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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 7  
11201 RENNER BOULEVARD  
LENEXA, KANSAS 66219

IN THE MATTER OF: )  
)  
Analytical Bio-Chemistry )  
Laboratories, Inc., ) CONSENT AGREEMENT  
) AND FINAL ORDER  
Respondent )  
) Docket No. RCRA-07-2015-0005  
Proceeding under Sections 3008(a) and (g) )  
of the Resource Conservation and )  
Recovery Act as amended, )  
42 U.S.C. § 6928(a) and (g) )  
)

**I. PRELIMINARY STATEMENT**

The U.S. Environmental Protection Agency (EPA), Region 7 (Complainant) and Analytical Bio-Chemistry Laboratories, Inc. (Respondent) have agreed to a settlement of this action before the filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (Consolidated Rules of Practice), 40 Code of Federal Regulations (C.F.R.) §§ 22.13(b) and 22.18(b)(2).

**II. ALLEGATIONS**

**Jurisdiction**

1. This administrative action is being conducted pursuant to Section 3008(a) and (g) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), and the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. § 6928(a) and (g), and in accordance with the Consolidated Rules of Practice. This authority has been delegated by the Administrator of EPA to the Regional Administrator and further delegated to the Director of the Air and Waste Management Division and finally to the Chief of the Waste Enforcement and Materials Management Branch.

2. This Consent Agreement and Final Order serves as notice that the EPA has reason to believe that Respondent violated Section 3005 of RCRA, 42 U.S.C § 6925.

### **Parties**

3. Complainant is the Chief of the Waste Enforcement and Materials Management Branch in the Air and Waste Management Division of EPA, Region 7, as duly delegated from the Administrator of EPA.

4. Respondent is Analytical Bio-Chemistry Laboratories, Inc., a corporation authorized to operate under the laws of Missouri.

### **Statutory and Regulatory Framework**

5. The State of Missouri has been granted authorization to administer and enforce a hazardous waste program pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926. The State of Missouri has adopted by reference the federal regulations cited herein at pertinent parts in the Missouri Code of State Regulations (C.S.R.) in Title 10, Division 25. Section 3008 of RCRA, 42 U.S.C. § 6928, authorizes EPA to enforce the provisions of the authorized State program and the regulations promulgated thereunder. When EPA determines that any person has violated or is in violation of any RCRA requirement, EPA may issue an order assessing a civil penalty for any past or current violation and/or require immediate compliance or compliance within a specified time period pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

6. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), authorizes a civil penalty of not more than \$25,000 per day for violations of Subchapter III of RCRA (Hazardous Waste Management). This figure has been adjusted upward for inflation pursuant to the Civil Monetary Penalties Inflation Adjustment Rule, 40 C.F.R. Part 19, so that penalties of up to \$32,500 per day are authorized for violations of Subchapter III of RCRA that occur after March 15, 2004, through January 12, 2009. For violations of Subchapter III of RCRA that occur after January 12, 2009, penalties of up to \$37,500 per day are now authorized. Based upon the facts alleged in this Consent Agreement and Final Order and upon those factors which Complainant must consider pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), as discussed in the RCRA Civil Penalty Policy issued by EPA in June 2003, the Complainant and Respondent agree to the payment of a civil penalty pursuant to Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), and to take the actions required by the Final Order, for the violations of RCRA alleged in this Consent Agreement and Final Order.

### **General Factual Background**

7. Respondent is a "person" as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

8. Respondent owns and operates two facilities located in Columbia, Missouri. One facility is located at 4780 Discovery Drive (Discovery Drive Facility) and the second facility is located at 7200 East ABC Lane (ABC Lane Facility). The Discovery Drive Facility is a contract laboratory involved in pharmaceutical and agricultural product development. The ABC Lane Facility is a contract laboratory that serves the agri-chemical, pharmaceutical, biopharmaceutical, and animal health industries. Respondent employs approximately 400 people company-wide.

9. The regulations for determining whether a waste is a solid and/or hazardous waste are set forth at 10 C.S.R. 25-4.261, which incorporate by reference the regulations at 40 C.F.R. Part 261.

10. On or about February 15, 2010, Respondent submitted notification indicating that the Discovery Drive Facility was a Large Quantity Generator (LQG) of hazardous waste pursuant to Section 3010 of RCRA, 42 U.S.C. § 6930. LQGs generate 1,000 kilograms per month or more of hazardous waste, or more than 1 kilogram per month of acutely hazardous waste. The Discovery Drive Facility has been assigned the following EPA ID Number: MOR000525121.

11. On or about February 10, 2010, Respondent submitted notification indicating that the ABC Lane Facility was a LQG of hazardous waste pursuant to Section 3010 of RCRA, 42 U.S.C. § 6930. The ABC Lane Facility has been assigned the following EPA ID Number: MOD046367033.

12. On or about April 3, 2012, EPA inspectors conducted a RCRA Compliance Evaluation Inspection at the Discovery Drive Facility (hereinafter "the Discovery Drive Inspection") to evaluate the hazardous waste management practices at the Discovery Drive Facility. Based on a review of the inspection report and the information provided during the inspection by facility personnel, it was determined that Respondent was operating, at the time of the inspection, as a Large Quantity Generator of hazardous waste, a Small Quantity Handler of universal waste, and used oil generator.

13. On or about April 4, 2012, EPA inspectors conducted a RCRA Compliance Evaluation Inspection at the ABC Lane Facility (hereinafter "the ABC Lane Inspection") to evaluate the hazardous waste management practices at the ABC Lane Facility. Based on a review of the inspection report and the information provided during the inspection by facility personnel, it was determined that Respondent was operating, at the time of the inspection, as a Large Quantity Generator of hazardous waste, a Small Quantity Handler of universal waste, and used oil generator.

#### **Violations**

14. Complainant hereby states and alleges that Respondent has violated RCRA and the federal regulations promulgated thereunder, as follows:

**Count 1**

**Operating as Treatment, Storage or Disposal Facilities  
Without RCRA Permits or RCRA Interim Status**

15. Complainant hereby incorporates the allegations contained in Paragraphs 7 through 13 above, as if fully set forth herein.

16. Section 3005 of RCRA, 42 U.S.C. § 6925, R.S. Mo. 260.390.1(1), and the regulations at 10 C.S.R. 25-7.270 incorporating by reference 40 C.F.R. § 270.1(b), require each person owning or operating a facility for the treatment, storage, or disposal of a hazardous waste identified or listed under Subchapter C of RCRA to have a permit for such activities.

17. At the time of the Discovery Drive Inspection and the ABC Lane Inspection Respondent did not have a permit or interim status for the Discovery Drive Facility or the ABC Lane Facility.

18. The regulations at 40 C.F.R. § 262.34(a) state that a generator may accumulate hazardous waste on-site for ninety (90) days or less without a permit or without interim status, provided the conditions listed in 40 C.F.R. § 262.34(a)(1)-(4) are met. If a generator fails to comply with any of these conditions, the generator is not allowed to store hazardous waste at their facility for any length of time.

**Generator Requirements**

19. Respondent failed to comply with the following conditions at the Discovery Drive Facility and the ABC Lane Facility:

*Failure to conduct weekly hazardous waste inspections*

20. The regulations at 10 C.S.R. 25-5.262(1) incorporate by reference the regulations at 40 C.F.R. § 262.34(a)(1)(i) which require that while being accumulated on-site, the hazardous waste must be placed in containers and the generator must comply with the applicable requirements of Subpart I of 40 C.F.R. Part 265.

21. Pursuant to 10 C.S.R. 25-5.262(2)(C)2.C(II) which incorporate by reference 40 C.F.R. § 265.174, as found in 40 C.F.R. Part 265 Subpart I, the owner or operator must inspect, at least weekly, areas where containers of hazardous waste are stored, looking for leaking containers and deteriorating containers caused by corrosion or other factors.

22. At the time of the ABC Lane Inspection, Respondent was unable to produce weekly inspection reports for the under 90 day hazardous waste storage area from March 5, 2010 through January 7, 2011.

*Failure to list emergency coordinator information in contingency plan*

23. The regulations at 10 C.S.R. 25-5.262(1) incorporate by reference the regulations at 40 C.F.R. § 262.34(a)(4) which require, in part, that the generator comply with the requirements of Subparts C and D in 40 C.F.R. Part 265, with 40 C.F.R. § 265.16, and with 40 C.F.R. § 268.7(a)(4).

24. Pursuant to the regulations at 40 C.F.R. § 265.52(d), as found in 40 C.F.R. § 265 Subpart D, the owner or operator must list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator, and this list must be kept up to date. Where more than one person is listed, one must be named as primary emergency coordinator and the others must be listed in the order in which they will assume responsibility as alternates.

25. At the time of the Discovery Drive Inspection, the emergency coordinators' home addresses were not listed in the most up to date contingency plan.

*Failure to train program director in hazardous waste management procedures*

26. The regulations at 10 C.S.R. 25-5.262(1) incorporate by reference the regulations at 40 C.F.R. § 262.34(a)(4) and require, in part, that the generator comply with the requirements of Subparts C and D in 40 C.F.R. Part 265, with 40 C.F.R. § 265.16, and with 40 C.F.R. § 268.7(a)(4).

27. Pursuant to 40 C.F.R. § 265.16(a)(2), the facility personnel training program must be directed by a person trained in hazardous waste management procedures.

28. At the time of the Discovery Drive Inspection, the individual in charge of the hazardous waste management program had not been trained in hazardous waste management procedures.

29. At the time of the ABC Lane Inspection, the individual in charge of the hazardous waste management program had not been trained in hazardous waste management procedures.

*Failure to review annual training*

30. The regulations at 10 C.S.R. 25-5.262(1) incorporate by reference the regulations at 40 C.F.R. § 262.34(a)(4) and require, in part, that the generator comply with the requirements of Subparts C and D in 40 C.F.R. Part 265, with 40 C.F.R. § 265.16, and with 40 C.F.R. § 268.7(a)(4).

31. Pursuant to 40 C.F.R. § 265.16(c), facility personnel must take part in an annual review of the initial training required pursuant to 40 C.F.R. § 265.16(a).

32. At the time of the Discovery Drive Inspection, the individuals in charge of the hazardous waste management program had not completed or reviewed the initial training.

33. At the time of the ABC Lane Inspection, the individuals in charge of the hazardous waste management program had not completed or reviewed the initial training.

*Failure to maintain training documentation*

34. The regulations at 10 C.S.R. 25-5.262(1) incorporate by reference the regulations at 40 C.F.R. § 262.34(a)(4) and require, in part, that the generator comply with the requirements of Subparts C and D in 40 C.F.R. Part 265, with 40 C.F.R. § 265.16, and with 40 C.F.R. § 268.7(a)(4).

35. Pursuant to 40 C.F.R. § 265.16(d)(4), a generator must maintain records that document the training or job experience required under 40 C.F.R. §§ 265.16(a), (b), and (c) has been given to, and completed by, facility personnel.

36. At the time of Discovery Drive Inspection, Respondent's records did not document three emergency coordinators training or job experience and the information required by 40 C.F.R. §§ 265.16(a), (b), and (c).

37. At the time of the ABC Lane Inspection, Respondent's records did not document three emergency coordinators training or job experience and the information required by 40 C.F.R. §§ 265.16(a), (b), and (c).

*Failure to maintain hazardous waste job descriptions*

38. The regulations at 10 C.S.R. 25-5.262(1) incorporate by reference the regulations at 40 C.F.R. § 262.34(a)(4) and require, in part, that the generator comply with the requirements of Subparts C and D in 40 C.F.R. Part 265, with 40 C.F.R. § 265.16, and with 40 C.F.R. § 268.7(a)(4).

39. Pursuant to 40 C.F.R. § 265.16(d)(1), a generator must maintain records describing the job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job.

40. Pursuant to 40 C.F.R. § 265.16(d)(2), a generator must maintain written job descriptions for each position listed under paragraph (d)(1) and must include the requisite skill, education, or other qualifications and duties of facility personnel assigned to each position.

41. At the time of the Discovery Drive Inspection, Respondent's records did not document the job title for each position related to hazardous waste management, the name of the employee filling such job, or the requisite skill, education, or other qualifications of those positions.

*Satellite Accumulation*

42. The regulations at 10 C.S.R. 25-5.262(1) incorporate by reference the regulations at 40 C.F.R. § 262.34(c)(1) which allow a generator to accumulate as much as fifty-five (55) gallons of hazardous waste or one quart of acutely hazardous waste listed in § 261.33(e) in

containers at or near any point of generation where waste initially accumulates, which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with § 262.34(a) provided the generator comply with various handling requirements. This type of accumulation is known as “satellite accumulation”. At the time of the inspection, Respondent failed to comply with the following satellite accumulation requirements:

*Failure to close satellite accumulation container*

43. The regulations at 10 C.S.R. 25-5.262(1) incorporate by reference the regulations at 40 C.F.R. § 262.34(c)(1)(i) which reference 40 C.F.R. § 265.173(a) and allow a generator to accumulate as much as fifty-five (55) gallons of hazardous waste in a satellite accumulation area, provided the container holding hazardous waste is always closed during storage, except when it is necessary to add or remove waste.

44. At the time of the Discovery Drive Inspection, a 2.5-gallon container in Lab 411 was open.

*Accumulation of satellite accumulation container beyond one year*

45. The regulations at 10 C.S.R. 25-5.262(2)(C)3 require that within one year from the date satellite accumulation begins the hazardous waste shall be transferred to the area where hazardous waste is stored during the ninety, one hundred eighty or two hundred seventy day storage period.

46. At the time of the Discovery Drive Inspection, a one-gallon satellite accumulation container was labeled with an accumulation start date of January 4, 2011 which documents accumulation greater than one year.

47. Because Respondent failed to comply with the generator requirements as set forth in Paragraphs 16 through 43 above, Respondent was not authorized to store hazardous waste at its facility for any length of time, and therefore was operating a hazardous waste storage facility without a permit.

**CONSENT AGREEMENT**

48. Respondent and EPA agree to the terms of this Consent Agreement and Final Order and Respondent agrees to comply with the terms of the Final Order portion of this Consent Agreement and Final Order.

49. Respondent admits the jurisdictional allegations of this Consent Agreement and Final Order and agrees not to contest EPA’s jurisdiction in this proceeding or any subsequent proceeding to enforce the terms of the Final Order portion of this Consent Agreement and Final Order set forth below.

50. Respondent neither admits nor denies the factual allegations and legal conclusions set forth in this Consent Agreement and Final Order.

51. Respondent waives its right to contest any issue of fact or law set forth above and its right to appeal the Final Order accompanying this Consent Agreement

52. Respondent and Complainant agree to conciliate the matters set forth in this Consent Agreement and Final Order without the necessity of a formal hearing and to bear their respective costs and attorney's fees.

53. Nothing contained in the Final Order portion of this Consent Agreement and Final Order shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state, and local environmental statutes and regulations and applicable permits.

54. This Consent Agreement and Final Order addresses all civil administrative claims for the RCRA violations identified above. Complainant reserves the right to take any enforcement action with respect to any other violations of RCRA or any other applicable law.

55. The effect of settlement described in Paragraph 54 above is conditioned upon the accuracy of Respondent's representations to EPA, as memorialized in Paragraph 56, below, of this Consent Agreement and Final Order.

56. Respondent certifies that by signing this Consent Agreement and Final order that to best of its knowledge, Respondent's facility is in compliance with all requirements of RCRA, 42 U.S.C. § 6901 *et. seq.* and all regulations promulgated thereunder.

57. The undersigned representative of Respondent certifies that he or she is fully authorized to enter the terms and conditions of this Consent Agreement and Final Order and to execute and legally bind Respondent to it.

58. Respondent agrees that, in settlement of the claims alleged in this Consent Agreement and Final Order, Respondent shall pay a penalty of Nineteen Thousand Forty Dollars (\$19,040) as set forth in Paragraph 1 of the Final Order portion of this Consent Agreement and Final Order, below.

59. The penalty specified in the paragraph above shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal, State and local taxes.

60. Respondent consents to the issuance of this Consent Agreement and Final Order and consents for the purposes of settlement to the payment of the civil penalty cited in the immediately preceding paragraph.

61. Late Payment Provisions: Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on a civil or stipulated penalty if it is not paid by the date required. Interest will be assessed at a rate of the United States Treasury Tax and loan rate in accordance with 31 C.F.R. § 901.9(b). A charge will be assessed to cover the costs of debt collection including processing and handling costs and attorney fees. In addition, a non-payment penalty charge of six (6) percent per year compounded



annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. Any such non-payment penalty charge on the debt will accrue from the date the penalty payment becomes due and is not paid. 31 C.F.R. § 901.9(c) and (d).

62. Respondent understands that failure to pay any portion of the civil penalty on the date the same is due may result in the commencement of a civil action in Federal District Court to collect said penalty, along with interest thereon at the applicable statutory rate

#### **Effective Date**

63. This Consent Agreement and Final Order shall be effective upon filing of the Final Order by the Regional Hearing Clerk for EPA, Region 7. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

#### **Reservation of Rights**

64. Notwithstanding any other provision of this Consent Agreement and Final Order, EPA reserves the right to enforce the terms of the Final Order portion of this Consent Agreement and Final Order by initiating a judicial or administrative action under Section 3008 of RCRA, 42 U.S.C. § 6928, and to seek penalties against Respondent in an amount not to exceed Thirty-Seven Thousand Five Hundred Dollars (\$37,500.00) per day per violation pursuant to Section 3008(c) of RCRA, for each day of non-compliance with the terms of the Final Order, or to seek any other remedy allowed by law.

65. Complainant reserves the right to take enforcement action against Respondent for any future violations of RCRA and its implementing regulations and to enforce the terms and conditions of this Consent Agreement and Final Order.

66. Except as expressly provided herein, nothing in this Consent Agreement and Final Order shall constitute or be construed as a release from any claim (civil or criminal), 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 Respondent's facility.

67. Notwithstanding any other provisions of the Consent Agreement and Final Order, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should EPA find that the future handling, storage, treatment, transportation, or disposal of solid waste or hazardous waste at Respondent's facility may present an imminent and substantial endangerment to human health and the environment.

68. The headings in this Consent Agreement and Final Order are for convenience of reference only and shall not affect interpretation of this Consent Agreement and Final Order.

69. The provisions of this Consent Agreement and Final Order shall be deemed satisfied upon a written determination by Complainant that Respondent has fully implemented

the actions required in the Final Order.

### **FINAL ORDER**

Pursuant to the authority of Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g), and according to the terms of this Consent Agreement and Final Order, IT IS HEREBY ORDERED THAT:

#### **A. Payment of Civil Penalty**

1. Within thirty (30) days of the effective date of this Consent Agreement and Final Order, Respondent will pay a civil penalty of Nineteen Thousand Forty Dollars (\$19,040).
2. Payment of the penalty shall be made by cashier or certified check, by wire transfer, or on-line. The Payment shall reference the Docket Number on the check or wire transfer. If made by cashier or certified check, the check shall be made payable to "Treasurer of the United States" and remitted to:

United States Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000.

Wire transfers shall be directed to the Federal Reserve Bank of New York as follows:

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, New York 10045  
Field Tag 4200 of the Fedwire message should read  
"D 68010727 Environmental Protection Agency"

On-line payments are available through the Department of Treasury:

[www.pay.gov](http://www.pay.gov)  
Enter "sfo 1.1" in the search field.  
Open the form and complete required files.

3. A copy of the check, transfer, or on-line payment confirmation shall simultaneously be sent to the following:

Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 7  
11201 Renner Boulevard  
Lenexa, Kansas 66219; and

Kelley Catlin, Attorney  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 7  
11201 Renner Boulevard  
Lenexa, Kansas 66219.

4. No portion of the civil penalty or interest paid by Respondent pursuant to the requirements of this Consent Agreement and Final Order shall be claimed by Respondent as a deduction for federal, state, or local income tax purposes.

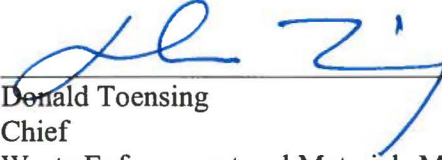
**B. Parties Bound**

5. The Final Order portion of this Consent Agreement and Final Order shall apply to and be binding upon Respondent and Respondent's agents, successors and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms, or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this Consent Agreement and Final Order.

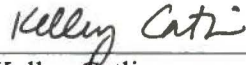
COMPLAINANT:

U.S. ENVIRONMENTAL PROTECTION AGENCY

1/29/15  
Date

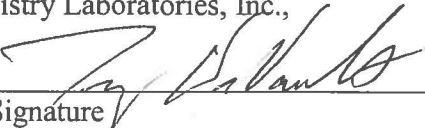
  
\_\_\_\_\_  
Donald Toensing  
Chief  
Waste Enforcement and Materials Management Branch  
Air and Waste Management Division

1/28/15  
Date

  
\_\_\_\_\_  
Kelley Catlin  
Office of Regional Counsel

For Respondent, Analytical Bio-Chemistry Laboratories, Inc.,

27 JAN 2015  
Date

  
Signature

Troy Dault  
Printed Name

Vice President  
Title

IT IS SO ORDERED. This Final Order shall become effective upon filing.

2-4-15  
Date

Karina Borromeo  
Karina Borromeo  
Regional Judicial Officer

IN THE MATTER OF Analytical Bio-Chemistry Laboratories, Inc., Respondent  
Docket No. RCRA-07-2015-0005

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Order was sent this day in the following manner to the addressees:

Copy by email to Attorney for Complainant:

catlin.kelley@epa.gov

Copy by First Class Mail to:

Troy DeVault  
Vice President  
Analytical Bio-Chemistry Laboratories, Inc.  
4780 Discovery Drive  
Columbia, Missouri 65201

Dated: 2/5/15



Kathy Robinson  
Kathy Robinson  
Hearing Clerk, Region 7