

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

<b>In the Matter of:</b>	:
	:
<b>Kao USA Inc.</b>	: <b>U.S. EPA Docket No. RCRA-03-2022-0083</b>
<b>1760-A Crossroads Drive</b>	:
<b>Odenton, MD 21113</b>	: <b>Proceeding under Section 3008(a) and (g) of the</b>
	: <b>Resource Conservation and Recovery Act, as</b>
<b>Respondent.</b>	: <b>amended, 42 U.S.C. § 6928(a) and (g)</b>
	:
<b>Kao USA Inc.</b>	:
<b>Odenton Distribution Centre</b>	:
<b>1760-A Crossroads Drive</b>	:
<b>Odenton, MD 21113</b>	:
	:
<b>Facility.</b>	:

**CONSENT AGREEMENT**

**PRELIMINARY STATEMENT**

1. This Consent Agreement is entered into by the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III (“Complainant”) and Kao USA Inc. (“Respondent”) (collectively the “Parties”), pursuant to Section 3008(a) and (g) of the Resource Conservation and Recovery Act (“RCRA” or the “Act”), 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. Section 3008(a) of RCRA authorizes the Administrator of the U.S. Environmental Protection Agency (“EPA” or the “Agency”) to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator who, in turn, delegated the authority to enter into agreements concerning administrative penalties to the Complainant. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the “Consent Agreement and Final Order”) resolve Complainant’s civil penalty claims against Respondent under RCRA (or the “Act”) for the violations alleged herein.
2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

**JURISDICTION**

3. The U.S. Environmental Protection Agency (“EPA”) has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.
4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(4).
5. On October 14, 2021, EPA sent a letter to the State of Maryland, through the Maryland Department of the Environment (“MDE”), giving prior notice of this action in accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

**GENERAL PROVISIONS**

6. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.
7. Except as provided in Paragraph 6, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.
8. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this Consent Agreement and Final Order.
9. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in **this Consent Agreement and Final Order** and waives its right to appeal the accompanying Final Order.
10. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
11. Respondent shall bear its own costs and attorney’s fees in connection with this proceeding.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

12. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.
13. On February 11, 1985, pursuant to Section 3006(b) of RCRA, 42 U.S.C. §§ 6926(b), and 40 C.F.R. Part 271, Subpart A, EPA granted the State of Maryland final authorization to administer the hazardous waste management program, set forth at the COMAR, Title 10, Subtitle 51 *et seq.*, in lieu of the federal hazardous waste management program established under RCRA Subtitle C, 42 U.S.C. §§ 6921-6939e. Through this final

authorization, the provisions of the Maryland Hazardous Waste Management Regulations (“MdHWMR”) became requirements of RCRA Subtitle C and are, accordingly, enforceable by EPA on and after that date pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a). EPA authorized a revised Maryland hazardous waste management program set forth at COMAR, Title 26, Subtitle 13 effective on July 31, 2001, September 24, 2004, and on October 31, 2016, and, accordingly, the provisions of the authorized revised MdHWMR are enforceable by EPA on and after those dates pursuant to § 3008(a) of RCRA, 42 U.S.C. § 6928(a).

14. Respondent is a corporation organized under the laws of the state of Delaware on April 12, 1971. As such, Respondent is now and was at the time of the violations alleged herein, a “person” as that term is defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and COMAR 26.13.01.03B(61).
15. Respondent’s facility is located at 1760-A Crossroads Drive, Odenton, Maryland 21113 (the “Facility”). The Facility is primarily a warehouse for personal care products.
16. At all times relevant to the allegations set forth in this Consent Agreement, Respondent is, and has been, the “operator” of the Facility as defined in COMAR 26.13.01.03.B(58).
17. As part of its operations, Respondent generates and stores waste with EPA Hazardous Waste No. D001. At all times relevant to the allegations set forth in this Consent Agreement, and as described below, Respondent is, and has been, a “generator” of “solid waste” and “hazardous waste” at the Facility, as these terms are defined in COMAR 26.13.01.03.B(29), (73) and (31).
18. At all times relevant to the allegations set forth in this Consent Agreement, the Facility identified as a Small Quantity Generator (“SQG”) of hazardous waste, as the term is defined in COMAR.26.13.03.04F(1)(b).
19. At all times relevant to the allegations set forth in this Consent Agreement, Respondent’s Facility is, and has been, a hazardous waste storage “facility” as that term is defined in COMAR 26.13.01.03B(23).
20. On June 15, 2021, EPA sent Respondent an Information Request Letter (“IRL”) to examine Respondent’s compliance with the federally authorized MdHWMR and applicable federal hazardous waste regulations. On July 29, 2021, Respondent sent EPA a response to EPA’s IRL.
21. Respondent or Respondent’s counsel provided EPA with additional information in written responses on August 4, 2021, January 25, 2022, February 25, 2022, and March 14, 2022.
22. Based on EPA’s findings from the IRL and Respondent’s subsequent responses, EPA concludes that Respondent has violated certain requirements and provisions of RCRA

Subtitle C, 42 U.S.C. §§ 6921-6939g, certain federally authorized MdHWMR requirements promulgated thereunder, and certain applicable federal hazardous waste regulations.

**Count I**

**Operating a Treatment, Storage, or Disposal Facility Without a Permit or Interim Status**

23. The information and allegations in the preceding Paragraphs of this Consent Agreement are incorporated herein by reference.
24. Pursuant to Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and COMAR 26.13.07.01A, with exceptions not relevant to this matter, no person may own or operate a facility for the treatment, storage, or disposal of hazardous waste without first obtaining a permit or interim status for such facility.
25. Respondent has never had a permit or interim status, pursuant to COMAR 26.13.07.01A or Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), for the storage of hazardous waste at the Facility.
26. Pursuant to COMAR 26.13.03.05E(1), a generator of hazardous waste may accumulate hazardous waste on-site without a permit or interim status if the generator complies with conditions for the permit exemption found in COMAR 26.13.03.05E(1), including, *inter alia*:
  - a. Pursuant to COMAR 26.13.03.05E(1)(d), the generator must comply with the requirements of COMAR 26.13.05.09, including the requirement to “inspect areas where containers are stored, at least weekly, looking for leaks and for deterioration of containers and the containment system caused by corrosion and other factors,” in accordance with COMAR 26.13.05.09E.
  - b. Pursuant to COMAR 26.13.03.05E(1)(g), the generator must comply with the requirements of COMAR 26.13.05.02G, including the following requirements:
    - i. Facility personnel must complete an initial hazardous waste training program, in accordance with COMAR 26.13.05.02G(1) “within [six] months after the effective date of [the] regulations or [six] months after the date of their employment or assignment to a facility, or to a new position at a facility, whichever is later,” as required by COMAR 26.13.05.02G(2).
    - ii. Facility personnel must complete an annual review of the initial hazardous waste management training required by COMAR 26.13.05.02G(1), in accordance with COMAR 26.13.05.02G(3).

- c. Pursuant to COMAR 26.13.03.05E(1)(g), the generator must comply with the requirements of COMAR 26.13.05.02G(04), including the requirement that the owner or operator maintain at the facility a written job description for each position related to hazardous waste management, in accordance with COMAR 26.13.05.02G(4)(b).
  - d. Pursuant to COMAR 26.13.03.05.E(1)(g), the generator must comply with the requirements of COMAR 26.13.05.04C, including the requirement that the owner or operator maintain a contingency plan which includes, among other things, the following:
    - i. An up-to-date list of names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator, in accordance with COMAR 26.13.05.04C(4). Under COMAR 26.13.05.04C(4), when multiple people are listed, one shall be named a primary and the others shall be listed in the other they will assume responsibility.
    - ii. An up-to-date list of all emergency equipment at the facility, the location of the equipment, a physical description of each equipment, and a brief outline of each equipment's capabilities, in accordance with COMAR 26.13.05.04C(5).
27. Although the provisions of COMAR 26.13.03.05E(1) provide hazardous waste generators with an exemption from the permitting requirements for the temporary accumulation (90 days or less) of hazardous waste generated by a facility, Respondent failed to meet the conditions necessary to qualify for the exemption set forth in COMAR 26.13.03.05E(1).
28. The following acts or omissions, further described below, prevented Respondent from meeting the regulatory permit exemption conditions in COMAR 26.13.03.05(E)(1).
29. From at least July 1, 2018 (date asked by EPA's IRL), until at least February 25, 2022 (date of Respondent's final response to EPA's IRL), Respondent failed to conduct weekly inspections of the Facility's hazardous waste accumulation areas, as required by COMAR 26.13.03.05E(1)(d), which incorporates by reference COMAR 26.13.05.09E, and/or failed to maintain inspection logs of weekly inspections of hazardous waste accumulation areas, as required by COMAR 26.13.05(k), as further described in Count II, below.
30. From at least July 1, 2018 (date asked by EPA's IRL), until at least February 25, 2022 (date of Respondent's final response to EPA's IRL), Respondent failed to provide initial and annual refresher training to Facility personnel responsible for handling and/or managing hazardous waste, as required by COMAR 26.13.03.05E(1)(g), which

incorporates by reference COMAR 26.13.05.02G(2) and (3), as further described in Count III, below.

31. From at least July 1, 2018 (date asked by EPA’s IRL), until at least February 25, 2022 (date of Respondent’s final response to EPA’s IRL), Respondent failed to maintain records of complete job descriptions of each Facility position related to hazardous waste management, as required by COMAR 26.13.03.05E(1)(g), which incorporates by reference COMAR 26.13.05.02G(4), as further described in Count IV, below.
32. From at least January 1, 2018 (date asked by EPA’s IRL), until at least February 25, 2022 (date of Respondent’s final response to EPA’s IRL), Respondent failed to maintain an adequate contingency plan, as required by COMAR 26.13.03.05E(1)(g), which incorporates by reference COMAR 26.13.05.04C(4) and (5), as further described in Count V, below.
33. For each of the reasons and during each of the dates and time periods identified above, Respondent failed to comply with the permit exemption conditions set forth in COMAR 26.13.03.05E(1)(d), (g), and (k), as identified in Paragraphs 29 through 32 above, for temporary storage (i.e., 90 days or less), as required pursuant to COMAR 26.13.03.05E(1), and therefore failed to qualify for an exemption from the permitting/interim status requirements provided by such sections and engaged in the storage of hazardous waste without a permit.
34. Therefore, requirements of COMAR Chapter 26.13.03, Chapter 26.13.06, and the permit requirements of Chapter 26.13.07 applied to the Facility, because Respondent failed to meet certain conditions of the permit exemption.
35. In failing to comply with Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), COMAR 26.13.07.01A, and COMAR 26.13.03.05E(1), Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

## **Count II**

### **Failure to Conduct or Document Weekly Inspections of Hazardous Waste Accumulation Areas**

36. The information and allegations in the preceding Paragraphs of this Consent Agreement are incorporated herein by reference.
37. COMAR 26.13.05.09E requires inspection of areas where containers are stored, at least weekly, “for leaks and for deterioration of containers and the containment system caused by corrosion or other factors.”
38. COMAR 26.13.05.05D(2)(e) requires facilities to keep records of inspections conducted as required by, among others, COMAR 26.13.05.09E.

39. When asked by EPA's IRL whether the Facility inspected containers stored in hazardous waste accumulation areas for leaks and deterioration, Respondent stated in its July 29, 2021, response that specific hazardous waste accumulation area inspections do not take place at the Facility, but daily walk-throughs may occur. Respondent did not provide any documentation (e.g., inspection logs and names of inspectors) of these walk-throughs from July 1, 2018 (date asked by EPA's IRL) to July 29, 2021.
40. From at least July 1, 2018 (date asked by EPA's IRL), until at least February 25, 2022 (date of Respondent's final response to EPA's IRL), Respondent violated the requirements of COMAR 26.13.05.09E, by failing to inspect areas where containers are stored, at least weekly, for leaks and deterioration of containers and the containment system caused by corrosion or other factors.
41. In the alternative, from at least July 1, 2018 (date asked by EPA's IRL), until at least February 25, 2022 (date of Respondent's final response to EPA's IRL), Respondent violated the requirements of COMAR 26.13.05.05D(2)(e) by failing to keep records of inspections conducted as required by, among others, COMAR 26.13.05.09E.
42. In failing to comply with COMAR 26.13.05.09E and COMAR 26.13.05.05D(2)(e), Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

### **Count III**

#### **Failure to Conduct Initial and Annual Refresher RCRA Training**

43. The information and allegations in the preceding Paragraphs of this Consent Agreement are incorporated herein by reference.
44. COMAR 26.13.05.02G(2) requires facility personnel to complete an initial hazardous waste training program "within [six] months after the effective date of [the] regulations or [six] months after the date of their employment or assignment to a facility, or to a new position at a facility, whichever is later." Under COMAR 26.13.05.02G(2), employees may not work in unsupervised positions until they have completed the initial training requirements.
45. COMAR 26.13.05.02G(3) requires facility personnel to participate in an annual review of the initial RCRA training mentioned above.
46. When asked by EPA's IRL whether the Facility's personnel responsible for handling and/or managing hazardous waste were provided initial hazardous waste training and annual refresher training, Respondent stated in its July 29, 2021, response that neither initial nor annual refresher hazardous waste training had been conducted.

47. From at least July 1, 2018 (date asked by EPA's IRL), until at least February 25, 2022 (date of Respondent's final response to EPA's IRL), Respondent violated the requirements of COMAR 26.13.05.02G(2) and (3) by failing to provide initial and annual refresher training to Facility personnel responsible for handling and/or managing hazardous waste.
48. In failing to comply with COMAR 26.13.05.02G(2) and (3), Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

#### **Count IV**

##### **Failure to Maintain Job Descriptions related to Hazardous Waste Management**

49. The information and allegations in the preceding Paragraphs of this Consent Agreement are incorporated herein by reference.
50. COMAR 26.13.05.02G(4) requires records at the facility of the job titles and descriptions of each position related to hazardous waste management, the employees that fill them, and the type and amount of introductory and continuing training that will be given to each person filling these positions.
51. When asked by EPA's IRL to provide records of the job titles and descriptions of each position related to hazardous waste management, the employees that fill these jobs, and the type and amount of introductory and continuing training that will be given to each of these employees, Respondent provided in its July 29, 2021, response records of employees requiring RCRA training, their job titles, and their job descriptions. However, the job descriptions provided did not include any reference to RCRA or hazardous waste.
52. From at least July 1, 2018 (date asked by EPA's IRL), until at least February 25, 2022 (date of Respondent's final response to EPA's IRL), Respondent violated the requirements of COMAR 26.13.05.02G(4) by failing to maintain records of complete job descriptions of each Facility position related to hazardous waste management.
53. In failing to comply with COMAR 26.13.05.02G(4), Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

#### **Count V**

##### **Failure to Maintain Adequate Contingency Plan**

54. The information and allegations in the preceding Paragraphs of this Consent Agreement are incorporated herein by reference.
55. COMAR 26.13.05.04B requires facilities that store hazardous waste to have a contingency plan to minimize hazards to human health and the environment. The

contingency plan must contain all elements required by COMAR 26.13.05.04. Specifically, COMAR 26.13.05.04C(4) requires an up-to-date list of names, addresses, and phone numbers of all persons qualified to act as emergency coordinators, and COMAR 26.13.05.04C(5) requires an up-to-date list of required emergency equipment at the Facility, their location, their physical description, and their capabilities

56. When asked by EPA’s IRL to provide a copy of the Facility’s contingency plan, Respondent provided in its July 29, 2021, response a copy of the Facility’s “Business Continuity Plan” which was not put into in place until May 28, 2020. Subsequently, in its February 25, 2022, response letter, Respondent provided a copy of the Facility’s “Emergency Action Plan” with a version date of April 24, 2018. The following are required contingency plan elements that were not included in the “Business Continuity Plan” nor the “Emergency Action Plan” provided by Respondent:
- a. An up-to-date list of names, addresses, and phone numbers of all persons qualified to act as emergency coordinators with a primary emergency coordinator designated if more than one person is listed.
  - b. An up-to-date list of required emergency equipment at the Facility, their location, their physical description, and their capabilities.
57. From at least January 1, 2018 (date asked by EPA’s IRL), until at least February 25, 2022 (date of Respondent’s final response to EPA’s IRL), Respondent violated the requirements of COMAR 26.13.05.04C by failing to maintain an adequate contingency plan.
58. In failing to comply with COMAR 26.13.05.04C, Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

**CIVIL PENALTY**

59. In settlement of EPA’s claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of FIFTY-FOUR THOUSAND NINE HUNDRED dollars (\$54,900.00), which Respondent shall be liable to pay in accordance with the terms set forth below.
60. The civil penalty is based upon EPA’s consideration of a number of factors, including the penalty criteria (“statutory factors”) 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 the applicable requirements. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA’s October, 1990 RCRA Civil Penalty Policy, as revised in June, 2003 (“RCRA Penalty Policy”), which reflects the statutory penalty criteria and factors set forth at Section 3008(a)(3) and (g) of RCRA, 42 U.S.C. §§ 6928(a)(3) and (g), the appropriate *Adjustment of Civil*

*Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA’s civil penalty policies to account for inflation.

61. Payment of the civil penalty amount, and any associated interest, administrative fees, and late payment penalties owed, shall be made by either cashier’s check, certified check, or electronic wire transfer, in the following manner:

- a. All payments by Respondent shall include reference to Respondent’s name and address, and the Docket Number of this action, *i.e.*, RCRA-03-2022-0083;
- b. All checks shall be made payable to the “United States Treasury”;
- c. All payments made by check and sent by regular mail shall be addressed and mailed to:

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

- d. For additional information concerning other acceptable methods of payment of the civil penalty amount see:

<https://www.epa.gov/financial/makepayment>

- e. A copy of Respondent’s check or other documentation of payment of the penalty using the method selected by Respondent for payment shall be sent simultaneously by e-mail to:

Promy Tabassum  
Assistant Regional Counsel  
tabassum.promy@epa.gov

and

U.S. EPA Region III Regional Hearing Clerk  
R3\_Hearing\_Clerk@epa.gov

62. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent’s failure to make timely payment of the penalty as specified herein shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.

63. Payment of the civil penalty is due and payable immediately upon receipt by Respondent of a true and correct copy of the fully executed and filed Consent Agreement and Final Order. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed EPA by Respondent in accordance with 40 C.F.R. § 13.9(a).
64. INTEREST: In accordance with 40 C.F.R § 13.11(a)(1), interest on the civil penalty assessed in this Consent Agreement and Final Order will begin to accrue on the date Respondent is notified of its debt to the United States as established upon the ratification and filing of the fully executed Consent Agreement and Final Order with the Regional Hearing Clerk. However, EPA will not seek to recover interest on any amount of the civil penalties that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest 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).
65. ADMINISTRATIVE COSTS: The costs of the EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's Resources Management Directives – Case Management, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
66. LATE PAYMENT PENALTY: A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
67. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.
68. **The parties consent to service of the Final Order by e-mail at the following valid e-mail addresses: tabassum.promy@epa.gov (for Complainant), and ZHohl@Graydon.law (for Respondent).**

### **GENERAL SETTLEMENT CONDITIONS**

69. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement and Final Order will be available to the public and represents that, to the best of Respondent's knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.

70. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Consent Agreement and Final Order, **including information about respondent's ability to pay a penalty**, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

### **CERTIFICATION OF COMPLIANCE**

71. Respondent certifies to EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is in compliance with regard to the violations alleged in this Consent Agreement.

### **OTHER APPLICABLE LAWS**

72. Nothing in this Consent Agreement and Final Order shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state, or local permit. This Consent Agreement and Final Order does not constitute a waiver, suspension, or modification of the requirements of RCRA, or any regulations promulgated thereunder.

### **RESERVATION OF RIGHTS**

73. This Consent Agreement and Final Order resolves only EPA's claims for civil penalties for the specific violations alleged against Respondent in this Consent Agreement and Final Order. 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. This settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice, 40 C.F.R. § 22.18(c). EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this Consent Agreement and Final Order after its effective date.

**EXECUTION / PARTIES BOUND**

74. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents, and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and Final Order.

**EFFECTIVE DATE**

75. The effective date of this Consent Agreement and Final Order is the date on which the Final Order, signed by the Regional Administrator of EPA, Region III, or his/her designee, the Regional Judicial Officer, is filed along with the Consent Agreement with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

**ENTIRE AGREEMENT**

76. This Consent Agreement and Final Order constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this Consent Agreement and Final Order.

*In the Matter of: Kao USA Inc.*

*EPA Docket No. RCRA-03-2022-0083*

For Respondent: KAO USA INC.

Date: 5/11/2022

By:   
Stephen C. Cagle  
Vice President, Regional Executive Officer,  
Supply Chain Management, Beauty Care,  
Americas

**For Complainant:**

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement & Compliance Assurance Division of the United States Environmental Protection Agency, Region III, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

**By:** \_\_\_\_\_

*[Digital Signature and Date]*

**Karen Melvin**

**Director, Enforcement and Compliance Division**

**U.S. EPA – Region III**

**Complainant**

**Attorney for Complainant:**

**By:** \_\_\_\_\_

*[Digital Signature and Date]*

**Promy Tabassum**

**Assistant Regional Counsel**

**U.S. EPA – Region III**

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

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<b>1760-A Crossroads Drive</b>	:
<b>Odenton, MD 21113</b>	:
<b>Respondent.</b>	:
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<b>U.S. EPA Docket No. RCRA-03-2022-0083</b>	:
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<b>Proceeding under Section 3008(a) and (g) of</b>	:
<b>the Resource Conservation and Recovery Act,</b>	:
<b>as amended, 42 U.S.C. § 6928(a) and (g)</b>	:
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<b>Odenton Distribution Centre</b>	:
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	:
<b>Facility.</b>	:
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**FINAL ORDER**

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III, and Respondent, Kao USA Inc. have executed a document entitled “Consent 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 Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA’s 1990 RCRA Civil Penalty Policy, as revised in June 2003 (“RCRA Penalty Policy”), and again on May 6, 2020, and the statutory factors set forth at Section 3008(a)(3) and (g) of RCRA, 42 U.S.C. § 6928(a)(3) and (g).

**NOW, THEREFORE, PURSUANT TO** Section 3008(a) and (g) of the Resource Conservation and Recovery Act (“RCRA” or the “Act”), as amended, 42 U.S.C. § 6928(a) and (g), 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 **FIFTY-FOUR THOUSAND NINE HUNDRED DOLLARS (\$54,900.00)**, in accordance with the payment provisions set forth in the Consent Agreement and in 40 C.F.R. § 22.31(c), 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 Consent Agreement and does not waive, extinguish, or otherwise affect Respondent's obligation to comply with all applicable provisions of RCRA and the regulations promulgated thereunder.

The effective date of the attached Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

By: \_\_\_\_\_  
[Digital Signature and Date]  
Joseph J. Lisa  
Regional Judicial and Presiding Officer  
U.S. EPA – Region III

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

<b>In the Matter of:</b>	:
	:
<b>Kao USA Inc.</b>	:
<b>1760-A Crossroads Drive</b>	:
<b>Odenton, MD 21113</b>	:
	:
<b>Respondent.</b>	:
	:
<b>Kao USA Inc.</b>	:
<b>Odenton Distribution Centre</b>	:
<b>1760-A Crossroads Drive</b>	:
<b>Odenton, MD 21113</b>	:
	:
<b>Facility.</b>	:

**CERTIFICATE OF SERVICE**

I certify that the foregoing *Consent Agreement and Final Order* was filed with the EPA Region III Regional Hearing Clerk on the date that has been electronically stamped on the *Consent 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:

M. Zack Hohl  
Counsel for Respondent  
zhohl@graydon.law  
312 Walnut Street, Suite 1800  
Cincinnati, OH 45202

Promy Tabassum  
Assistant Regional Counsel  
U.S. EPA, Region III  
tabassum.promy@epa.gov

Martin Matlin  
Environmental Specialist  
U.S. EPA, Region III  
maitlin.martin@epa.gov

By: \_\_\_\_\_  
[Digital Signature and Date]  
Regional Hearing Clerk  
U.S. EPA – Region III