acts or omissions prevented Respondent from meeting the regulatory permit exemption conditions set forth at DeRGHW § 262.34:

- (1) Respondent had open containers of hazardous waste when waste was neither being added or removed, as required by DeRGHW § 262.34(a)(1)(i), which incorporates the Container Management requirements of DeRGHW § 265.173(a). The EPA Inspector observed eight open containers of hazardous waste, located at the Respondent's satellite accumulation areas ("SAA"), which consist of utility carts. Additionally, the EPA Inspector observed an open trash container, which contained disposable lab gloves. The disposable lab gloves were later determined to be a hazardous waste with EPA waste codes D001 and F003. At the time of the observations, waste was not being added or removed from the containers.
- (2) Respondent failed to label containers of hazardous waste with the words "Hazardous Waste," as required by DeRGHW § 262.34(a)(3).
  - (i) The EPA Inspector observed a one-gallon bucket containing three vials. The three vials were a hazardous waste with EPA waste code D001. The one-gallon bucket did not have the words "Hazardous Waste."
  - (ii) The EPA Inspector observed a small yellow container with solvent-contaminated sharps. The solvent-contaminated sharps carry the EPA waste codes F002, F003, and F005. The small yellow container did not have the words "Hazardous Waste."
  - (iii) The EPA Inspector observed a trash container with disposable lab gloves. The disposable lab gloves were later determined to be a hazardous waste carrying EPA waste codes D001 and F003. The trash container did not have the words "Hazardous Waste."
- (3) Respondent failed to include the accumulation start date on a container of hazardous waste, as required by DeRGHW § 262.34(a)(2). In the hazardous waste accumulation area ("HWAA"), which is located in the "Out Building," as described by the Respondent, the EPA Inspector observed a five-gallon bucket that was labeled "Hazardous Waste" and "fuel spill cleanup." The bucket was not marked with an accumulation start date.
- (4) Respondent failed to have an SAA at the point of waste generation and under the control of the operator, as required by DeRGHW § 262.34(c)(1).
  - (i) Respondent manages utility carts ("waste cart") as SAAs. The EPA Inspector observed a waste cart in Lab #1-412. The observed waste cart receives hazardous waste from Lab #1-412 and Lab #1-420. Lab #1-420 is a separate room adjacent to Lab #1-412. With respect to Lab #1-420, the waste cart is not at the point of generation where wastes initially accumulate or under the control of the operator of the process generating the waste.

- (ii) The EPA Inspector observed a waste cart in the Refurb Chemical Lab. Respondent explained that hazardous waste generated from the Refurbishment Area is accumulated in the observed waste cart. The Refurbishment Area is an area outside of the Refurb Chemical Lab. The waste cart is not at the point of generation where wastes initially accumulate or under the control of the operator of the process generating the waste.
  - b. Count II – Failure to Make a Waste Determination. On at least January 17, 2023, Respondent failed to make a waste determination in violation of DeRGHW § 262.11(a).
    - (1) The EPA Inspector observed disposable lab gloves in an open, unlabeled trash container. The contents in the trash container were being discarded as regular trash. At the time of the observation, a waste determination had not been made regarding the lab gloves. Based on correspondence from Respondent on May 24, 2023, disposable lab gloves were determined to be a hazardous waste with EPA waste codes D001 and F003.
    - (2) In the Quality Lab, super glue residues were cleaned with a paper towel and an isopropyl alcohol (“IPA”) solution. At the time of the January 17, 2023 Compliance Evaluation Inspection, the IPA-contaminated paper towels would be discarded in the regular trash. Based on correspondence from Respondent on May 24, 2023, the IPA-contaminated paper towels were determined to be a hazardous waste with EPA waste codes D001.
  - c. Count III – Failure to Keep Containers of Hazardous Waste Closed. On at least January 17, 2023, Respondent had open containers of hazardous waste while waste was neither being added or removed, in violation of DeRGHW § 264.173(a). The EPA Inspector observed eight (8) open containers of hazardous waste, located at the Respondent’s SAAs, which consist of utility carts. The EPA Inspector observed an open trash container, which contained disposable lab gloves. The disposable lab gloves were later determined to be a hazardous waste with EPA waste codes D001 and F003. At the time of the observations, waste was not being added or removed from the containers.
  - d. Count IV – Failure to Properly Label Universal Waste Lamps. On at least January 18, 2023, Respondent failed to properly label a container of universal waste lamps, in violation of DeRGHW § 273.14(e). In the Out Building, the EPA Inspector observed a container with universal waste lamps that was labeled “universal waste” and “deuterium lamps.” According to DeRGHW § 273.14(e), a container of universal waste lamps must be marked or labeled with one of the following phrases: “Universal Waste – Lamp(s),” “Waste Lamp(s),” or “Used Lamp(s).”
11. Complainant and Respondent agree that settlement of this matter for a total penalty of **FIVE THOUSAND DOLLARS (\$5,000.00)** is in the public interest. In calculating this amount,

Complainant considered the statutory factors set forth in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), and with specific reference to EPA’s October 1990 RCRA Civil Penalty Policy, as revised in June, 2003 (“RCRA Penalty Policy”), and the 2021 RCRA Expedited Settlement Agreement Pilot.

12. Respondent agrees that, within 30 days of the effective date of this Agreement, Respondent shall make a payment of **FIVE THOUSAND DOLLARS (\$5,000.00)** by one of four methods: 1) electronic funds transfer (“EFT”), 2) Automated Clearinghouse, 3) Pay.gov, or 4) a cashier’s check or certified check made out to “**United States Treasury**” with the case name, address and docket number of this Agreement (RCRA-03-2024-0022), for the amount specified above:

a. Payment of the penalty amount by EFT:

Federal Reserve Bank of New York  
ABA 021030004  
Account 68010727  
SWIFT address FRNYUS33  
33 Liberty Street  
New York, NY 10045  
Beneficiary: Environmental Protection Agency

b. Payment of the penalty amount by Automated Clearinghouse (“ACH”):

U.S. Treasury REX/Cashlink ACH Receiver  
  
ABA: 051036706  
Account Number: 310006, Environmental Protection Agency  
  
CTX Format Transaction Code 22- Checking  
  
Physical Location of the U.S. Treasury Facility  
5700 Rivertech Court  
Riverdale, MD 20737  
  
Remittance Express (REX): 1-866-234-5681

c. Payments made through Pay.gov:

Payers can use their credit or debit cards (Visa, MasterCard, American Express & Discover) as well as checking account information to make payments. Follow these steps to make a payment:

- (1) You **DO NOT** need a user name and password or account.
- (2) Enter **SFO 1.1** in the form search box on the top left side of the screen.
- (3) Open the form and follow the on-screen instructions.

- (4) Select your method of payment from the “Type of Payment” drop down menu.
  - (5) Based on your selection, the corresponding line will open and no longer be shaded grey.
  - (6) Enter the docket number of this Agreement into the field.
- d. Payment of the penalty amount by regular U.S. Postal Service shall be sent via regular mail to:
- U.S. Environmental Protection Agency  
P.O. Box - Cincinnati Finance Center Box 979078  
St. Louis, MO 63197-9000
- e. Payment of the penalty amount by overnight mail (FedEx or other non-U.S. Postal Service express mail) shall be sent to:
- U.S. Environmental Protection Agency  
Government Lock Box 979078  
3180 Rider Trail S.  
Earth City, MO 63045
- A list of the payment methods is also provided at this website
- f. <https://www.epa.gov/financial/makepayment>.
13. Within 24 hours of payment, Respondent shall also send proof of payment (a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer), by electronic mail to:

Andrew Van Woert, Compliance Officer (3ED22)  
U.S. EPA, Region III  
[vanwoert.andrew@epa.gov](mailto:vanwoert.andrew@epa.gov)

and

Regional Hearing Clerk (3RC00)  
U.S. EPA, Region III  
[R3\\_Hearing\\_Clerk@epa.gov](mailto:R3_Hearing_Clerk@epa.gov)

14. In signing this Agreement, Respondent: admits the jurisdictional allegations in this Agreement; neither admits nor denies the specific factual allegations in this Agreement, except as provided in the jurisdictional admission above; agrees not to contest EPA’s jurisdiction with respect to the execution of this Agreement, the issuance of the attached Final Order, or the enforcement the Agreement; expressly waives its right to a hearing on any issue of law or fact in this Agreement and any right to appeal the accompanying Final Order; consents to the issuance of the Agreement and agrees to comply with its terms;

agrees to bear its own costs and attorney's fees; and agrees not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.


15. 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) any documentation or information provided to EPA was true and accurate.
16. This Agreement and the attached Final Order constitute a settlement by EPA of its claims for civil penalties for the violations alleged in this Agreement.
17. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Sections 22.18(c) and 22.31(a) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under the RCRA, the RCRA regulations promulgated, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this Agreement, following its filing with the Regional Hearing Clerk.
18. Late payment of the agreed upon penalty may subject Respondent to interest, administrative costs and late payment penalties in accordance with 40 C.F.R. § 13.11.
19. This Agreement is effective upon filing, in accordance with 40 C.F.R. § 22.31(b).
20. The undersigned representative certifies that she/he is fully authorized to execute this Agreement and to legally bind Agilent Technologies, Inc.

As permitted under 40 CFR § 22.6, the Regional Hearing Clerk will serve copies of this Agreement and Final Order by e-mail to the parties at the following valid e-mail addresses: [vanwoert.andrew@epa.gov](mailto:vanwoert.andrew@epa.gov) (for Complainant), and [braden.case@agilent.com](mailto:braden.case@agilent.com) (for Respondent).

21. By signing this Agreement, Respondent acknowledges that this Agreement and Final Order will be available to the public and represents that, to the best of Respondent's knowledge and belief, this Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.

**For Respondent:** Agilent Technologies, Inc.

Date: 10-05-2023

By:   
\_\_\_\_\_  
Braden Case  
WPS Site Manager



**For Complainant: U.S. Environmental Protection Agency, Region III**

After reviewing the Agreement and other pertinent matters, I, the undersigned Director of the Enforcement and Compliance Assurance Division of the United States Environmental Protection Agency, Region III, agree to the terms and conditions of this Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

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*[Digital Signature and Date]*  
Karen Melvin, Director  
Enforcement and Compliance Assurance Division

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
Philadelphia, Pennsylvania 19103**

**FILED**  
Dec 05, 2023  
10:19 am  
U.S. EPA REGION 3  
HEARING CLERK

<b>IN THE MATTER OF:</b>	)	<b>DOCKET NO.: RCRA-03-2024-0022</b>
	)	
<b>Agilent Technologies, Inc.</b>	)	
	)	
<b>Respondent,</b>	)	<b>EXPEDITED SETTLEMENT</b>
	)	<b>AGREEMENT AND FINAL ORDER</b>
	)	
<b>Agilent Technologies – Little Falls</b>	)	<b>Proceeding under Section</b>
<b>2850 Centerville Road</b>	)	<b>3008(a) and (g) of the Resource</b>
<b>Wilmington, Delaware 19808</b>	)	<b>Conservation and Recovery Act, as</b>
	)	<b>amended, 42 U.S.C. § 6928(a) and (g)</b>
<b>Facility</b>	)	
	)	
	)	
	)	

**FINAL ORDER**

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency - Region III, and Respondent, Agilent Technologies, Inc., have executed a document entitled “Expedited Settlement Agreement,” which I hereby ratify as a Consent Agreement in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (“Consolidated Rules of Practice”), 40 C.F.R. Part 22, (with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Expedited Settlement Agreement are accepted by the undersigned and incorporated herein as if set forth at length.

Based upon the representations of the parties in the attached Expedited Settlement Agreement, the penalty agreed to therein took into account the statutory factors set forth in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), and with specific reference to EPA’s October 1990 RCRA Civil Penalty Policy, as revised in June 2003 (“RCRA Penalty Policy”), and the 2021 RCRA Expedited Settlement Agreement Pilot.

**NOW, THEREFORE, PURSUANT TO** 3008(g) of the Resource Conservation and Recovery Act (“RCRA”), as amended, 42 U.S.C. Section 6991e, and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of **FIVE THOUSAND DOLLARS (\$5,000.00)**, in accordance with the payment provisions set forth in the Expedited Settlement Agreement, and comply with the terms and conditions of the Consent Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Expedited Settlement Agreement and

does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of Subtitle C of the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6921 – 6939g, and the regulations promulgated thereunder.

The effective date of the foregoing Expedited Settlement Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

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*[Digital Signature and Date]*

Joseph J. Lisa  
Regional Judicial Officer  
U.S. EPA - Region III

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
Philadelphia, Pennsylvania 19103**

<b>In the Matter of:</b>	:	
	:	
<b>Agilent Technologies, Inc.</b>	:	
	:	<b>U.S. EPA Docket No. RCRA-03-2024-0022</b>
<b>Respondent.</b>	:	
	:	<b>Proceeding under Section</b>
	:	<b>3008(a) and (g) of the Resource</b>
<b>Agilent Technologies – Little Falls</b>	:	<b>Conservation and Recovery Act, as</b>
<b>2850 Centerville Road</b>	:	<b>amended, 42 U.S.C. § 6928(a) and (g)</b>
<b>Wilmington, Delaware 19808</b>	:	
	:	
<b>Facility</b>	:	
	:	

**CERTIFICATE OF SERVICE**

I certify that the foregoing *Expedited Settlement Agreement and Final Order* was filed with the EPA Region III Regional Hearing Clerk on the date that has been electronically stamped on the *Expedited Settlement Agreement and Final Order*. I further certify that on the date set forth below, I caused to be served a true and correct copy of the foregoing to each of the following persons, in the manner specified below, at the following addresses:

Copies served via email to:

**Braden Case, WPS Site Manager  
Agilent Technologies, Inc.  
Braden.case@agilent.com  
2850 Centerville Road  
Wilmington, Delaware 19808**

**Andrew Van Woert  
Compliance Officer  
U.S. EPA, Region III  
Vanwoert.andrew@epa.gov**

[Digital Signature and Date]  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region III