

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II

U.S. Environmental
Protection Agency-Reg 2
2016 APR 14 AM 11:58
REGIONAL HEARING
CLERK

_____X
IN THE MATTER OF: :
: :
Kawasaki Rail Car, Inc., :
: CONSENT AGREEMENT
: AND
Respondent. : FINAL ORDER
: :
Proceeding under Section 3008 : Docket No. RCRA-02-2015-7103
of the Solid Waste Disposal :
Act, 42 U.S.C. § 6928, as amended :
_____X

PRELIMINARY STATEMENT

This is a civil administrative proceeding instituted pursuant to Section 3008 of the Solid Waste Disposal Act as amended by various laws including the Resource Conservation and Recovery Act and the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. §§ 6901, et seq. ("RCRA" or the "Act").

Section 3008 of RCRA, 42 U.S.C. § 6928, authorizes the Administrator to enforce violations of the Act and the regulations promulgated or authorized pursuant to it. Complainant in this proceeding is the Director of the Division of Enforcement and Compliance Assistance ("Complainant") of the U.S. Environmental Protection Agency, Region 2 ("EPA"), who has been duly delegated the authority to institute this action. Complainant issued a "Complaint and Notice of Opportunity for Hearing" ("Complaint") to Kawasaki Rail Car, Inc. on September 30, 2015, bearing the docket number listed above. The Complaint alleged violations of the requirements of RCRA and regulations concerning the management of hazardous waste.

The parties have reached an amicable resolution of this matter and have agreed to this Consent Agreement and Final Order ("CA/FO") as a resolution of this proceeding without further litigation.

EPA FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Respondent is Kawasaki Rail Car, Inc. (hereinafter "Kawasaki" and/or "Respondent").

2. Respondent owns and/or operates several buildings at and/or adjacent to 29 Wells Avenue, Yonkers, NY 10701 (hereinafter the "Facility") and engages in the assembly, rehabilitation, and fabrication (and related activities) of passenger rail cars.
3. Respondent is a "person," as defined at Section 1004(15) of the Act, 42 U.S.C. § 6903(15), and Title 6 of the New York Codes, Rules, and Regulations (6 "NYCRR") § 370.2(b).
4. In the course of normal operations, Respondent generates "solid waste," as that term is defined at 6 NYCRR § 371.1(c).
5. In the course of normal operations, Respondent generates "hazardous waste," as that term is defined at 6 NYCRR § 371.1(d).
6. Solid and hazardous wastes generated by Kawasaki include, but are not limited to waste paints, waste glues and adhesives, spent solvents, waste corrosives, gasoline waste, spent fluorescent bulbs and waste batteries.
7. Respondent has notified EPA that it generates hazardous waste at its facility and was assigned EPA Identification Number NYD982 278 160.
8. A Stipulation and Order by and between Kawasaki and the United States of America was entered on October 4, 2009 by a U.S. District Court Judge for the Southern District of New York for alleged violations of RCRA, 42 U.S.C. § § 6921-6939e.
9. On or about December 5, 2013, pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927, a duly authorized representative of EPA conducted an inspection of Respondent's facility described in paragraph 2 above.
10. At the time of this inspection, several dozen containers, which contained waste paints and solvents, waste corrosives, discarded gasoline and related waste unidentifiable due to a failure to label the containers or to obliterated labels, were observed in two buildings designated by Respondent as "Hazardous Waste Storage Areas". The inspector observed containers which were corroded with some evidence of leakage.
11. EPA sent to Respondent a RCRA § 3007 Information Request Letter ("IRL") dated July 8, 2014, requiring the submission to EPA of information on waste paint and other materials being stored at the facility and on the manner in which such wastes were managed.
12. Respondent submitted a response to the IRL dated August 19, 2014.
13. As a result of the inspection and the Respondent's response to the IRL, EPA alleged that Respondent had operated a hazardous waste management facility without having obtained a RCRA permit or having qualified for interim status in violation of Section 3005 of the Act, 42

