



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

1595 WYNKOOP STREET  
DENVER, CO 80202-1129

Phone 800-227-8917

http://www.epa.gov/region08

2019 FEB 12 PM 2:08

FILED  
EPA REGION VIII  
HEARING CLERK

DOCKET NO.: EPCRA-08-2019-0001

IN THE MATTER OF:

INTEGRITY APPLIED SCIENCE INC.

FINAL ORDER

RESPONDENT

)  
)  
)  
)  
)  
)  
)  
)  
)  
)

Pursuant to 40 C.F.R. § 22.13(b) and §§ 22.18(b)(2) and (3) of EPA’s Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order.

The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon filing this Consent Agreement and Final Order.

SO ORDERED THIS 12<sup>th</sup> DAY OF February, 2019.

Katherin E. Hall  
Katherin E. Hall  
Regional Judicial Officer

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2019 FEB 12 PM 2: 08

FILED  
EPA REGION VIII  
HEARING CLERK

\_\_\_\_\_  
IN THE MATTER OF: )  
 )  
Integrity Applied Science Inc. )  
8123 W I-25 Frontage Road )  
Frederick, Colorado 80516 )  
 )  
Respondent )  
\_\_\_\_\_ )

**CONSENT AGREEMENT  
AND FINAL ORDER**

**Docket No.:EPCRA-08-2019-0001**

**A. STATUTORY AUTHORITY**

1. This Consent Agreement is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by section 325 of the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. § 11045.
2. Pursuant to section 325 of EPCRA, 42 U.S.C. § 11045, and in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. part 22, EPA issues, and Integrity Applied Science Inc. (Respondent) agrees to issuance of a final order approving this Consent Agreement.

**B. PRELIMINARY STATEMENT**

3. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b), issuance of this Consent Agreement commences this proceeding, which will conclude when the Final Order becomes effective.
4. The Assistant Regional Administrator of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8 (Complainant) has been delegated the authority pursuant to section 325 of EPCRA, 42. U.S.C. § 11045, to sign consent agreements

between EPA and the party against whom an administrative penalty for violations of EPCRA is proposed to be assessed.

5. Part C of this Consent Agreement contains a concise statement of the factual and legal basis for the alleged violations of EPCRA together with the specific provisions of EPCRA and the implementing regulations that Respondent is alleged to have violated.

### **C. ALLEGATIONS**

6. Section 312 of EPCRA and the regulations at 40 C.F.R. part 370, require the owner or operator of a facility that is required to prepare or have available a material safety data sheet for a hazardous chemical under the Occupational Safety and Health Act of 1970, 29 U.S.C. § 651 *et seq.*, to prepare and submit a Tier II form containing the required data for each hazardous chemical stored in excess of its respective threshold level to the appropriate state emergency response commission (SERC), local emergency planning committee (LEPC), and fire department having jurisdiction over the facility.
7. Hazardous chemical, with certain exceptions, has the meaning given such term by the Occupational Safety and Health Act and its implementing regulations. Pursuant to those regulations, hazardous chemical means any chemical which is classified as a physical hazard or a health hazard, a simple asphyxiant, combustible dust, pyrophoric gas, or hazard not otherwise classified by 29 C.F.R. § 1900.1200(c).
8. An extremely hazardous substance (EHS) is defined at 40 C.F.R. § 370.66 as a substance listed in appendices A and B of 40 C.F.R. part 355.
9. Respondent owns or operates a facility located at 10765 Turner Boulevard Unit E, Longmont, Colorado 80504 (Facility) and is a facility within the meaning of EPCRA § 329(4).

10. Respondent is the owner or operator of the Facility within the meaning of EPCRA § 312.
11. The Weld County LEPC is the appropriate LEPC for Facility.
12. Respondent is required to have material safety data sheets available pursuant to the Occupational Safety and Health Act of 1970, 29 U.S.C. § 651 *et seq.*
13. E2 Grout, Hydraulic Cement, magnesium chloride, Nanopop, and FR-100 are hazardous chemicals.
14. Phenol is a hazardous chemical that is an EHS.
15. 40 C.F.R. § 370.10(a)(1) provides that the threshold level that triggers reporting obligations under EPCRA § 312 is having 500 pounds or more of phenol present at the facility at any one time.
16. 40 C.F.R. § 370.10(a)(2)(i) provides that the threshold level that triggers reporting obligations under EPCRA § 312 is having 10,000 pounds or more of E2 Grout, Hydraulic Cement, magnesium chloride, Nanopop, or FR-100 at the facility at any one time.
17. 40 C.F.R. § 370.45(a) requires that the owner or operator of a facility submit the Tier II form by March 1, containing data with respect to the preceding calendar year.
18. 40 C.F.R. § 370.45(b) requires that the owner or operator of a facility prepare and submit a Tier II form within 30 days of the receipt of a request from the SERC, LEPC, or fire department having jurisdiction over the facility, where the threshold level for responding to the request is zero.
19. For calendar year 2016, Respondent had present at the Facility 1,029 pounds of phenol and 26,000 pounds of E2 Grout, exceeding the threshold level for applicability of EPCRA § 312 pursuant to 40 C.F.R. § 370.10(a)(1) and 40 C.F.R. § 370.10(a)(2)(i).
20. For calendar year 2017, Respondent had present at the Facility 1,029 pounds of phenol,

26,000 pounds of E2 Grout, 50,000 pounds of Hydraulic Cement, 102,000 pounds of magnesium chloride, 17,400 pounds of Nanopop, and 100,000 pounds of FR-100, exceeding the threshold level for applicability of EPCRA § 312 pursuant to 40 C.F.R. § 370.10(a)(1) and 40 C.F.R. § 370.10(a)(2)(i).

21. At all times relevant to this Consent Agreement, Respondent was subject to EPCRA § 312 and was required pursuant to 40 C.F.R. § 370.45(a) to submit a Tier II form to the LEPC, SERC, and local fire department by March 1, containing data with respect to the preceding calendar year.
22. The first Tier II form submitted by Respondent for Facility was on October 10, 2018. By failing to submit a Tier II form to the LEPC, SERC, and local fire department for calendar year 2016 by March 1, 2017, Respondent violated 40 C.F.R. § 370.45(a).
23. The first Tier II form submitted by Respondent for Facility was on October 10, 2018. By failing to submit a Tier II form to the LEPC, SERC, and local fire department for calendar year 2017 by March 1, 2018, Respondent violated 40 C.F.R. § 370.45(a).
24. On December 12, 2017, the Weld County LEPC sent a letter to Respondent requesting that Respondent complete a Tier II form for any hazardous chemicals at Facility using a threshold level of 10 pounds.
25. The first Tier II form submitted by Respondent for Facility was on October 10, 2018. By failing to submit a Tier II form to the LEPC within 30 days of the receipt of a request from the LEPC, Respondent violated 40 C.F.R. § 370.45(b).
26. Under section 325 of EPCRA, 42 U.S.C. § 11045, and 40 C.F.R. part 19, EPA may assess a civil penalty of not more than \$55,907 for each such violation.

#### **D. TERMS OF SETTLEMENT**

27. Respondent admits the jurisdictional allegations of this Consent Agreement.
28. Respondent neither admits nor denies the specific factual allegations contained in this Consent Agreement.
29. EPA has determined, and Respondent agrees, that an appropriate penalty to settle this action is \$24,335 (the "Assessed Penalty").
30. Respondent agrees to pay the Assessed Penalty within 30 days of the effective date of the Final Order.
31. Payments under this Consent Agreement and the Final Order may be paid by following the instructions regarding Civil Penalties available at:  
<http://www2.epa.gov/financial/makepayment>. Respondent must note the docket number of this action.
32. Concurrently with payment, Respondent must send notice by email to [Ramirez.StevenA@epa.gov](mailto:Ramirez.StevenA@epa.gov) notifying that payment has been made.
33. If Respondent fails to pay any portion of the Assessed Penalty in full by its due date, the entire unpaid balance of the Assessed Penalty and accrued interest shall become immediately due and owing. If such a failure to pay occurs, Respondent may be subject to a civil action under section 325(f)(1) of EPCRA, 42 U.S.C. § 11045(f)(1), to collect any unpaid penalties, together with interest, handling charges, and nonpayment penalties, as set forth below.
34. If Respondent fails to pay any portion of the Assessed Penalty in full by its due date, Respondent shall also be responsible for payment of the following amounts:

- a) Interest. Pursuant to 31 U.S.C. § 3717(a)(1), any unpaid portion of the Assessed Penalty shall bear interest at the rate established by the Secretary of the Treasury from the effective date of the Final Order contained herein, provided, however, that no interest shall be payable on any portion of the Assessed Penalty that is paid within 30 days of the effective date of the Final Order contained herein.
- b) Handling Charge. Pursuant to 31 U.S.C. § 3717(e)(1), a monthly handling charge of \$15 shall be paid if any portion of the Assessed Penalty is more than 30 days past due.
- c) Nonpayment Penalty. Pursuant to 31 U.S.C. § 3717(e)(2), a nonpayment penalty of 6% per annum shall be paid on any portion of the Assessed Penalty that is more than 90 days past due, which nonpayment shall be calculated as of the date the underlying penalty first becomes past due.

35. The Assessed Penalty, including any additional costs incurred under Paragraph 34, represents an administrative civil penalty assessed by EPA and shall not be deductible for purposes of federal taxes.

36. The undersigned representative of Respondent certifies that he or she is authorized to enter into the terms and conditions of this Consent Agreement and to bind Respondent to this document.

37. The undersigned representative of Respondent also certifies that, as of the date of Respondent's signature of this Consent Agreement, Respondent has corrected the violations alleged in Part C.

38. Except as described in Paragraph 34, each party shall bear its own costs and attorneys' fees in bringing or defending this action.
39. For purposes of this proceeding, Respondent expressly waives any right to contest the allegations contained in the Consent Agreement and to appeal the Final Order.
40. The provisions of this Consent Agreement and the Final Order shall bind Responded and its agents, servants, employees, successors, and assigns.
41. Respondent consents to the issuance of any specified compliance or corrective action order, to any conditions specified in this consent agreement, and to any stated permit action.
42. The above provisions in Part D are STIPULATED AND AGREED upon by Respondent and EPA Region 8.

DATED:

12/19/2018

FOR RESPONDENT:

Wesley Aaron, CEO Wesley Aaron  
NAME, TITLE

DATED:

2/5/19

FOR COMPLAINANT:

SUZANNE J. BOHAN  
Assistant Regional Administrator  
Office of Enforcement, Compliance  
and Environmental Justice



## CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT and FINAL ORDER** in the matter of **INTEGRITY APPLIED SCIENCE INC.; DOCKET NO.:** **EPCRA-08-2019-0001** was filed with the Regional Hearing Clerk on February 12, 2019.

Further, the undersigned certifies that a true and correct copy of the documents were emailed to, Marc Weiner, Enforcement Attorney. True and correct copies of the aforementioned documents were placed in the United States mail certified/return receipt on February 12, 2019, to:

Respondent

Wes Aaron, CEO  
Integrity Applied Science Inc.  
8123 W. I-25 Frontage Road  
Frederick, Colorado 80516

And emailed to:

Jessica Chalifoux  
U. S. Environmental Protection Agency  
Cincinnati Finance Center  
26 W. Martin Luther King Drive (MS-0002)  
Cincinnati, Ohio 45268

February 12, 2019

  
Melissa Haniewicz  
Regional Hearing Clerk