

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX



In the matter of:) U.S. EPA Docket No.
)
) RCRA-09-2023-0007
)
Keysight Technologies, Inc.,) PROCEEDING TO COMMENCE AND
) CONCLUDE AN ACTION TO
) ASSESS A CIVIL PENALTY UNDER
) RCRA SECTION 3008 PURSUANT TO
) 40 C.F.R. SECTIONS 22.13 AND 22.18
EPA Identification No. CAR000058537)
)
)
Respondent.)
_____)

CONSENT AGREEMENT

A. PRELIMINARY STATEMENT

1. This is a civil administrative enforcement action instituted pursuant to Section 3008 of the Resource Conservation and Recovery Act (“RCRA”), as amended, 42 U.S.C. § 6928, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, Title 40 of the Code of Federal Regulations (“C.F.R.”) Part 22, (“Consolidated Rules”).
2. Complainant is the United States Environmental Protection Agency, Region IX (“EPA”).
3. Respondent is Keysight Technologies, Inc. the operator of the facility located at 1400 Fountaingrove Parkway, Santa Rosa, CA 95403 (the “Facility” or the “Keysight Facility”). The Respondent is referred to herein as “Respondent” or “Keysight.”
4. This Consent Agreement and Final Order (“CA/FO”), pursuant to 40 C.F.R. §§ 22.13(b) and 22.18, simultaneously commences and concludes this proceeding, wherein EPA alleges that Respondent violated state regulations adopted pursuant to the approved California hazardous waste management program.

5. The Parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their respective interest and in the public interest.

B. STATUTORY AND REGULATORY FRAMEWORK

6. Subtitle C of RCRA requires the EPA Administrator to promulgate regulations establishing a hazardous waste management program. Section 3006 of RCRA, 42 U.S.C. § 6926, provides, *inter alia*, that authorized state hazardous waste management programs are carried out under Subtitle C of RCRA. Therefore, a violation of any requirement of law under an authorized state hazardous waste program is a violation of a requirement of Subtitle C of RCRA.
7. The State of California (“State”) received authorization to administer the hazardous waste management program in lieu of the federal program pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, and 40 C.F.R. Part 271 on or about August 1, 1992. This authorization was updated on September 26, 2001, (*see* 66 FR 49118, September 26, 2001), on October 7, 2011, (*see* 76 FR 62303, October 7, 2011) and again on January 14, 2020 (*see* 85 FR 2038, as corrected [*see* 86 FR 29207, June 1, 2021]).
8. The authorized hazardous waste program is established pursuant to the Hazardous Waste Control Law, Chapter 6.5 of Division 20 of the California Health and Safety Code (“H&SC”), and the regulations promulgated thereunder at Title 22, Division 4.5 of the California Code of Regulations (“C.C.R.”), 22 C.C.R. §§ 66001 *et seq.* The State of California has been authorized for all the relevant portions of the hazardous waste management regulations referenced in this CA/FO.¹

C. EPA’S GENERAL ALLEGATIONS

9. Respondent Keysight operates the Keysight Facility where it undertakes research and development, small scale production and software development. Industrial operations at the Facility include integrated circuit fabrication, parts manufacturing, electroplating, metal finishing and chemical milling. The Facility’s EPA RCRA ID number is CAR000058537.
10. Keysight operates the Facility as a Large Quantity Generator (“LQG”) of hazardous waste pursuant to regulations promulgated by the California Department of Toxic Substances Control (“DTSC”) and the United States

¹ All citations to the “C.C.R.” refer to Division 4.5 of Title 22 of the current California Code of Regulations. EPA is enforcing California hazardous waste management program requirements as approved and authorized by the United States. As a convenience, corresponding Federal citations are provided in brackets.

Environmental Protection Agency.

11. On or about October 28, 2020, EPA conducted a compliance evaluation inspection (“CEI”) of the Keysight Facility. Due to travel restrictions related to Covid-19, this inspection was conducted remotely and consisted of a pre-inspection record review and a video conference call via Microsoft Teams. The purpose of the CEI was to determine the Facility’s compliance with applicable federal environmental statutes and regulations, in particular RCRA, as amended, and the regulations in 40 C.F.R. Parts 260 through 279, and the authorized statutory and regulatory requirements adopted by the State of California as part of its authorized hazardous waste program in the California Health and Safety Code, Division 20 and the California Code of Regulations, Title 22, Division 4.5. In addition, the inspection team focused primarily on compliance with RCRA’s hazardous waste air emission requirements.
12. The Respondent is a “person” as defined in H&SC Section 25118 (*see also* Section 1004(15) of RCRA, 42 U.S.C. § 6903(15)), and 22 C.C.R. §§ 66260.10 and 66270.2 (*see also* 40 C.F.R. §§ 260.10 and 270.2).
13. Respondent is the “operator” of a facility as defined in 22 C.C.R. § 66260.10 (*see also* 40 C.F.R. § 260.10).
14. Respondent is a “generator” of “hazardous waste” as defined in 22 C.C.R. §§ 66260.10 and 66261.3 [see also 40 C.F.R. §§ 260.10 and 261.3] The hazardous wastes Respondent generates at the Facility include but are not limited to, the hazardous mixed waste solvents from semiconductor manufacturing and laboratory processes and solvent wastes from the laboratories and machine shop. Hazardous waste streams generated at the Facility include ignitable wastes, (RCRA waste code D001) corrosive wastes, (D002) and several heavy metals including arsenic, (D004) Chromium, (D007) and lead, (D008).
15. Based upon the findings EPA made during the CEI, and additional information obtained subsequent to the CEI, EPA determined that Respondent violated the California Health & Safety Code § 25100 *et seq.*, and the regulations adopted pursuant thereto, as approved and authorized by the United States.
16. Section 3006 of RCRA, 42 U.S.C. § 6926, provides, *inter alia*, that authorized state hazardous waste programs are carried out under Subtitle C of RCRA. A violation of California’s authorized hazardous waste program, found at H&SC §§ 25100 *et seq.*, constitutes a violation of Subtitle C of RCRA. Therefore, a person who violates California’s authorized hazardous waste program is subject to the powers vested in the EPA Administrator by Section 3008 of RCRA, 42 U.S.C. § 6928.
17. Section 3008 of RCRA, 42 U.S.C. § 6928, authorizes the EPA Administrator to

issue orders assessing a civil penalty and/or requiring compliance immediately or within a specified time for violation of any requirement of Subtitle C of RCRA, Section 3001 of RCRA *et seq.*, 42 U.S.C. § 6921 *et seq.* The Administrator has delegated enforcement authority under Section 3008 of RCRA, 42 U.S.C. § 6928, to the EPA Regional Administrators, with delegation 8-9-A. The Regional Administrator, EPA Region IX has redelegated that authority to the EPA signatory below, with delegation R9-8-9-A.

18. Keysight has cooperated with EPA in good faith throughout EPA's investigation.

D. ALLEGED VIOLATIONS

COUNT ONE

Failure to Comply With
Air Emission Standards for Equipment Leaks

19. Paragraphs 1 through 18 above, are incorporated herein by this reference as if they were set forth here in their entirety.
20. Failure to Maintain Adequate Documentation for Volatile Organic Compound Waste Determinations. In accordance with 22 C.C.R. §§ 66262.34(a)(1)(A), 66264.1050(a) and 66264.1063(d) [*see also* 40 C.F.R. §§ 262.17(a)(1)(i); 264.1050(a); 264.1063(d)], an owner or operator of a facility shall determine, for each piece of equipment, whether the equipment contains or contacts a hazardous waste with organic concentration that equals or exceeds 10 percent by weight using one of the specific methods identified in the rule, including "application of the knowledge of the nature of the hazardous waste stream or the process by which it was produced." The regulation requires documentation of a waste determination if it is made by knowledge under that option.
21. At the time of the CEI, EPA found that the Respondent did not have adequate documentation for its solvent waste determinations and procedures. EPA found that Respondent's documentation failed to contain sufficient information about volatile organic compound concentrations to fulfill the regulatory requirements regarding documentation of a waste determination made by knowledge.
22. Failure to Comply with Method 21 Test Methods and Procedures. In accordance with 22 C.C.R. § 66264.1063(b), [*see also* 40 C.F.R. § 264.1063(b)], leak detection monitoring for air emissions, as required in 22 C.C.R. §§ 66264.1052–66264.1062, "shall comply with," among other things, "Reference Method 21 in 40 C.F.R. Part 60."
23. EPA found that Respondent, at the time of the CEI, conducted some level of air emissions monitoring, but did not properly follow Method 21 procedures when conducting air emissions monitoring, as evidenced by the rapid LDAR monitoring

timestamps on the Facility's documentation of monitoring.

24. Failure to Conduct Quarterly Precision Testing. In accordance with 22 C.C.R. §§ 66264.1052 and 66264.1057 [see also 40 C.F.R. §§ 264.1052 and 264.1057], pumps in light liquid service and valves in gas/vapor service or light liquid service, respectively, must be monitored in accordance with 22 C.C.R. 66264.1063(b), which in turn requires compliance with Method 21 in 40 C.F.R. Part 60.
25. Method 21, Section 8.1.2 states that "Calibration Precision requires the calibration precision test be completed prior to placing the analyzer into service and at subsequent 3-month intervals or at the next use, whichever is later." Precision testing is required to ensure that the monitoring instrument meets the performance criteria in Method 21.
26. At the time of the CEI, EPA found Keysight personnel had not conducted quarterly precision testing for the Facility's monitoring equipment.
27. Failure to Follow Method 21 Calibration Requirements. In accordance with 22 CCR § 66264.1063(b), [see also 40 C.F.R. § 264.1063(b)], leak detection monitoring for air emissions, as required in 22 C.C.R. §§ 66264.1052–66264.1062, among other things, requires that "the instrument . . . be calibrated before use on each day of its use by the procedures specified in Reference Method 21 in 40 CFR, part 60." It also requires that calibration gases be: "(A) zero air (less than 10 [parts per million {"ppm"}] of hydrocarbon in air); and (B) a mixture of methane or n-hexane and air at a concentration of approximately, but less than, 10,000 ppm methane or n-hexane."
28. EPA found that, at the time of the CEI, Respondent was using a photo-ionization detector (PID) with the highest calibration point set to 10 ppm isobutylene for calibration to conduct LDAR monitoring. Keysight personnel calibrated their PID unit per the manufacturer's recommendations instead of following calibration methods specified in Method 21, including a mixture of n-hexane and air at a concentration of approximately, but less than, 10,000 ppm methane or n-hexane. Calibration in accordance with the manufacturer's recommendations instead of following Method 21 or the regulatory requirement also meant that Respondent was calibrating its PID biannually, instead of before use on each day of its use. Soon after the CEI, EPA approved Respondent's detailed Method 21 calibration procedure that is modified to use 10,000 ppm isobutylene to calibrate Photoionization Detectors (PIDs) to conduct LDAR monitoring.
29. Volatile Organic Compound (VOC) Hazardous Waste Determinations Not Made at Point of Origination. In accordance with 22 C.C.R. §§ 66262.34(a)(1)(A) and 66264.1083(a), [see also 40 C.F.R. §§ 262.17(a)(1)(i) and 264.1083(a)], VOC waste determinations for the purposes of RCRA's air emissions requirements

must be made at the point of origination, before mixing and diluting with other waste streams.

30. EPA found that, at the time of the CEI, Respondent was unable to demonstrate that the Facility had made accurate waste determinations at the point of origination with respect to volatile organic compound concentrations so as to properly determine compliance with applicable RCRA air emissions regulations.
31. *Failure to Train Employees Regarding RCRA Air Emissions Requirements.* 22 C.C.R. § 66262.34 provides that a generator may accumulate hazardous waste on-site for 90 days or less without a permit or grant of interim status, provided the generator comply with, among other things, the requirements of 22 C.C.R. § 66265.16. *See* 22 CCR §§ 66262.34(a)(4), and 66264.16, [*see also* 40 C.F.R. §§ 262.17(a)(7) and 264.16]. 22 C.C.R. § 66265.16 requires that facilities subject to its requirements “ensure that facility personnel successfully complete a training program through classroom, computer-based, or electronic 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 State’s hazardous waste management program requirements. 22 C.C.R. § 66265.16(a), [*see also* 22 C.C.R. § 66264.16 and 40 C.F.R. § 264.16].
32. EPA found that, at the time of the CEI, personnel at the Facility who were responsible for conducting air emissions monitoring and implementation of the Facility’s air emissions monitoring program lacked sufficient training in accordance with the regulations.
33. LQGs need not obtain hazardous waste management permits so long as they meet the conditions of RCRA’s conditional permit exclusion for less than 90-day storage of hazardous waste. Those facilities that fail to meet the conditions are required to obtain a hazardous waste management permit to regulate their hazardous waste management activities. 22 C.C.R. §§ 66262.34 and 66270.1(c), [*see also* 40 C.F.R. §§ 262.17 and 270.1].
34. In accordance with 22 C.C.R. § 66262.34(a)(1), LQGs who accumulate hazardous waste on-site for 90 days or less without a permit or interim status must comply with the applicable requirements of 22 C.C.R. Division 4.5, Chapter 15, Articles 27, 28 and 28.5, [*see also* 40 C.F.R. § 262.17, and 40 C.F.R. Part 265, Subparts AA, BB and CC].
35. Where an LQG fails to comply with the conditional requirements for less than 90-day storage, they are effectively operating a hazardous waste management facility without a permit in violation of 22 C.C.R. § 66270.1, [*see also* 40 CFR § 270.1]. Thus, the primary legal consequence of not complying with the condition for exemption is that the generator who accumulates waste on site can be charged with operating a non-exempt storage facility. 81 FR 85746, Nov. 28, 2016.

36. Therefore, EPA alleges that Respondent has violated the independent standards for hazardous waste management facilities found at 22 C.C.R. Division 4.5, Chapter 14, Standards for Owners and Operators of Hazardous Waste Transfer, Treatment, Storage, and Disposal Facilities, [*see also* 40 C.F.R. Part 264].
37. Specifically, EPA alleges that Respondent has violated RCRA and the authorized California hazardous waste management program's air emissions standards for equipment leaks by:
 - a. Failing to maintain adequate documentation for volatile organic compound waste determinations in violation of 22 C.C.R. §§ 66264.1050(a) and 66264.1063(d) [*see also* 40 C.F.R. §§ 264.1050(a) and 264.1063(d)];
 - b. Failing to comply with Method 21 test methods and procedures in violation of 22 C.C.R. § 66264.1063(b), [*see also* 40 C.F.R. § 264.1063(b)];
 - c. Failing to conduct quarterly precision testing in violation of 22 C.C.R. §§ 66264.1052 and 66264.1057 [*see also* 40 C.F.R. §§ 264.1052 and 264.1057];
 - d. Failing to follow Method 21 calibration requirements in violation of 22 CCR § 66264.1063(b), [*see also* 40 C.F.R. § 264.1063(b)];
 - e. Failing to make VOC hazardous waste determinations at the point of origination in violation of 22 C.C.R. § 66264.1083(a), [*see also* 40 C.F.R. § 264.1083(a)]; and
 - f. Failing to train employees regarding RCRA air emissions requirements in violation of 22 C.C.R. § 66264.16, [*see also* 40 C.F.R. § 264.16].

COUNT TWO

Failure to Conduct Adequate Monitoring of Tanks, Ancillary Equipment and Valves in Gas/Vapor Service or in Light Liquid Service

38. Paragraphs 1 through 37, above, are incorporated herein by this reference as if they were set forth here in their entirety.
39. *Failure to Perform Adequate Monitoring of Ancillary Equipment and Tanks.* In accordance with 22 C.C.R. Chapter 14, Articles 28 and 28.5 (*see* 22 C.C.R. §§ 66264.1050 *et seq.* and 66264.1080 *et seq.*), [*see also* 40 C.F.R. Part 264, Subparts BB and CC], facilities must monitor hazardous waste tanks for organic air emissions as well as monitor equipment ancillary to such tanks. *See, e.g.*, 22 C.C.R. § 66264.1084, [*see also* 40 C.F.R. § 264.1084].

40. *Failure to Properly Monitor Valves in Gas/Vapor Service or in Light Liquid Service.* In accordance with 22 C.C.R. § 66264.1057, [*see also* 40 C.F.R. § 264.1057], facilities must monitor valves in gas/vapor service or in light liquid service for organic air emissions.
41. After the CEI, Respondent provided information to EPA indicating that a facility audit, conducted after the CEI, included approximately 272 pieces of equipment -- including tanks and ancillary equipment and valves in gas/vapor service or in light liquid service -- that were subject to air emissions monitoring under its updated monitoring program, whereas only approximately 73 pieces of equipment had been subjected to monitoring prior to the CEI.
42. In accordance with 22 C.C.R. § 66262.34(a)(1), LQGs who accumulate hazardous waste on-site for 90 days or less without a permit or interim status must comply with the applicable requirements of 22 C.C.R. Division 4.5, Chapter 15, Articles 27, 28 and 28.5, [*see also* 40 C.F.R. § 262.17, and 40 C.F.R. Part 265, Subparts AA, BB and CC].
43. Where an LQG fails to comply with the conditional requirements for less than 90-day storage, they are effectively operating a hazardous waste management facility without a permit in violation of 22 C.C.R. § 66270.1, [*see also* 40 CFR § 270.1]. Thus, the primary legal consequence of not complying with the condition for exemption is that the generator who accumulates waste on site can be charged with operating a non-exempt storage facility. 81 FR 85746, Nov. 28, 2016.
44. Therefore, EPA alleges that Respondent has violated the independent standards for hazardous waste management facilities found at 22 C.C.R. Division 4.5, Chapter 14, Standards for Owners and Operators of Hazardous Waste Transfer, Treatment, Storage, and Disposal Facilities, [*see also* 40 C.F.R. Part 264].
45. Specifically, EPA alleges that Respondent has violated RCRA and the authorized California hazardous waste management program's air emissions standards by:
 - a. Failing to conduct appropriate monitoring for tanks and ancillary equipment in violation of 22 C.C.R. Division 4.5, Chapter 14, Articles 28 and 28.5, [*see also* 40 C.F.R. Part 264, Subparts BB and CC]; and
 - b. Failing to monitor valves in gas/vapor service or in light liquid service in violation of 22 C.C.R. § 66264.1057 [*see also*, 40 C.F.R. § 264.1057]

E. CIVIL PENALTY

46. The Complainant proposes that Respondent be assessed, and Respondent agrees to pay THIRTY-TWO THOUSAND DOLLARS (\$32,000.00) in full settlement of the federal civil penalty claims alleged in this CA/FO.
47. The civil penalty is based upon EPA's consideration of a number of factors, including the penalty criteria set forth in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), including the following: the seriousness of the violation and any good faith efforts to comply with applicable requirements. Respondent responded promptly to return to full compliance and regularly communicated with the EPA on its cooperative progress. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's "June 2003 RCRA Civil Penalty Policy," and adjusted for inflation in accordance with the Civil Monetary Inflation Adjustment Rule, 40 C.F.R. Part 19.

F. ADMISSIONS AND WAIVERS OF RIGHTS

48. In accordance with 40 C.F.R. § 22.18(b)(2) and for the purpose of this proceeding, the Respondent: (i) admits that EPA has jurisdiction over the subject matter of this CA/FO and over Respondent; (ii) neither admits nor denies the specific factual allegations contained in this CA/FO; (iii) consents to any and all conditions specified in this CA/FO and to the assessment of the civil administrative penalty under Section E of this CA/FO; (iv) waives any right to contest the allegations contained in Sections C or D of the CA/FO; and (v) waives the right to appeal the proposed final order attached to this Consent Agreement and made part of this CA/FO.

G. PARTIES BOUND

49. This CA/FO shall apply to and be binding upon Respondent and its agents, successors and assigns, until the civil penalty required under Section E has been paid in accordance with Section H. At that time, this CA/FO shall terminate and constitute full settlement of civil penalty liability for the violations alleged herein.
50. No change in ownership relating to the Facility will in any way alter Respondent's obligations and responsibilities under this CA/FO.
51. The undersigned representative of the Respondent hereby certifies that he or she is fully authorized to enter into this CA/FO, to execute it and to legally bind the Respondent to it.

H. PAYMENT OF CIVIL PENALTY

52. Respondent shall submit payment of THIRTY-TWO THOUSAND DOLLARS

(\$32,000.00) within thirty (30) calendar days of the Effective Date of this CA/FO, in accordance with one of the options set forth below. The Effective Date of this CA/FO is the date the Final Order, signed by the Regional Judicial Officer, is filed with the Regional Hearing Clerk. All payments shall indicate the name of the Facility, the Respondent's name and address, and the EPA docket number of this action.

Regular Mail:

Payment shall be made by certified or cashier's check payable to "Treasurer, United States of America," and sent as follows:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

Alternate Payment Methods:

Payment may also be made by one of the alternate payment methods described at <https://www.epa.gov/financial/makepayment>.

If clarification regarding a particular method of payment remittance is needed, contact the EPA Cincinnati Finance Center at 513-487-2091.

53. At the time payment is made, Respondent shall send a PDF copy of the notification that the payment has been made by one of the methods identified in Paragraph 52, including proof of the date payment was made, to the following email addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency - Region 9
R9HearingClerk@epa.gov

and to:

Rick Sakow
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency - Region 9
sakow.rick@epa.gov

54. In accordance with the Debt Collection Act of 1982 and U.S. Treasury directive (TFRM 6-8000), each payment must be received by the due date set forth in this CA/FO to avoid additional charges. If payment is not received by the due date, interest will accrue from the Effective Date of this CA/FO at the current rate published by the United States Treasury as described at 40 C.F.R. § 13.11. In

addition, a 6% per annum penalty assessed monthly will further apply on any principal amount not paid within ninety (90) calendar days of its due date. Respondent further will be liable for stipulated penalties as set forth below for any payment not received by its due date.

55. The penalties specified in this CA/FO shall represent civil penalties assessed by EPA and shall not be deducted by Respondent or any other person or entity for federal, state, or local taxation purposes.

I. DELAY IN PERFORMANCE/STIPULATED PENALTIES

56. In the event Respondent fails to submit payment of the civil penalty to EPA by the time required in this CA/FO, Respondent shall pay stipulated penalties up to: FIVE HUNDRED DOLLARS (\$500) per day for the first to fifteenth day of delay; ONE THOUSAND DOLLARS (\$1,000) per day for the sixteenth to thirtieth day of delay; and ONE THOUSAND FIVE HUNDRED DOLLARS (\$1,500) per day for each day of delay thereafter.
57. All stipulated penalties owed to EPA under this Section shall be due within thirty (30) days of receipt by the Respondent of a notification of noncompliance. Such notification shall describe the noncompliance and shall indicate the amount of the penalties due. Interest at the current rate published by the United States Treasury, as described at 40 C.F.R. §13.11, shall begin to accrue on the unpaid balance at the end of the thirty-day period.
58. All stipulated penalties shall be made payable by certified or cashier's check to "Treasurer of the United States" and shall be remitted as described in Paragraph 52, with notice as described in Paragraph 53.
59. The payment of stipulated penalties shall not alter in any way Respondent's obligation to submit the civil penalty required in accordance with Sections E and H, hereunder.
60. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this CA/FO.

J. CERTIFICATION OF COMPLIANCE

61. In executing this CA/FO, Respondent certifies under penalty of law to EPA that Respondent has taken all steps necessary to return to full compliance with Section 3008 of RCRA, 42 U.S.C. § 6928, and its implementing regulations.
62. This certification of compliance is based upon true, accurate, and complete information, which the signatory can verify personally or regarding which the

signatory has inquired of the person or persons directly responsible for gathering the information.

K. RESERVATION OF RIGHTS

63. EPA hereby reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, including the right to require that Respondent perform tasks in addition to those required by this CA/FO. EPA further reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, which may pertain to Respondent's failure to comply with any of the requirements of this CA/FO, including without limitation, the assessment of penalties under Section 3008 of RCRA, 42 U.S.C. § 6928. This CA/FO shall not be construed as a covenant not to sue, release, waiver or limitation of any rights, remedies, powers or authorities, civil or criminal, which EPA has under RCRA, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), or any other statutory, regulatory or common law enforcement authority of the United States. Nothing herein shall be construed to limit the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.
64. Compliance by Respondent with the terms of this CA/FO shall not relieve Respondent of the obligation to comply with RCRA or any other applicable local, State or federal laws and regulations.
65. The entry of this CA/FO and Respondent's consent to comply shall not limit or otherwise preclude EPA from taking additional enforcement actions should EPA determine that such actions are warranted except as they relate to Respondent's liability for federal civil penalties for the alleged violations set forth in Section D of this CA/FO.
66. This CA/FO is not intended to be nor shall it be construed as a permit. This CA/FO does not relieve Respondent of any obligation to obtain and comply with any required local, State or federal permits.

L. OTHER CLAIMS

67. Nothing in this CA/FO shall constitute or be construed as a release from any other claim, cause of action or demand in law or equity by or against any person, firm, partnership, entity or corporation for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from the Facility.

M. MISCELLANEOUS

68. This CA/FO may be amended or modified only by written agreement executed by EPA and Respondent.
69. The headings in this CA/FO are for convenience of reference only and shall not affect interpretation of this CA/FO.
70. Each party to this action shall bear its own costs and attorneys' fees.
71. EPA and Respondent consent to entry of this CA/FO without further notice.

N. EFFECTIVE DATE

72. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CA/FO shall be effective on the date that the Final Order contained in this CA/FO, having been approved and issued by the Regional Judicial Officer, is filed with the Regional Hearing Clerk.

IT IS SO AGREED.

FOR RESPONDENT KEYSIGHT TECHNOLOGIES, INC.:



Jennifer Foley
Workplace Solutions Site Manager

11/11/22

Date

FOR COMPLAINANT U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION 9:

AMY MILLER-
BOWEN

Digitally signed by AMY
MILLER-BOWEN
Date: 2022.12.08
15:27:02 -08'00'

Amy C. Miller-Bowen, Director
Enforcement and Compliance Assurance Division

Date

FINAL ORDER

IT IS HEREBY ORDERED that this Consent Agreement and Final Order pursuant to 40 C.F.R. Sections 22.13 and 22.18 (U.S. EPA Docket No. RCRA-09-2023-0007) be entered and that Respondent shall pay a civil penalty of THIRTY-TWO THOUSAND DOLLARS (\$32,000.00) in accordance with the terms of this CA/FO.

A notice of payment and a copy of the check or other form of payment shall be sent to the EPA Region IX addresses specified in Section H of this Consent Agreement and Final Order at the time payment is made.

This Final Order shall be effective upon filing with the Regional Hearing Clerk.

Steven L. Jawgiel	Date
Regional Judicial Officer	
U.S. EPA – Region IX	

CERTIFICATE OF SERVICE

This is to certify that the original of the fully executed Consent Agreement and Final Order in the matter of Keysight Technologies, Inc. (Docket No. RCRA-09-2023-0007) was filed with the Regional Hearing Clerk and that a true and correct copy of the same was sent to the following parties via electronic mail, as indicated below:

RESPONDENT:

Jennifer Foley
Workplace Solutions Site Manager
Keysight Technologies, Inc.
Jennifer.Foley@keysight.com
1400 Fountaingrove Parkway,
Santa Rosa, CA 95403

COMPLAINANT:

Mimi Newton
Office of Regional Counsel
U.S. EPA, Region IX
Newton.Mimi@epa.gov

Rick Sakow
Enforcement and Compliance Assurance Division
U.S. EPA, Region IX
Sakow.Rick@epa.gov

Ponly J. Tu Date
Regional Hearing Clerk
U.S. EPA – Region IX