



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

AUG 31 2017

Mr. Richard Higgins
President
HK Research Corporation
P.O. Box 1809
908 Old Lenoir Road
Hickory, North Carolina 28603

SUBJ: HK Research Corporation, EPA ID# NCD000616763
Consent Agreement and Final Order, Docket No. RCRA-04-2017-4008(b)

Dear Mr. Higgins:

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-reference matter. Please note that the civil penalty is due within thirty (30) days of the effective date of the CA/FO, which is the date the CA/FO is filed with the Regional Hearing Clerk.

Thank you for your assistance in resolving this matter. If you should have any questions concerning this matter, please contact me at (404) 562-8590 or have your staff contact Laurie Benton DiGaetano, of my staff, at (404) 562-8948.

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-04-2017-4008(b)
)	
HK Research Corporation)	
908 Old Lenoir Road)	Proceeding Under Section 3008(a) of the
Hickory, North Carolina 28603)	Resource Conservation and Recovery Act,
EPA ID No.: NCD000616763)	42 U.S.C. § 6928(a)
)	
Respondent)	
_____)	

EPA REGION 4
OFFICE OF REGIONAL
COUNSEL
2017 AUG 31 AM 7:02
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 North Carolina Solid Waste Management Law (NCSWML), North Carolina General Statutes (N.C.G.S.) §§ 130A-17 to -28 and 130A-290 to -310.22 [Subtitle C of RCRA, 42 U.S.C. §§ 6921-6939g], and the regulations promulgated pursuant thereto and set forth at North Carolina Hazardous Waste Management Rules (NCHWMR), 15A NCAC 13A .0101 to .0119 [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 15A of the North Carolina Administrative Code (NCAC) 13A .0101 to .0119 [40 C.F.R. Parts 260 through 270, and 273].
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 is HK Research Corporation, a corporation organized under the laws of State of North Carolina. Respondent is the owner and/or operator of a polyester gel coatings manufacturing facility located at 908 Old Lenoir Road, Hickory, North Carolina (the Facility).

III. PRELIMINARY STATEMENTS

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the State of North Carolina (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 in the NCSWML, N.C.G.S. §§ 130A-17 to -28 and 130A-290 to -301.22 and at 15A NCAC 13A .0101 to .0119 (short cite).
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. North Carolina 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 130A-294(c) of the NCSWML, N.C.G.S. § 130A-294(c) [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 15A NCAC 13A .0107 [40 C.F.R. Part 262].
12. Sections 130A-294(c) and (g) of the NCSWML, N.C.G.S. § 130A-294(c) and (g) [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 15A NCAC 13A .0109 (permitted) and 15A NCAC 13A .0110 (interim status) [40 C.F.R. Parts 264 (permitted) and 265 (interim status)].

13. Pursuant to 15A NCAC 13A .0106 [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 15A NCAC 13A .0106 [40 C.F.R. § 261.3], a solid waste is a “hazardous waste” if it meets any of the criteria set forth in 15A NCAC 13A .0106 [40 C.F.R. § 261.3(a)(2)] and is not otherwise excluded from regulation as a hazardous waste by 15A NCAC 13A .0106 [40 C.F.R. § 261.4(b)].
15. Pursuant to 15A NCAC 13A .0106 [40 C.F.R. §§ 261.3(a)(2)(i) and 261.20], solid wastes that exhibit any of the characteristics identified in 15A NCAC 13A .0106 [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 15A NCAC 13A .0106 [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 15A NCAC 13A .0106 [40 C.F.R. §§ 261.3(a)(2)(ii) and 261.30], a solid waste is a listed hazardous waste if it is listed 15A NCAC 13A .0106 [40 C.F.R. Part 261, Subpart D].
18. Listed hazardous wastes include the F-Listed wastes from nonspecific sources identified in 15A NCAC 13A .0106 [40 C.F.R. § 261.31].
19. Pursuant to 15A NCAC 13A .0106 [40 C.F.R. § 261.31(a)], the following are listed hazardous wastes which are identified with the EPA Hazardous Waste Number F003: spent non-halogenated solvents, including acetone, and still bottoms from the recovery of these spent solvents and spent solvent mixtures.
20. Pursuant to 15A NCAC 13A .0102 [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 15A NCAC 13A .0106 [40 C.F.R. Part 261], or whose act first causes a hazardous waste to become subject to regulation.
21. Pursuant to 15A NCAC 13A .0102 [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.”
22. Pursuant to 15A NCAC 13A .0102 [40 C.F.R. § 260.10], a “person” includes a corporation.
23. Pursuant to 15A NCAC 13A .0102 [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.”
24. Pursuant to 15A NCAC 13A .0102 [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.

25. Pursuant to 15A NCAC 13A .0107 [40 C.F.R. § 262.11], a person who generates a solid waste, as defined in 15A NCAC 13A .0106 [40 C.F.R. § 261.2], must determine if that waste is a hazardous waste following the methods articulated in 15A NCAC 13A .0107 [40 C.F.R. § 262.11].
26. Pursuant to 15A NCAC 13A .0107 [40 C.F.R. § 262.20(a)(1)], a generator who transports, or offers for transport a hazardous waste for offsite treatment, storage, or disposal must prepare a manifest on EPA Form 8700-22, according to the instructions.
27. Pursuant to 15A NCAC 13A .0107 [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 Sections 130A-294(c) and (g) of the NCSWML, N.C.G.S. § 130A-294(c) and (g) [Section 3005 of RCRA, 42 U.S.C. § 6925], provided that the generator complies with the conditions listed in 15A NCAC 13A .0107 [40 C.F.R. § 262.34(a)(1)-(4)] (hereinafter referred to as the “LQG Permit Exemption”).
28. Pursuant to 15A NCAC 13A .0107 [40 C.F.R. § 262.34(a)(1)(i)], which incorporates 15A NCAC 13A .0110 [40 C.F.R. § 265.173(a)], and is a condition of the LQG Permit Exemption, a generator is required to keep containers of hazardous waste closed when waste is not being added or removed.
29. Pursuant to 15A NCAC 13A .0107 [40 C.F.R. § 262.34(a)(1)(i)], which incorporates 15A NCAC 13A .0110 [40 C.F.R. § 265.174], and is a condition of the LQG Permit Exemption, a generator is required to, at least weekly, inspect areas where containers are stored looking for leaking containers and for deterioration of containers caused by corrosion or other factors.
30. Pursuant to 15A NCAC 13A .0107 [40 C.F.R. § 262.34(a)(1)(i)], which incorporates 15A NCAC 13A .0110 [40 C.F.R. Part 265, Subpart CC], which is a condition of the LQG Permit Exemption, a generator accumulating hazardous waste in containers must comply with the RCRA Subpart CC Organic Air Emission Standards for Containers, including, but not limited to, the container requirements in 15A NCAC 13A .0110 [40 C.F.R. § 265.1087].
31. Pursuant to 15A NCAC 13A .0107 [40 C.F.R. § 262.34(a)(1)(ii)], which incorporates 15A NCAC 13A .0110 [40 C.F.R. § 265.192(a)], and is a condition of the LQG Permit Exemption, a generator accumulating hazardous waste in tanks must obtain a written tank assessment reviewed and certified by a qualified Professional Engineer, attesting that the system has sufficient structural integrity and is acceptable for the storing and treating of hazardous waste.
32. Pursuant to 15A NCAC 13A .0107 [40 C.F.R. § 262.34(a)(1)(ii)], which incorporates 15A NCAC 13A .0110 [40 C.F.R. § 265.194], and is a condition of the LQG Permit Exemption, a generator accumulating hazardous waste in tanks must have adequate spill prevention controls and overfill prevention controls for its hazardous waste tank system.
33. Pursuant to 15A NCAC 13A .0107 [40 C.F.R. § 262.34(a)(1)(ii)], which incorporates 15A NCAC 13A .0110 [40 C.F.R. § 265.195(e)], and is a condition of the LQG Permit Exemption, a generator accumulating hazardous waste in tanks must conduct daily inspections of tank ancillary equipment that is not provided with secondary containment.

34. Pursuant to 15A NCAC 13A .0107 [40 C.F.R. § 262.34(a)(1)(ii)], which incorporates 15A NCAC 13A .0110 [40 C.F.R. Part 265, Subpart CC], which is a condition of the LQG Permit Exemption, a generator accumulating hazardous waste in tanks must comply with the RCRA Subpart CC Organic Air Emission Standards for Tanks, including, but not limited to, the tank requirements in 15A NCAC 13A .0110 [40 C.F.R. § 265.1085], and the recordkeeping requirements in 15A NCAC 13A .0110 [40 C.F.R. § 265.1090].
35. Pursuant to 15A NCAC 13A .0107 [40 C.F.R. § 262.34(a)(2)], which is a condition of the LQG Permit Exemption, a generator is required to ensure that the date upon which each period of accumulation begins is clearly marked and visible on each container.
36. Pursuant to 15A NCAC 13A .0107 [40 C.F.R. § 262.34(a)(3)], which is a condition of the LQG Permit Exemption, a generator is required to label or clearly mark each container and tank accumulating hazardous waste on-site with the words: "Hazardous Waste."
37. Pursuant to 15A NCAC 13A .0107 [40 C.F.R. § 262.34(a)(4)], which incorporates 15A NCAC 13A .0110 [40 C.F.R. § 265.16(d)], and is a condition of the LQG Permit Exemption, a generator is required to maintain training records that include, among others: the job title, written description, and name of each employee filling each position related to hazardous waste management; and documentation that the required training has been completed by facility personnel.
38. Pursuant to 15A NCAC 13A.0107 [40 C.F.R. § 262.34(a)(4)], which incorporates 15A NCAC 13A.0110 [40 C.F.R. § 265.35], and is a condition of the LQG Permit Exemption, a generator is required to maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of the facility operation in an emergency. Pursuant to 15A NCAC 13A .0110 a generator is required to maintain aisle space of at least two feet to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency.
39. Pursuant to 15A NCAC 13A .0107 [40 C.F.R. § 262.34(a)(4)], which incorporates 15A NCAC 13A .0110 [40 C.F.R. § 265.52(d)], and is a condition of the LQG Permit Exemption, a generator is required to list in the contingency plan the names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator.
40. Pursuant to 15A NCAC 13A .0107 [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 Sections 130A-294(c) and (g) of the NCSWML, N.C.G.S. § 130A-294(c) and (g) [Section 3005 of RCRA, 42 U.S.C. § 6925], and without complying with 15A NCAC 13A .0107 [40 C.F.R. § 262.34(a)], provided that the generator complies with the satellite accumulation area conditions listed in 15A NCAC 13A .0107 [40 C.F.R. § 262.34(c)(1)(i)-(ii)] (hereinafter referred to as the "SAA Permit Exemption").

41. Pursuant to 15A NCAC 13A .0107 [40 C.F.R. § 262.34(c)(1)(i)], which incorporates 15A NCAC 13A .0110 [40 C.F.R. § 265.173(a)], and is a condition of the SAA Permit Exemption, a generator is required to keep satellite accumulation containers of hazardous waste closed when waste is not being added or removed.
42. Pursuant to 15A NCAC 13A .0107 [40 C.F.R. § 262.34(c)(1)(ii)], which is a condition of the SAA Permit Exemption, a generator is required to mark satellite accumulation containers either with the words “Hazardous Waste” or with other words that identify the contents of the containers.
43. Pursuant to 15A NCAC 13A .0119 [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.
44. Pursuant 15A NCAC 13A .0119 [40 C.F.R. § 273.13(d)(1)], a SQHUW must contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.

IV. EPA ALLEGATIONS AND DETERMINATIONS

45. Respondent is a “person” as defined in 15A NCAC 13A .0102 [40 C.F.R. § 260.10].
46. Respondent is the “owner/operator” of a “facility” located at 908 Old Lenoir Road, Hickory, North Carolina, as those terms are defined in 15A NCAC 13A .0102 [40 C.F.R. § 260.10].
47. Respondent is a “generator” of “hazardous waste” as those terms are defined in 15A NCAC 13A .0102 [40 C.F.R. § 260.10] and 15A NCAC 13A .0106 [40 C.F.R. § 261.3].
48. Respondent manufactures and supplies various gel coats, polymers, liquid pigments and resins. Each product is manufactured in a batch process, and batch sizes can range from a single gallon up to 2,500 gallons or more.
49. Respondent is a large quantity generator (LQG) of hazardous waste as well as a small quantity handler of universal waste (SQHUW). Hazardous wastes managed at the facility are primarily contaminated with polyester resin and acetone and carry the hazardous waste codes D001 (ignitable) and F003 (spent acetone solvent). Universal hazardous wastes managed at the facility include used fluorescent bulbs.
50. On June 25, 2015, the EPA conducted a compliance evaluation inspection (CEI) at Respondent’s facility. The findings of the CEI were documented in a report mailed to Respondent, dated October 27, 2015.
51. At the time of the CEI, Respondent had not made a hazardous waste determination on certain solid wastes, generated, accumulated, stored, and managed on-site, including spent acetone, used wipes, used rags, used mop heads, used filters, and non-empty liquid sample cups.

52. The EPA therefore alleges that Respondent violated 15A NCAC 13A .0107 [40 C.F.R. § 262.11] by failing to make a hazardous waste determination on certain solid wastes generated at its facility.
53. During the June 25, 2015 CEI, the EPA observed that the Respondent failed to mark the original copy of hazardous waste manifest number 00180831GRR with a shipment date.
54. The EPA therefore alleges that Respondent violated 15A NCAC 13A.0107 [40 C.F.R. § 262.20(a)(1)] by failing to properly prepare a manifest for hazardous waste offered for transport.
55. During the June 25, 2015 CEI, the EPA observed an open intermediate bulk container (IBC) tote near the acetone distillation unit that was being used to feed the 'dirty' solvent holding tank. The tote, which was storing hazardous waste prior to recycling, was neither closed, dated, nor labeled. The EPA also observed a number of open, undated, and unlabeled 55-gallon drums of material staged in this area waiting to be added to the 'dirty' acetone tank.
56. The EPA therefore alleges that Respondent violated Sections 130A-294(c) and (g) of the NCSWML, N.C.G.S. § 130A-294(c) and (g) [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to meet conditions of the LQG Permit Exemption, by not complying with the following: (1) the hazardous waste container management requirements of 15A NCAC 13A .0107 [40 C.F.R. § 262.34(a)(1)(i)], which incorporates 15A NCAC 13A .0110 [40 C.F.R. § 265.173(a)]; (2) the air pollutant emissions control requirements of 15A NCAC 13A .0107 [40 C.F.R. § 262.34(a)(1)(i)], which incorporates 15A NCAC 13A .0110 [40 C.F.R. § 265.1087]; (3) the dating requirements of 15A NCAC 13A.0107 [40 C.F.R. § 262.34(a)(2)]; and (4) the labeling requirements of 15A NCAC 13A.0107 [40 C.F.R. § 262.34(a)(3)].
57. During the June 25, 2015 CEI, the EPA observed that more than seven days passed between 11 pairs of recorded weekly inspections of the on-site less than 90-day hazardous waste container storage area.
58. The EPA therefore alleges that Respondent violated Sections 130A-294(c) and (g) of the NCSWML, N.C.G.S. § 130A-294(c) and (g) [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 15A NCAC 13A .0107 [40 C.F.R. § 262.34(a)(1)(i)], by not complying with the weekly inspection requirements of 15A NCAC 13A .0110 [40 C.F.R. § 265.174].
59. During the June 25, 2015 CEI, the EPA observed a used solvent holding tank, which was not labeled and did not have an available tank integrity assessment. Respondent was not conducting air emissions monitoring activities or daily inspections for the tank or its ancillary equipment.
60. The EPA therefore alleges that Respondent violated Sections 130A-294(c) and (g) of the NCSWML, N.C.G.S. § 130A-294(c) and (g) [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to meet conditions of the LQG Permit Exemption set forth in 15A NCAC 13A.0107 [40 C.F.R. § 262.34(a)(1)(ii)], by not complying with the following: (1) the tank integrity and certification requirements of 15A NCAC 13A.0110 [40 C.F.R. § 265.192(a)]; (2) the daily inspection

requirements of 15A NCAC 13A.0110 [40 C.F.R. § 265.195(e)]; and (3) the air emissions monitoring requirements of 15A NCAC 13A.0110 [40 C.F.R. § 265.1085)].

61. During the June 25, 2015 CEI, the EPA observed 59, 55-gallon drums on pallets in two rows in the facility's less than 90-day hazardous waste storage area. The aisle space observed between the rows of containers was approximately 12-14 inches. All but one of the 59 drums were identified as hazardous. Five drums identified as hazardous were not marked with an accumulation start date, and one drum was turned in such a manner that the inspectors were unable to access the hazardous waste label in order to read it.
62. The EPA therefore alleges that Respondent violated Sections 130A-294(c) and (g) of the NCSWML, N.C.G.S. § 130A-294(c) and (g) [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to meet conditions of the LQG Permit Exemption by not complying with the following requirements: (1) the dating requirements of 15A NCAC 13A.0107 [40 C.F.R. § 262.34(a)(2)]; and (2) the aisle space requirements of 15A NCAC 13A .0107 [40 C.F.R. § 262.34(a)(4)], which incorporates 15A NCAC 13A.0110 [40 C.F.R. § 265.35].
63. During the June 25, 2015 CEI, the EPA reviewed the facility's most recently revised hazardous waste contingency plan. The hazardous waste contingency plan named a new alternate emergency coordinator but did not include the individual's home address.
64. The EPA therefore alleges that Respondent violated Sections 130A-294(c) and (g) of the NCSWML, N.C.G.S. § 130A-294(c) and (g) [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, by not complying with the contingency plan requirements of 15A NCAC 13A .0107 [40 C.F.R. § 262.34(a)(4)], which incorporates 15A NCAC 13A.0110 [40 C.F.R. § 265.52(d)].
65. During the June 25, 2015 CEI, the EPA reviewed the facility's hazardous waste training program, which consists of initial training and annual refresher training. The RCRA training records did not include the job description for the alternate emergency coordinator, or the records for the initial or annual refresher training for the alternate emergency coordinator.
66. The EPA therefore alleges that Respondent violated Sections 130A-294(c) and (g) of the NCSWML, N.C.G.S. § 130A-294(c) and (g) [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to meet conditions of the LQG Permit Exemption, by not complying with the following: the written job description recordkeeping requirements of 15A NCAC 13A .0107 [40 C.F.R. § 262.34(a)(4)], which incorporates 15A NCAC 13A.0110 [40 C.F.R. § 265.16(d)(2)]; and (2) the hazardous waste training recordkeeping requirements of 15A NCAC 13A .0107 [40 C.F.R. § 262.34(a)(4)], which incorporates 15A NCAC 13A.0110 [40 C.F.R. § 265.16(d)(4)].
67. During the June 25, 2015 CEI, the EPA observed approximately 6-8 inches of free liquids in an open SAA drum designated for accumulating D001/F003 solid hazardous waste from the distillation unit and scrapings from inside the 'dirty' solvent tank. Inspectors also observed an open-top 5-gallon bucket of resin waste, which was neither closed nor labeled.

68. The EPA therefore alleges that Respondent violated Sections 130A-294(c) and (g) of the NCSWML, N.C.G.S. § 130A-294(c) and (g) [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to meet conditions of the SAA Permit Exemption, by not complying with the following: (1) the container management requirements of 15A NCAC 13A .0107 [40 C.F.R. § 262.34(c)(1)(i)], which incorporates 15A NCAC 13A .0110 [40 C.F.R. § 265.173(a)]; and (2) the labeling requirements of 15A NCAC 13A .0107 [40 C.F.R. § 262.34(c)(1)(ii)].
69. During the June 25, 2015 CEI, the EPA observed one box of 8-foot used fluorescent lamps and one box of 4-foot used fluorescent lamps inside the service room. The boxes were properly labeled, but the box of 8-foot lamps was not properly closed.
70. The EPA therefore alleges that Respondent violated 15A NCAC 13A.0119(b) [40 C.F.R. § 273.13(d)(1)] by failing to contain any lamp in containers or packages that remain closed.

V. TERMS OF AGREEMENT

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

71. 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.
72. Respondent neither admits nor denies the factual allegations and determinations set out in this CA/FO.
73. Respondent waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying the Consent Agreement.
74. 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.*
75. 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.
76. 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.
77. 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.
78. Respondent, by signing this CA/FO, certifies that Respondent is currently in compliance with RCRA and the authorized State hazardous waste program.

79. The parties agree that compliance with the terms of this CA/FO shall resolve the violations alleged and the facts stipulated to in this CA/FO.
80. Each party will pay its own costs and attorneys' fees.

VI. PAYMENT OF CIVIL PENALTY

81. Respondent consents to the payment of a civil penalty in the amount of FORTY SEVEN THOUSAND DOLLARS (\$47,000.00), which is to be paid within thirty (30) calendar days of the effective date of this CA/FO.
82. 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

83. 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:

Laurie Benton DiGaetano, Senior Enforcement and Compliance Specialist
Hazardous Waste Compliance and Enforcement Section
Enforcement and Compliance Branch
Resource Conservation and Restoration Division, US EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8909

84. 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.. 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).

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

VII. PARTIES BOUND

86. 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.
87. 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.
88. 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

89. 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.
90. 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.
91. 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

92. 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

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

Deborah Benjamin
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) 562-9561

94. 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:

Richard V. Higgins, CCT-I
HK Research Corporation
P.O. Box 1809
908 Old Lenoir Road
Hickory, North Carolina 28603

XI. SEVERABILITY

95. 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

96. 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 HK RESEARCH, Docket No. RCRA-04-2017-4008(b):

AGREED AND CONSENTED TO:

**Richard V. Higgins
HK Research Corporation
P.O. Box 1809
908 Old Lenoir Road
Hickory, North Carolina 28603**

By: 

Dated: 8-10-2017

Richard V. Higgins
President
HK Research Corporation

United States Environmental Protection Agency

By: 

Dated: 08/25/17

Larry Lamberth, Chief
Enforcement and Compliance Branch
Resource Conservation and Restoration Division

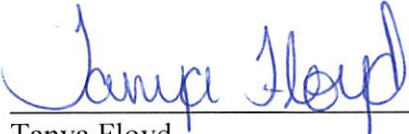
**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)	DOCKET NO.: RCRA-04-2017-4008(b)
)	
HK Research Corporation)	
908 Old Lenoir Road)	Proceeding Under Section 3008(a) of the
Hickory, North Carolina 28603)	Resource Conservation and Recovery Act,
EPA ID No.: NCD000616763)	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 30th day of August, 2017.

BY: 
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 HK Research Corporation, Docket Number: RCRA-04-2017-4008(b), and have served the parties listed below in the manner indicated:

Deborah Benjamin
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

(Via EPA's electronic mail)

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

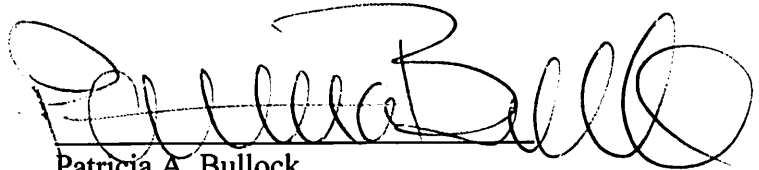
(Via EPA's electronic mail)

Richard V. Higgins, President
HK Research Corporation
P.O. Box 1809
908 Old Lenoir Road
Hickory, North Carolina 28603

(Via Certified Mail - Return Receipt
Requested)

Date:

8-31-17



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