



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

SEP 29 2016

CERTIFIED MAIL RETURN RECEIPT

A. Richard Szembrot
Manager – Health, Safety and Environment
Eastman Kodak Company
1999 Lake Avenue
Rochester, New York 14650-2206

Re: Eastman Kodak Company, GAD 981 275 449
Consent Agreement and Final Order, Docket No. RCRA-04-2016-4020(b)

Dear Mr. Szembrot,

Enclosed, please find a copy of the executed Consent Agreement and Final Order (CA/FO) as filed with the Regional Hearing Clerk in the above-referenced matter. Please note that a payment of the civil penalty is due within thirty (30) days of the effective date of the CA/FO, which is the date of the CA/FO is filed with the Regional Hearing Clerk.

Thank you for your assistance in resolving this matter. If you have any questions, please feel free to contact me at (404) 562-8590 or by email at lamberth.larry@epa.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Larry L. Lamberth".

Larry L. Lamberth
Chief, Enforcement and Compliance Branch
RCR Division

Enclosure

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)	DOCKET NO.: RCRA-04-2016-4020(b)
)	
Eastman Kodak Company)	
One Polychrome Park)	Proceeding Under Section 3008(a) of the
Columbus, Georgia 31907)	Resource Conservation and Recovery Act,
EPA ID No.: GAD 981 275 449)	42 U.S.C. § 6928(a)
)	
Respondent)	
_____)	

USEPA, REGION 4
OFFICE OF REGIONAL
COUNSEL

2016 SEP 29 AM 7:04
HEARING CLERK

CONSENT AGREEMENT

I. NATURE OF THE ACTION

1. This is a civil administrative enforcement action, pursuant to Section 3008(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a), ordering compliance with the requirements of the Georgia Hazardous Waste Management Act (GHWMA), Ga. Code Ann. §§ 12-8-60 *et seq.* [Subtitle C of RCRA, 42 U.S.C. §§ 6921-6939f], and the regulations promulgated pursuant thereto and set forth at Georgia Hazardous Waste Management Rules (GHWMR), Ga. Comp. R. and Regs. 391-3-11.01 to 391-3-11.18 [Title 40 of the Code of Federal Regulations (C.F.R.), Parts 260 through 270, 273, & 279]. This action seeks the imposition of civil penalties pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for violations of Ga. Comp. R. and Regs. 391-3-11.01 to 391-3-11.18 [40 C.F.R. Parts 260 through 270, 273, & 279].
2. The *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, which govern this action and are promulgated at 40 C.F.R. Part 22, provide that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order (CA/FO). 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).
3. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to settle this action. Accordingly, before any testimony has been taken upon the pleadings and without any admission of violation or adjudication of any issue of fact or law and in accordance with 40 C.F.R. § 22.13(b), Complainant and Respondent have agreed to the execution of this CA/FO, and Respondent hereby agrees to comply with the terms of this CA/FO.

II. THE PARTIES

4. Complainant is the Chief, Enforcement and Compliance Branch, Resource Conservation and Restoration Division, United States Environmental Protection Agency (EPA) Region 4. Complainant is authorized to issue the instant CA/FO pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and applicable delegations of authority.
5. Respondent, Eastman Kodak Company, is a corporation created under the laws of the State of New Jersey having a principal place of business in Rochester, New York and authorized to transact business in the State of Georgia. Respondent owns and operates an imaging products facility located at One Polychrome Park, Columbus, Georgia, 31907 (the Facility).

III. PRELIMINARY STATEMENTS

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the State of Georgia ("Georgia" or "the State") has received final authorization to carry out a hazardous waste program in lieu of the federal program set forth in RCRA. The requirements of the authorized State program are found at GHWMA, Ga. Code Ann. §§ 12-8-60 *et seq.* and GHWMR, Ga. Comp. R. and Regs. 391-3-11.01 to 391-3-11.18.
7. Pursuant to Section 3006(g) of RCRA, 42 U.S.C. § 6926(g), the requirements established by the Hazardous and Solid Waste Amendments of 1984 (HSWA), Pub. L. 98-616, are immediately effective in all states regardless of their authorization status and are implemented by the EPA until a state is granted final authorization with respect to those requirements. The State of Georgia has received final authorization for certain portions of HSWA, including those recited herein.
8. Although the EPA has granted the State authority to enforce its own hazardous waste program, the EPA retains jurisdiction and authority to initiate an independent enforcement action pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2). This authority is exercised by the EPA in the manner set forth in the Memorandum of Agreement between the EPA and the State.
9. As the State's authorized hazardous waste program operates in lieu of the federal RCRA program, the citations for the violations of those authorized provisions alleged herein will be to the authorized State program; however, for ease of reference, the federal citations will follow in brackets.
10. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), Complainant has given notice of this action to the State before issuance of this CA/FO.
11. Section 12-8-64(1)(A) of the GHWMA, Ga. Code Ann. § 12-8-64(1)(A) [Section 3002(a) of RCRA, 42 U.S.C. § 6922(a)], requires the promulgation of standards applicable to generators of hazardous waste. The implementing regulations for these standards are found at [40 C.F.R. Part 262].
12. Section 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], sets forth the requirement that a facility treating, storing, or disposing of hazardous waste must have a permit or interim status. The implementing regulations for this requirement are found at Ga. Comp. R. and Regs. 391-3-11.10(2) (permitted) and Ga. Comp. R.

and Regs. 391-3-11.10(1) (interim status)] [40 C.F.R. Parts 264 (permitted) and 265 (interim status)].

13. Pursuant to Ga. Comp. R. and Regs. 391-3-11.07(1) [40 C.F.R. § 261.2], a “solid waste” is any discarded material that is not otherwise excluded from the regulations. A discarded material includes any material that is abandoned by being stored in lieu of being disposed.
14. Pursuant to Ga. Comp. R. and Regs. 391-3-11.07(1) [40 C.F.R. § 261.3], a solid waste is a “hazardous waste” if it meets any of the criteria set forth in Ga. Comp. R. and Regs. 391-3-11.07(1) [40 C.F.R. § 261.3(a)(2)] and is not otherwise excluded from regulation as a hazardous waste by Ga. Comp. R. and Regs. 391-3-11.07(1) [40 C.F.R. § 261.4(b)].
15. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. §§ 261.3(a)(2)(i) and 261.20], solid wastes that exhibit any of the characteristics identified in Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. §§ 261.21-24] are characteristic hazardous waste and are provided with the EPA Hazardous Waste Numbers D001 through D043.
16. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. §§ 261.20 and 261.21], a solid waste that exhibits the characteristic of ignitability is a hazardous waste and is identified with the EPA Hazardous Waste Number D001.
17. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. §§ 261.20 and 261.22], a solid waste that exhibits the characteristic of corrosivity is a hazardous waste and is identified with the EPA Hazardous Waste Number D002.
18. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. §§ 261.20 and 261.24], a solid waste that exhibits the characteristic of toxicity is a hazardous waste and is identified with the EPA Hazardous Waste Number associated with the toxic contaminant causing it to be hazardous. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for Chromium is identified with the EPA Hazardous Waste Number D007.
19. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. §§ 261.20 and 261.24], a solid waste that exhibits the characteristic of toxicity is a hazardous waste and is identified with the EPA Hazardous Waste Number associated with the toxic contaminant causing it to be hazardous. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for Methyl ethyl ketone is identified with the EPA Hazardous Waste Number D035.
20. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. §§ 261.3(a)(2)(ii) and 261.30], a solid waste is a listed “hazardous waste” if it is listed at Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. Part 261, Subpart D].
21. Listed hazardous wastes include the F-listed wastes from nonspecific sources identified in Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.31(a)] and are provided with EPA Hazardous Waste Numbers F001 through F039. The F003 – F005 listing codes each apply to specific non-halogenated spent solvents or spent solvent mixtures.

22. Pursuant to Ga. Comp. R. and Regs. 391-3-11.02(1) [40 C.F.R. § 260.10], a “generator” is defined as “any person, by site, whose act or process produces hazardous waste identified or listed in Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. Part 261], or whose act first causes a hazardous waste to become subject to regulation.”
23. Pursuant to Ga. Comp. R. and Regs. 391-3-11.02(1) [40 C.F.R. § 260.10], a “facility” includes “all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste.”
24. Pursuant to Ga. Comp. R. and Regs. 391-3-11.02(1) [40 C.F.R. § 260.10], a “person” includes a corporation.
25. Pursuant to Ga. Comp. R. and Regs. 391-3-11.02(1) [40 C.F.R. § 260.10], an “owner” is “the person who owns a facility or part of a facility” and an “operator” is “the person responsible for the overall operation of a facility.”
26. Pursuant to Ga. Comp. R. and Regs. 391-3-11.02(1) [40 C.F.R. § 260.10], “storage” means the holding of a hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.
27. Pursuant to Ga. Comp. R. and Regs. 391-3-11.02(1) [40 C.F.R. § 260.10], a “container” means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.
28. Pursuant to Ga. Comp. R. and Regs. 391-3-11.02(1) [40 C.F.R. § 260.10], a “tank system” is defined as a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.
29. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)], a generator of 1,000 kilograms or greater of hazardous waste in a calendar month is a Large Quantity Generator (LQG) and may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, as required by GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], provided that the generator complies with the conditions listed in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)-(4)] (hereinafter referred to as the “LQG Permit Exemption”).
30. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(ii)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. Subpart J], and is a condition of the LQG Permit Exemption, a generator is required to conduct tank integrity tests, conduct daily inspections, maintain secondary containment, and manage waste placed in a tank in accordance with subparts AA, BB, and CC among other requirements.
31. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(4)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.52(d)], and is a condition of the LQG Permit Exemption, a generator is required to include in its contingency plan a list of names, addresses, and phone number (office and home) of all persons qualified to act as emergency coordinator and the list must be kept up to date. Where more than one person is listed, one must be named as primary emergency coordinator and the other(s) must be listed in the order in which each will assume responsibility as alternates.

32. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(4)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.53(b)], and is a condition of the LQG Permit Exemption, a generator is required to submit a copy of its contingency plan and all revisions to the plan to all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services.
33. Pursuant Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(c)(1)], a generator may accumulate as much as 55 gallons of hazardous waste in containers at or near the point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or without having interim status, as required by Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], and without complying with Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)], provided that the generator complies with the satellite accumulation area (SAA) conditions listed in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(c)(1)(i)-(ii)] (hereinafter referred to as the “SAA Permit Exemption”).
34. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(c)(1)(i)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.173(a)], and is a condition of the SAA Permit Exemption, a generator is required to keep containers of hazardous waste closed when waste is not being added or removed.
35. Pursuant to Ga. Comp. R. and Regs. 391-3-11.02(1) [40 C.F.R. § 260.10], “universal waste” means any of the following hazardous wastes that are managed under the universal waste requirements of Ga. Comp. R. and Regs. 391-3-11.18 [40 C.F.R. part 273]: (1) Batteries as described in Ga. Comp. R. and Regs. 391-3-11.18 [40 C.F.R. § 273.2]; (2) Pesticides as described in Ga. Comp. R. and Regs. 391-3-11.18 [40 C.F.R. § 273.3]; (3) Mercury-containing equipment as described in Ga. Comp. R. and Regs. 391-3-11.18 [40 C.F.R. § 273.4]; and (4) Lamps as described in Ga. Comp. R. and Regs. 391-3-11.18 [40 C.F.R. § 273.5].
36. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.18 [40 C.F.R. § 273.9], a “Small Quantity Handler of Universal Waste” (SQHUW) is a Universal Waste handler who does not accumulate 5,000 kilograms or more of Universal Waste (batteries, pesticides, mercury-containing equipment, or lamps, calculated collectively) at any time.
37. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.18 [40 C.F.R. § 273.14(a)], a SQHUW must label or mark each universal waste battery or the container or tank in which the battery(ies) are contained clearly with one of the following phrases: “Universal Waste - Battery(ies),” or “Waste Battery(ies),” or “Used Battery(ies).”
38. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.18 [40 C.F.R. § 273.15(a) and (c)], a SQHUW may accumulate universal waste for no longer than one year and must be able to demonstrate the length of time that the universal waste has accumulated from the date that it became a waste or was received.
39. Pursuant to Ga. Comp. R. and Regs. 391-3-11.02(1) [40 C.F.R. § 260.10], “used oil” means any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use is contaminated by physical or chemical impurities.

40. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.17 [40 C.F.R. § 279.22(c)(1)], containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words “Used Oil.”

IV. EPA ALLEGATIONS AND DETERMINATIONS

41. Respondent is a “person” as defined in Ga. Comp. R. and Regs. 391-3-11.02(1) [40 C.F.R. § 260.10].
42. Respondent is the “owner/operator” of a “facility” located at One Polychrome Park, Columbus, Georgia, as those terms are defined in Ga. Comp. R. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10].
43. Respondent is a “generator” of “hazardous waste” as those terms are defined in Ga. Comp. R. and Regs. 391-3-11.02(1) [40 C.F.R. § 260.10] and Ga. Comp. R. and Regs. 391-3-11.07(1) [40 C.F.R. § 261.3].
44. Respondent produces, *inter alia*, image plates for print media and as a consequence must clean and prepare aluminum sheeting for coating. Respondent coats these aluminum sheets to exacting specifications.
45. In the Waste Generator Notification (EPA Form 8700-12) for the Facility that the Georgia Department of Environmental Protection (GA EPD) received on January 14, 2014, Respondent notified the GA EPD that the Facility is a LQG of hazardous waste, as that term is defined in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)] and that it generates hazardous wastes identified with the following EPA Hazardous Waste Numbers: D001, D002, D007, D035, F003, and F005.
46. Respondent is a SQHUW, as that term is defined in Ga. Comp. R. and Regs. 391-3-11-.18 [40 C.F.R. § 273.9].
47. Respondent is a generator of Used Oil, as that term is defined in Ga. Comp. R. and Regs. 391-3-11-.17(1) [40 C.F.R. § 279.1].
48. On August 18, 2015, the EPA and the GA EPD conducted a RCRA compliance evaluation inspection (CEI) at the Facility. The findings of the CEI were documented in a March 1, 2016 CEI Report that the EPA mailed to Respondent.
49. During the August 18, 2015 CEI, the EPA and GA EPD inspectors (the inspectors) observed that the Respondent was operating two 75-gallon hazardous waste tanks in the Facility’s Mix Room. During the CEI, the inspectors were informed that neither tank had undergone tank integrity testing due to Respondent’s understanding that the tanks were not RCRA-regulated. Respondent had thus not conducted suitable daily inspections, maintained adequate secondary containment, or managed waste placed in these tanks in accordance with applicable requirements of Ga. Comp. R. and Regs. 391-3-11-.10(1) [subpart J of 40 C.F.R. part 265] and subparts AA, BB, and CC of 40 C.F.R. part 265.
50. The EPA therefore alleges Respondent violated Section 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a

permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(ii)] by not complying with the tank system management requirements in Ga. Comp. R. and Regs. 391-3-11-.10(1) [subpart J of 40 C.F.R. part 265] and subparts AA, BB, and CC of 40 C.F.R. part 265.

51. During the August 18, 2015 CEI, the inspectors observed that Respondent had not listed the names of all persons qualified to act as emergency coordinator along with their respective addresses and phone numbers (office and home) in the Facility's hazardous waste contingency plan.
52. The EPA therefore alleges Respondent violated Section 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(4)], by not complying with the contingency plan requirements in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.52(d)].
53. During the August 18, 2015 CEI, the inspectors were informed by Respondent that it had not provided a copy of the Facility's hazardous waste contingency plan to the local authorities.
54. The EPA therefore alleges Respondent violated Section 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(4)], by not complying with the contingency plan requirements of Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.53(b)].
55. During the August 18, 2015 CEI, the inspectors observed containers of D001, D035, F002 and F005 hazardous waste as well as containers of D001, F001, F002 and F003 hazardous paint waste that were not being kept closed, other than when waste was being added or removed, in the following SAAs at the Facility:
 - a. the Line C-3 SAA, and
 - b. in the Maintenance area: the Flammable Solids SAA, the Broken Mercury lamps SAA, and the Paint Waste SAA.
56. The EPA therefore alleges Respondent violated Section 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the SAA Permit Exemption set forth in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(c)(1)(i)] by not complying with the container management requirements in Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.173(a)].
57. During the August 18, 2015 CEI, the inspectors observed that Respondent had not labeled or marked containers of universal waste batteries that were being stored in the Facility's Forklift Truck Maintenance Shop/Battery Room with one of the following phrases: "Universal Waste - Battery(ies)," or "Waste Battery(ies)," or "Used Battery(ies)."
58. The EPA therefore alleges Respondent violated Ga. Comp. R. and Regs. 391-3-11-.18 [40 C.F.R. § 273.14(a)], by failing to clearly label or mark each universal waste battery, or container or tank

in which the batteries were contained, with one of the following phrases: “Universal Waste - Battery(ies),” or “Waste Battery(ies),” or “Used Battery(ies).”

59. During the August 18, 2015 CEI, the Respondent could not demonstrate the length of time that universal waste lamps had been accumulated from the date the lamps became a waste or were received at the Facility’s universal waste shipping container.
60. The EPA therefore alleges Respondent violated Ga. Comp. R. and Regs. 391-3-11-.18 [40 C.F.R. § 273.15(a) and (c)], by failing to demonstrate the length of time that the Facility’s universal waste had been accumulated from the date that the universal waste became a waste or was received.
61. During the August 18, 2015 CEI, the inspectors observed that Respondent had not labeled or marked a container used to store used oil with the words “Used Oil” in the Facility’s Forklift Truck Maintenance Shop/Battery Room.
62. The EPA therefore alleges Respondent violated Ga. Comp. R. and Regs. 391-3-11-.17 [40 C.F.R. § 279.22(c)(1)], by storing used oil in containers that were not labeled or marked clearly with the words “Used Oil.”

V. TERMS OF AGREEMENT

Based on the foregoing Preliminary Statements, Allegations and Determinations, the parties agree to the following:

63. For the purposes of this CA/FO, Respondent admits the jurisdictional allegations set out in the above paragraphs pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928.
64. Respondent neither admits nor denies the factual allegations and determinations set out in this CA/FO.
65. Respondent waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying the Consent Agreement.
66. Respondent waives its right to challenge the validity of this CA/FO and the settlement of the matters addressed in this CA/FO based on any issue related to the Paperwork Reduction Act, 44 U.S.C. § 3501 *et seq.*
67. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to EPA officials where the purpose of such discussion, memorandum, or communication is to persuade such official to accept and issue this CA/FO.
68. Respondent waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CA/FO, including any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

69. The parties agree that the settlement of this matter is in the public interest and that this CA/FO is consistent with the applicable requirements of RCRA.
70. Respondent, by signing this CA/FO, certifies that Respondent is currently in compliance with RCRA and the authorized State hazardous waste program.
71. The parties agree that compliance with the terms of this CA/FO shall resolve the violations alleged.
72. Each party will pay its own costs and attorneys' fees.

VI. PAYMENT OF CIVIL PENALTY

73. Respondent consents to the payment of a civil penalty in the amount of **TEN THOUSAND ONE HUNDRED DOLLARS (\$10,100.)**, which is to be paid within thirty (30) calendar days of the effective date of this CA/FO.
74. Payment(s) shall be made by cashier's check, certified check, by electronic funds transfer (EFT), or by Automated Clearing House (ACH) (also known as REX or remittance express). If paying by check, the check shall be payable to: **Treasurer, United States of America**, and the Facility name and docket number for this matter shall be referenced on the face of the check. If Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

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

If Respondent sends payment by non-U.S. Postal express mail delivery, the payment shall be sent to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, Missouri 63101
(314) 425-1818

If paying by EFT, Respondent shall transfer the payment to:

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 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"

If paying by ACH, Respondent shall remit payment to:

US Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking
Physical location of US Treasury facility:
5700 Rivertech Court
Riverdale, Maryland 20737
Contact: John Schmid, (202) 874-7026
REX (Remittance Express): 1-866-234-5681

75. Respondent shall submit a copy of the payment to the following individuals:

Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

and to:

Alan Newman, Environmental Engineer
Hazardous Waste Enforcement and Compliance Section
Enforcement and Compliance Branch
RCRA Division, US EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8909

76. If Respondent fails to remit the civil penalty as agreed to herein, the EPA is required to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling the delinquent claim. Interest, at the statutory judgment rate provided for in 31 U.S.C. § 3717, will therefore begin to accrue on the civil penalty if not paid within 30 calendar days after the effective date of this Consent Agreement or, if paying in installments, not paid in accordance with the installment schedule provided above. Pursuant to 31 U.S.C. § 3717, Respondent must pay the following amounts on any amount overdue:

- a. Interest. Any unpaid portion of a civil penalty or stipulated penalty must bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Interest will therefore begin to accrue on a civil penalty or stipulated penalty if it is not paid by the last date required. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 4 C.F.R. § 102.13(c).
- b. Monthly Handling Charge. Respondent must pay a late payment handling charge of fifteen dollars (\$15.00) on any late payment, with an additional charge of fifteen

dollars (\$15.00) for each subsequent thirty (30) calendar-day period over which an unpaid balance remains.

- c. Non-Payment Penalty. On any portion of a civil penalty or a stipulated penalty more than ninety (90) calendar days past due, Respondent must pay a non-payment penalty of six percent (6%) per annum, which will accrue from the date the penalty payment became due and is not paid. This non-payment is in addition to charges which accrue or may accrue under subparagraphs (a) and (b).

- 77. Penalties paid pursuant to this CA/FO are not deductible for federal purposes under 26 U.S.C. § 162(f).

VII. PARTIES BOUND

- 78. This CA/FO shall be binding on Respondent and its successors and assigns. Respondent shall cause its officers, directors, employees, agents, and all persons, including independent contractors, contractors, and consultants acting under or for Respondent, to comply with the provisions hereof in connection with any activity subject to this CA/FO.
- 79. No change in ownership, partnership, corporate or legal status relating to the Facility will in any way alter Respondent's obligations and responsibilities under this CA/FO.
- 80. The undersigned representative of Respondent hereby certifies that she or he is fully authorized to enter into this CA/FO and to execute and legally bind Respondent to it.

VIII. RESERVATION OF RIGHTS

- 81. Notwithstanding any other provision of this CA/FO, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should the EPA find that the 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 or the environment.
- 82. Complainant reserves the right to take enforcement action against Respondent for any future violations of RCRA and the implementing regulations and to enforce the terms and conditions of this CA/FO.
- 83. Except as expressly provided herein, nothing in this CA/FO shall constitute or be construed as a release from any civil or criminal claim, cause of action, or demand in law or equity for any liability Respondent may have arising out of, or relating in any way to, the storage, 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.

IX. OTHER APPLICABLE LAWS

- 84. All actions required to be taken pursuant to this CA/FO shall be undertaken in accordance with the requirements of all applicable local, state, and Federal laws and regulations. Respondent shall

obtain or cause its representatives to obtain all permits and approvals necessary under such laws and regulations.

X. SERVICE OF DOCUMENTS

85. A copy of any documents that Respondent files in this action shall be sent to the following attorney who represents EPA in this matter and who is authorized to receive service for EPA in this proceeding:

Gregory D. Luetscher
Associate Regional Counsel
Office of RCRA/CERCLA Legal Support
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
(404) 562-9677
Luetscher.greg@epa.gov

86. A copy of any documents that Complainant files in this action shall be sent to the following individual who represents Respondent in this matter and who is authorized to receive service for Respondent in this proceeding:

A. Richard Szembrot
Eastman Kodak Company
1999 Lake Avenue
Rochester, NY 14650-2206

XI. SEVERABILITY

87. It is the intent of the parties that the provisions of this CA/FO are severable. If any provision or authority of this CA/FO or the application of this CA/FO to any party or circumstances is held by any judicial or administrative authority to be invalid or unenforceable, the application of such provisions to other parties or circumstances and the remainder of the CA/FO shall remain in force and shall not be affected thereby.

XII. EFFECTIVE DATE

88. The effective date of this CA/FO shall be the date on which the CA/FO is filed with the Regional Hearing Clerk.

In the matter of Eastman Kodak Company, Docket No. RCRA-04-2016-4020(b):

AGREED AND CONSENTED TO:

FOR Eastman Kodak Company

By: A. Richard Szembrot Date: 9-19-2016
A. Richard Szembrot
Manager - Health, Safety and Environment

FOR the United States Environmental Protection Agency

By: Larry L. Lamberth Date: 09/23/16
Larry L. Lamberth, Chief
Enforcement and Compliance Branch
Resource Conservation and Restoration Division

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

IN THE MATTER OF:) DOCKET NO.: RCRA-04-2016-4020(b)
)
Eastman Kodak Company)
One Polychrome Park) Proceeding Under Section 3008(a) of the
Columbus, Georgia 31907) Resource Conservation and Recovery Act,
EPA ID No: GAD 981 275 449) 42 U.S.C. § 6928(a)
)
Respondent)
_____)

FINAL ORDER

The foregoing Consent Agreement is hereby approved, ratified and incorporated by reference into this Final Order in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22. The Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED this 28th day of September 2016.

BY: Tanya Floyd
Tanya Floyd
Regional Judicial Officer
EPA Region 4

CERTIFICATE OF SERVICE

I hereby certify that I have this day filed the original and a true and correct copy of the foregoing Consent Agreement and the attached Final Order (CA/FO), **In the Matter of Eastman Kodak Company, Docket Number: RCRA-04-2016-4020(b)**, and have served the parties listed below in the manner indicated:

Gregory D. Luetscher
Associate Regional Counsel
Office of RCRA, OPA and UST Legal Support
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

(Via EPA's electronic mail)

Quantindra Smith
Enforcement and Compliance Branch
RCRA Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

(Via EPA's electronic mail)

A. Richard Szembrot
Eastman Kodak Company
1999 Lake Avenue
Rochester, New York 14650-2206

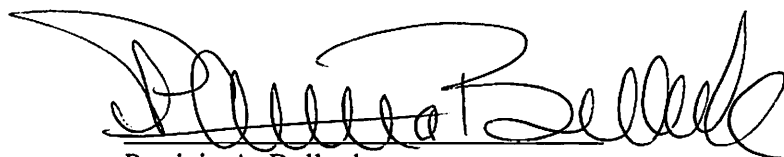
(Via Certified Mail - Return Receipt Requested)

Thomas M. Tuori, Esq.
Harter Secrest and Emery, LLP
1600 Bausch & Lomb Place
Rochester, NY 14604

(Via Certified Mail – Return Receipt Requested)

Date:

9-29-16



Patricia A. Bullock
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
(404) 562-9511