

UNITED STATES  
 ENVIRONMENTAL PROTECTION AGENCY  
 REGION 6  
 DALLAS, TX

FILED  
 APR 23 2 10:17  
 REGIONAL OFFICE OF THE EPA  
 DALLAS, TEXAS

IN THE MATTER OF: §  
 §  
 BADDLEY CHEMICALS, INC. § Consent Agreement and Final Order  
 § USEPA Docket No. RCRA-06-2015-0941  
 §  
 §  
 RESPONDENT §  
 EPA ID LAD981596794 §

CONSENT AGREEMENT AND FINAL ORDER

I.

PRELIMINARY STATEMENT

1. This Consent Agreement and Final Order (“CAFO”) is entered into by the United States Environmental Protection Agency, Region 6 (“EPA” or “Complainant”) and Respondent, Baddley Chemicals, Inc.
2. Notice of this action has been given to the State of Louisiana, under Section 3008(a)(2) of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6928(a)(2).
3. For the purpose of these proceedings, Respondent admits the jurisdictional allegations herein; however, the Respondent neither admits nor denies the specific factual allegations and conclusions of law contained in this CAFO. This CAFO states a claim upon which relief may be granted.
4. The Respondent explicitly waives any right to contest the allegations and its right to appeal the proposed final order contained in this CAFO, and waives all defenses which have been raised or could have been raised to the claims set forth in the CAFO.

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5. The CAFO shall only resolve Respondent's liability for federal Civil Penalties for the violations and facts alleged in the complaint.
6. The Respondent consents to the issuance of the CAFO hereinafter recited, consents to the assessment and payment of the stated civil penalty in the amount and by the method set out in this CAFO, and consents to the specific stated compliance order.

II.  
JURISDICTION

7. This CAFO is issued by the EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928, as amended by the Hazardous and Solid Waste Amendments of 1984 ("HSWA"), and is simultaneously commenced and concluded through the issuance of this CAFO under 40 Code of Federal Regulations ("C.F.R.") §§ 22.13(b) and 22.18(b)(2) and (3).
8. Respondent agrees to undertake and complete all actions required by the terms and conditions of this CAFO. In any action by the EPA or the United States to enforce the terms of this CAFO, Respondent agrees not to contest the authority or jurisdiction of the EPA to issue or enforce this CAFO, and agrees not to contest the validity of this CAFO or its terms or conditions.

III.  
FINDINGS OF FACT AND CONCLUSIONS OF LAW

9. Respondent is incorporated under the laws of the State of Louisiana, as of and continuing from 1980.

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10. Respondent is a “person” within the meaning of Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), which includes corporations; and within the meaning of Title 33 of the Louisiana Administrative Code (“LAC”) LAC 33:V.109, [40 C.F.R. § 260.10].
11. Respondent owns and/or operates a facility that manufactures industrial chemicals.
12. During the period of March 2015 through July 2015, EPA conducted a RCRA investigation and record review of Respondent’s performance as a generator of hazardous waste, (“Investigation”) to determine Respondent’s compliance with RCRA and the regulations promulgated thereunder.
13. During the Investigation, EPA discovered that Baddley Chemicals, Inc., at a minimum, generated the following hazardous waste from time to time in 2010 and 2012:
  - A. Characteristic waste, with the hazardous waste codes D001 (Ignitable), D002 (Corrosive), D003 (Reactive), D005 (Barium), D006 (Cadmium), D007 (Chromium), D008 (Lead), D009 (Mercury), D010 (Selenium), D011 (Silver), D018 (Benzene), D036 (Nitrobenzene); and
  - B. Listed hazardous waste, with the waste codes P030 (Cyanides (soluble cyanide salts)), P092 (Mercury, (acetate-O)phenyl-), U002 (Acetone/2-Propanone (I)), U003 (Acetonitrile (I,T)), U012 (Aniline/Benzenamine (I,T)), U019 (Benzene (I,T)), U080 (Methylene chloride/Methane, dichloro-), U112 (Ethyl acetate/ Acetic acid, ethyl ester (I)), U122 (Formaldehyde), U144 (Lead acetate/Acetic acid, lead(2+) salt), U146 (Lead subacetate/ Lead, bis(acetato-O)tetrahydroxytri), U154 (Methanol/Methyl alcohol (I)), U169 (Benzene, nitro-), U209 (Ethane,

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1,1,2,2-tetrachloro-), U213 (Furan, tetrahydro-(I)), U218 (Thioacetamide/Ethanethioamide), U219 (Thiourea), U220 (Toluene), and U239 (Xylene/Benzene, dimethyl- (I,T)).

14. The waste streams identified in Paragraph 13 above are designated as hazardous waste in LAC 33:V.4903 and 4901. B, E and F, [40 C.F.R. Part 261, Subparts C and D].
15. Respondent is a “generator” of “hazardous waste” as those terms are defined in Sections 1004(5) & (6) of RCRA, 42 U.S.C. §§ 6903(5) & (6) and LAC 33:V.109, [40 C.F.R. §§ 260.10 and 261.3].
16. The exemptions set forth at LAC 33:V.108.C, [40 C.F.R. § 261.5(c)], are not applicable to Respondent in connection with the violations that are the basis of this CAFO.
17. From the Investigation, EPA determined that at certain times in 2010, Respondent generated several hazardous waste streams identified in Paragraph 13 in quantities that exceeded the threshold amount of 1,000 kilograms of hazardous waste per month and/or more than one kilogram per month of acutely hazardous waste, which qualified Baddley Chemicals, Inc., for the large quantity generator status as established under LAC 33:V 1109, [40 C.F.R. Part 262].
18. From the Investigation, EPA further determined that at certain times in 2012, Respondent generated several hazardous waste streams identified in Paragraph 13 in quantities that exceeded the threshold amount of 100 kilograms, but less than 1,000 kilograms, of hazardous waste per month, which qualified Baddley Chemicals, Inc., for the small quantity generator status as established under LAC 33:V 1109, [40 C.F.R. Part 262].

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19. At all times relevant to the CAFO, Baddley Chemicals, Inc., reported its generator status to the Louisiana Department of Environmental Quality (LDEQ) and EPA as being a “conditionally exempt small quantity generator,” reportedly generating no more than 100 kg of hazardous waste each month.
20. As a generator of hazardous waste, Respondent is subject to Sections 3002 and 3010 of RCRA, 42 U.S.C. §§ 6922 and 6930, and the regulations set forth at Title 33 of LAC Part V, Chapters 1 through 51, [40 C.F.R. Parts 262 and/or 270].

**Claim i. Notification Requirements**

21. The allegations in Paragraphs 1-20 are re-alleged and incorporated herein by reference.
22. Pursuant to Section 3010(a) of RCRA, 42 U.S.C. § 6930(a), any person generating a characteristic or listed hazardous waste shall file with the Administrator or authorized State a notification stating the location and general description of such activity and the identified characteristic or listed hazardous wastes handled by such person.
23. For periods of time in 2010 and 2012, Respondent had not filed with the Administrator or with the authorized State an adequate and subsequent notification of hazardous waste activities in violation of Section 3010(a) of RCRA, 42 U.S.C. § 6930(a).

**Claim ii. Failure to Meet the Requirements of a  
Large Quantity Generator in 2010**

24. The allegations in Paragraphs 1-23 are re-alleged and incorporated herein by reference.

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25. During the Investigation, EPA determined that Respondent generated waste in 2010 in amounts that would require Respondent to comply with the rules for large quantity generators.
26. Pursuant to LAC 33:V.108 and 40 C.F.R. § 261.5(b), as long as a conditionally exempt small quantity generator complies with the applicable requirement under LAC 33:V.108.E, F,G, and J and 40 C.F.R. §§ 261.5(e), (f), (g) and (j) the generator's hazardous waste is not subject to regulation under LAC 33:V. Chapters 3-37, 41, 43, and 53, except for LAC 33:V .3105, Table 1; 40 C.F.R. Parts 262 through 268; 40 C.F.R. Parts 270 and 124; and the requirements of Section 3010 of RCRA, 42 U.S.C. § 6930.
27. For at least one month in 2010, Respondent exceeded its declared status and, for the period such hazardous waste remained onsite, Respondent operated as a large quantity generator in violation of one or more of the requirements for large quantity generators under LAC 33:V.1109.E, [40 C.F.R. Part 262].

**Claim iii. Failure to Meet the Requirements of a  
Small Quantity Generator in 2012**

28. The allegations in Paragraphs 1-27 are re-alleged and incorporated herein by reference.
29. During the Investigation, EPA determined that Respondent generated waste in 2012 in amounts that would require Respondent to comply with the rules for small quantity generators.
30. Pursuant to LAC 33:V.108 and 40 C.F.R. § 261.5(b), as long as a conditionally exempt small quantity generator complies with the applicable requirement under LAC

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33:V.108.F, F,G, and J and 40 C.F.R. §§ 261.5(e), (f), (g) and (j) the generator's hazardous waste is not subject to regulation under LAC 33:V. Chapters 3-37, 41, 43, and 53, except for LAC 33:V .3105, Table 1; 40 C.F.R. Parts 262 through 268; 40 C.F.R. Parts 270 and 124; and the requirements of Section 3010 of RCRA, 42 U.S.C. § 6930.

31. For at least one month in 2012, Respondent exceeded its declared status and, for the period such hazardous waste remained onsite, Respondent operated as a small quantity generator in in violation of one or more of the requirements for small quantity generators under LAC 33:V.1109.F, [40 C.F.R. Part 262].

**Claim iv. Failure to Meet Requirements for  
Accumulated Wastes in Excess of 1,000 Kilograms in 2015.**

32. The allegations in Paragraphs 1-31 are re-alleged and incorporated herein by reference.

33. For at least one month in 2015, while Respondent maintained a notification status of conditionally exempt small quantity generator with LDEQ and EPA, Respondent had accumulated hazardous waste at the facility in amounts greater than 1,000 Kilograms.

34. Pursuant to LAC 33:V.108.G and 40 C.F.R. 261(g)(2), from the time or times that Respondent accumulated hazardous waste at the facility in amounts greater than 1,000 kg., all of those accumulated wastes were subject to regulation under the special provisions of LAC 33:V.Chapter 11 applicable to generators of between 100 kg and 1000 kg of hazardous waste in a calendar month as well as the requirements of LAC 33:V.Chapters 3-9, 13-37, 41, 43, 51, and 53, and the applicable notification requirements of LAC 33:V.105.A. [40 CFR 261.5(g)(2)]

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35. For at least one month in 2015, Respondent exceeded the hazardous waste accumulation threshold for a conditionally exempt small quantity generator, and for the period that such hazardous waste remained onsite, Respondent failed to carry out one or more requirements of LAC 33:V.108.G. [40 CFR 261(g)(2)]

IV.  
COMPLIANCE ORDER

36. Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), Respondent is hereby ordered to take the following actions, and within sixty (60) calendar days of the effective date of this CAFO, Respondent shall provide in writing the following:

- A. Respondent shall certify that it has assessed all its solid waste streams to determine the accurate waste codes and has developed and implemented standard operating procedures (“SOP”) to ensure that Baddley Chemicals, Inc., is operating in compliance with RCRA and the regulations promulgated thereunder, including, but not limited to, procedures for: (a) accurate and adequate waste profiling; (b) making hazardous waste determinations; (c) managing hazardous wastes; (d) manifesting of hazardous waste; (e) reporting, transporting, and disposing of hazardous waste;
- B. Respondent shall certify that it has accurately and adequately complied with its RCRA Section 3010 Notification; and
- C. Respondent shall provide, with its certification, a copy of Respondent’s SOP as described in subparagraph A above.



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37. In all instances in which this CAFO requires written submission to EPA, the submittal made by Respondent shall be signed by an owner or officer of Baddley Chemicals and shall include the following certification:

“I certify under the penalty of law that this document and all its attachments were prepared by me or under my direct supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

Copies of all documents required by this CAFO shall be sent to the following:

U.S. Environmental Protection Agency  
Compliance Assurance and Enforcement Division  
Hazardous Waste Enforcement Branch  
Corrective Action & Compliance Inspection Section (6EN-HC)  
1445 Ross Avenue  
Dallas, TX 75202-2733  
Attn: Paul James

V.  
TERMS OF SETTLEMENT

**i. Penalty Provisions**

38. Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928, and upon consideration of the entire record herein, including the above referenced Findings of Fact and Conclusions of Law, which are hereby adopted and made a part hereof, upon the seriousness of the alleged violations, and Respondent's good faith efforts to comply with the applicable regulations, it is ordered that Respondent be assessed a civil penalty of Fifty One Thousand Dollars (\$51,000).

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39. The penalty shall be paid within thirty (30) calendar days of the effective date of this  
CAFO and made payable to the Treasurer United States.

40. The following are Respondent's options for transmitting the penalties:

Regular Mail, U.S. Postal Mail (including certified mail) or U.S. Postal Service Express

Mail, the check should be remitted to:

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

Overnight Mail (non-U.S. Postal Service), the check should be remitted to:

U.S. Bank  
Government Lockbox 979077  
US EPA Fines and Penalties  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, MO 63101  
314-418-1028

Wire Transfer:

Federal Reserve Bank of New York  
ABA: 021030004  
Account No. 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, NY 10045

The case name and docket number (In the Matter of Baddley Chemicals, Inc.: Docket No.  
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payment to ensure proper credit.

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41. The Respondent shall send a simultaneous notice of such payment to the following:

Lorena S. Vaughn  
Regional Hearing Clerk (6RC-D)  
U.S. EPA, Region 6  
1445 Ross Avenue  
Dallas, Texas 75202-2733

Mark Potts, Associate Director  
Hazardous Waste Enforcement Branch (6EN-II)  
Compliance Assurance and Enforcement Division  
U.S. EPA, Region 6  
1445 Ross Avenue  
Dallas, Texas 75202-2733  
Attention: Paul James

Your adherence to this request will ensure proper credit is given when penalties are received by EPA.

42. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, unless otherwise prohibited by law, EPA will assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the cost of process and handling of a delinquent claim. Interest on the civil penalty assessed in this CAFO will begin to accrue on the effective date of the CAFO and will be recovered by EPA on any amount of the civil penalty that is not paid within thirty (30) calendar days of the civil penalty's due date and will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). Moreover, the costs of EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). EPA will also assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the thirty (30) day period after the

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payment is due and an additional \$15.00 for each subsequent thirty (30) day period the penalty remains unpaid. In addition, a penalty charge of up to six percent per year will be assessed monthly on any portion of the debt which remains delinquent more than ninety (90) days. 40 C.F.R. § 13.11(b). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

**ii. Costs**

43. Each party shall bear its own costs and attorney's fees. Furthermore, Respondent specifically waives its right to seek reimbursement of its costs and attorney's fees under the Equal Access to Justice Act (5 U.S.C. § 504), as amended by the Small Business Regulatory Enforcement Fairness Act (P.L. 04-121), and any regulations promulgated pursuant to those Acts.

**iii. Termination and Satisfaction**

44. When Respondent believes that it has complied with all the requirements of this CAFO, including compliance with the Compliance Order and payment of the civil penalty, Respondent shall so certify in writing and in accordance with the certification language set forth in Section IV (Compliance Order), Paragraph 35. Unless the EPA, Region 6 objects in writing within sixty (60) days of EPA's receipt of Respondent's certification, then this CAFO is terminated on the basis of Respondent's certification.

**iv. Effective Date of Settlement**

45. This CAFO shall become effective upon filing with the Regional Hearing Clerk.

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**THE UNDERSIGNED PARTIES CONSENT TO THE ENTRY OF THIS CONSENT  
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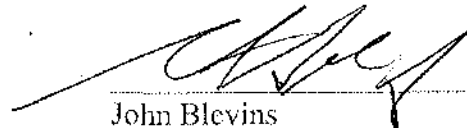
FOR THE RESPONDENT:

Date: Sept 9, 2015

  
Baddley Chemicals, Inc.

FOR THE COMPLAINANT:

Date: SEP 17 2015


  
John Blevins  
Director  
Compliance Assurance and  
Enforcement Division

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FINAL ORDER

Pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 CFR Part 22, the foregoing CAFO is hereby ratified. This Final Order shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order shall resolve only those causes of action and facts alleged herein. Nothing in this Final Order shall be construed to waive, extinguish or otherwise affect Respondent's (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. The Respondent is ordered to comply with the terms of settlement and the civil penalty payment instructions as set forth in the CAFO. Pursuant to 40 CFR § 22.31(b) this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Date: 9/23/15

  
\_\_\_\_\_  
Thomas Rucki  
Regional Judicial Officer

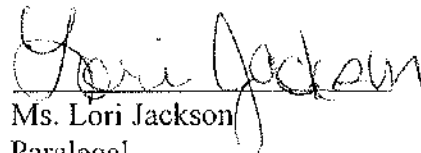
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**CERTIFICATE OF SERVICE**

I hereby certify that on the 23 day of Sept., 2015, the original of the foregoing Consent Agreement and Final Order was hand delivered to the Regional Hearing Clerk, U.S. EPA - Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, and that a true and correct copy of the CAFO was sent to the following by the method identified below:

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED** 7014015000002454 4999

Ms. Gwyneth M. Baddley  
Registered Agent for Baddley Chemicals, Inc.  
1138 Castle Kirk Ave.  
Baton Rouge, LA 70808

  
Ms. Lori Jackson  
Paralegal