

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3
Philadelphia, Pennsylvania 19103

FILED

Sep 03, 2024

9:56 am

U.S. EPA REGION 3
HEARING CLERK

IN THE MATTER OF:) DOCKET NO.: RCRA-03-2024-0115
)
Affinity Research Chemicals, Inc.)
406 Mecco Drive) EXPEDITED SETTLEMENT AGREEMENT AND
Wilmington, Delaware 19804,) FINAL ORDER
)
Respondent,)
) Proceeding under Section
) 3008(a) and (g) of the Resource
Affinity Research Chemicals, Inc.) Conservation and Recovery Act, as
406 Mecco Drive) amended, 42 U.S.C. § 6928(a) and (g)
Wilmington, Delaware 19804,)
)
Facility.)

EXPEDITED SETTLEMENT AGREEMENT

1. Affinity Research Chemicals, Inc. (“Respondent”), and the Director, Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 3 (“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 3 (“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”), 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).

4. On June 7, 2024, 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 406 Mecco Drive, Wilmington, Delaware (“Facility”), Respondent synthesizes specific molecules for research at pharmaceutical and biotech companies. On March 9, 2023, 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. DED984069500 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 § 260.10.
7. At all times relevant to the allegations described in this Agreement, Respondent “stored” halogenated waste, non-halogenated waste, basic aqueous waste, and acidic aqueous waste with EPA Hazardous Waste Number(s) D001, D002, F003, and F005, which are “hazardous waste(s)” at the Facility, as the terms “stored” and “hazardous waste” are defined in DeRGHW § 260.10.
8. On February 7, 2024, EPA representatives conducted a Compliance Evaluation Inspection (“CEI”) at the Facility to determine compliance with the applicable hazardous waste regulations. On March 29, 2024, EPA sent an information request letter (“IRL”) to the Respondent pursuant to RCRA, requesting information about the Facility regarding its compliance with the applicable hazardous waste regulations. On April 30, 2024 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 et seq., 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 DeRGHW Parts 260 – 279, and Parts 122 and 124.
10. Complainant has identified the following violations at the Facility:
 - a. From at least February 7, 2024 until April 4, 2024, Respondent operated the Facility without a permit, 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 § 262.16:

- (1) Respondent accumulated hazardous waste greater than 270 days, in violation of DeRGHW 262.16(c);
 - i. The Respondent ships its hazardous waste to Safety Kleen Systems, Inc. (“Safety Kleen”), located in Smithfield, Kentucky. Safety Kleen is over 200 miles away from the Facility. Pursuant to DeRGHW § 262.16(c), a SQG who transports its waste over a distance of 200 miles for offsite disposal may accumulate hazardous waste onsite for 270 days or less.
 - ii. At the time of the CEI, in the Waste Storage Room, the Facility had three 55-gal drums of hazardous waste that had start accumulation dates of 3/07/2023, 5/10/2023, and 5/15/2023. These dates are, respectively, 337 days, 273 days, and 268 days from the date of the CEI.
 - iii. Based on information received from the IRL, the three 55-gal drums were transported offsite for disposal on 4/04/2024. This is approximately 393 days, 334 days, and 329 days from the drums’ start accumulation date.
- (2) Respondent was managing a satellite accumulation area (“SAA”) that was not at the point of generation and under the control of the operator, as required by DeRGHW § 262.15(a).
 - i. At the time of the CEI, the Facility, in Lab 3, had a 55-gal drum being managed as an SAA. Hazardous wastes generated from Labs 1, 2, and 4 were being accumulated in the SAA located in Lab 3. The SAA in Lab 3 is not at the point of generation and under the control of the operator.
 - ii. According to email correspondence, dated February 21, 2024, the Facility added SAAs to Labs 1, 2, and 4.
- (3) Respondent failed to label a container of hazardous waste, in violation of DeRGHW § 262.15(a)(5).
 - i. At the time of the CEI, the Facility, in Lab 3, had a step trash container being utilized for the accumulation of hazardous waste solids. The contents from the container would be transferred to the 55-gal drum SAA in Lab 3. The step trash container did not have a

hazardous waste label.

- (4) Respondent failed to maintain documentation of weekly inspections of the hazardous waste accumulation area (“HWAA”), in violation of DeRGHW § 262.16(b)(2)(v).
 - i. The Facility did not have a weekly inspection log of the HWAA for the following inspection dates: 03/31/2023, 04/28/2023, 05/12/2023, 07/22/2023, and 11/21/2023.
 - ii. Pursuant to DeRGHW § 262.16(b)(2)(v), a written record of inspections must be maintained onsite for a minimum of three years.
 - b. Respondent failed to maintain documentation of weekly inspections of the HWAA, in violation of DeRGHW § 265.174.
 - i. The Facility did not have a weekly inspection log of the HWAA for the following inspection dates: 03/31/2023, 04/28/2023, 05/12/2023, 07/22/2023, and 11/21/2023.
 - ii. Pursuant to DeRGHW § 265.174, a written record of inspections must be maintained onsite for a minimum of three years.
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 and May 2020 (“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 **\$5,000** to “**United States Treasury**” with the case name, address and docket number of this Agreement (RCRA-03-2024-0115), for the amount specified above. Respondent shall pay the assessed penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.
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:

Jeremy Dearden, Enforcement Officer (3ED22)
U.S. EPA, Region 3
Dearden.jeremy@epa.gov

and

Regional Hearing Clerk (3RC00)
U.S. EPA, Region 3
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 Affinity Research Chemicals, Inc.
21. 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: dearden.jeremy@epa.gov (for Complainant), and jwang@affinitychem.com (for Respondent).
22. 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: Affinity Research Chemicals, Inc.

Date: 08/26/24

By: 
Jason Wang
Facility Manager

For Complainant: U.S. Environmental Protection Agency, Region 3

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 3, 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.

[Digital Signature and Date]

Karen Melvin, Director

Enforcement and Compliance Assurance Division

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3
Philadelphia, Pennsylvania 19103**



IN THE MATTER OF:)	DOCKET NO.: RCRA-03-2024-0115
)	
Affinity Research Chemicals, Inc. 406 Meco Drive Wilmington, Delaware 19804,)	EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER
)	
Respondent,)	Proceeding under Section 3008(a) and (g) of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6928(a) and (g)
)	
Affinity Research Chemicals, Inc. 406 Meco Drive Wilmington, Delaware 19804,)	
)	
Facility)	
)	

FINAL ORDER

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency - Region 3, and Respondent, Affinity Research Chemicals, 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 et seq., 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.

[Digital Signature and Date]

Joseph J. Lisa
Regional Judicial Officer
U.S. EPA - Region 3

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3
Philadelphia, Pennsylvania 19103**

In the Matter of:	:	
	:	
Affinity Research Chemicals, Inc.	:	
406 Meco Drive	:	U.S. EPA Docket No. RCRA-03-2024-0115
Wilmington, Delaware 19804	:	
	:	Proceeding under Section
Respondent.	:	3008(a) and (g) of the Resource
	:	Conservation and Recovery Act, as
Affinity Research Chemicals, Inc.	:	amended, 42 U.S.C. § 6928(a) and (g)
406 Meco Drive	:	
Wilmington, Delaware 19804	:	
	:	
Facility	:	

CERTIFICATE OF SERVICE

I certify that the foregoing *Expedited Settlement Agreement and Final Order* was filed with the EPA Region 3 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:

Jason Wang, Facility Manager
Affinity Research Chemical, Inc.
jwang@affinitychem.com
406 Meco Drive
Wilmington, Delaware 19804

Jeremy Dearden
Enforcement Officer
U.S. EPA, Region 3
Dearden.jeremy@epa.gov

[Digital Signature and Date]
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 3

