

FILED

Jan 23, 2025

11:29 am

**U.S. EPA REGION 3
HEARING CLERK**

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

IN THE MATTER OF:

Eastman Performance Films, LLC

Respondent,

**Eastman Performance Film, LLC
345 Beaver Creek Drive
Martinsville, Virginia 24112,**

Facility

) **DOCKET NO.: RCRA-03-2025-0030**
)
)
)
) **EXPEDITED SETTLEMENT AGREEMENT AND**
) **FINAL ORDER**
)
)
) **Proceeding under Section**
) **3008(a) and (g) of the Resource**
) **Conservation and Recovery Act, as**
) **amended, 42 U.S.C. § 6928(a) and (g)**
)
)

EXPEDITED SETTLEMENT AGREEMENT

1. Eastman Performance Films, LLC (“Respondent”), and the Director, Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 3 (“Complainant”) enter into this Expedited Settlement Agreement (“Agreement”) pursuant to Section 3008(a) and (g) of the Resource Conservation and Recovery Act (“RCRA”), as amended, 42 U.S.C § 6928(a) and (g), and the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (“Consolidated Rules of Practice”), 40 C.F.R. Part 22 (with specific reference to 40 C.F.R. §§ 22.13(b), 22.18(b)(2), and (3)). The Administrator has delegated the authority to enter into this Agreement to the Regional Administrator who, in turn, has delegated it to the Complainant.
2. The U.S. Environmental Protection Agency, Region 3 (“EPA”) has jurisdiction over this matter pursuant to Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), and 40 C.F.R. §§ 22.1(a)(4) and 22.4 of the Consolidated Rules of Practice.
3. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), EPA has authorized the Commonwealth of Virginia to administer a hazardous waste management program in lieu of the federal hazardous waste management program established under RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g. The provisions of the current authorized Commonwealth of Virginia Hazardous Waste Management Regulations (“VHWMR”), codified at 9 VAC-20-60-12 et seq., have thereby become requirements of RCRA Subtitle C and are enforceable by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).
4. On November 6, 2024, EPA sent a letter to the Commonwealth of Virginia, through the Virginia Department of Environmental Quality (“VADEQ”), giving prior notice of this

enforcement action in accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

5. At its facility, located at 345 Beaver Creek Drive, Martinsville, Virginia ("Facility"), Respondent manufactures window film for the automotive and architectural industries. On December 31, 2017, Respondent submitted a notification to VADEQ that the Facility was a large quantity generator ("LQG") of hazardous waste at the Facility, and VADEQ assigned RCRA ID No. VAR000008433 to the Facility. Respondent does not have a permit for the treatment, storage, or disposal of hazardous waste at the Facility.
6. Complainant alleges that, at all times relevant to the allegations described in this Agreement, Respondent was and continues to be a limited liability company and is therefore a "person," as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and the Commonwealth of Virginia Hazardous Waste Management Regulations, 9 VAC-20-60-12 et seq., and at all times relevant to the allegations in this Agreement was the "operator" and the "owner" of a "facility," described in Paragraph 5, as the terms "facility", "owner" and "operator" are defined in 40 C.F.R. § 260.10, as incorporated by reference in 9 VAC-20-60-12.
7. At all times relevant to the allegations described in this Agreement, Respondent "stored" solvent-contaminated rags (EPA waste codes: D001, D035, F003, F005), spent solvents (EPA waste codes: D001, D035, F003, F005), and gelled waste (EPA waste codes: D001, D035, F003, F005) which are "hazardous waste(s)" at the Facility, as the term "stored" and "hazardous waste" are defined in 40 C.F.R. § 260.10, as incorporated by reference in 9 VAC-20-60-260.
8. On July 23, 2024, EPA representatives conducted a Compliance Evaluation Inspection ("CEI") at the Facility to determine compliance with the applicable hazardous waste regulations.
9. Based on the observations during the Inspection, Complainant alleges and finds that Respondent failed to comply with specific requirements of Subtitle C of RCRA, 42 U.S.C. §§ 6921 et seq., its implementing regulations at 40 C.F.R. Parts 262, 264, 265, and the federally-authorized Virginia hazardous waste management regulations set forth in the Commonwealth of Virginia Hazardous Waste Management Program, 9 VAC-20-60-12 et seq.
10. Complainant has identified the following violations at the Facility:
 - a. On July 23, 2024, Respondent operated the Facility without a permit, in violation of 9 VAC 20-60-270, which incorporates by reference 40 C.F.R. § 270. The following acts or omissions prevented Respondent from meeting the regulatory permit exemption conditions set forth at 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. § 262.34:

- (1) Respondent failed to label containers of hazardous waste with the words “Hazardous Waste”, as required by 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. § 262.34(c)(1)(ii);
 - i. Within the coater of Area U72, a red 6-gal container with solvent-contaminated rags did not have the words “Hazardous Waste”. The solvent-contaminated rags are a hazardous waste.
 - ii. Next to the winder in Area U72, a red 6-gal container with solvent-contaminated rags did not have the words “Hazardous Waste”. The solvent-contaminated rags are a hazardous waste.
 - iii. In the U72/U73 laboratory, a black 5-gal container with spent solvents did not have the words “Hazardous Waste”. Spent solvents are a hazardous waste.
 - iv. In the research laboratory, a black 5-gal container with spent solvents did not have the words “Hazardous Waste”. Spent solvents are a hazardous waste.

- (2) Respondent had open containers of hazardous waste when waste was neither being added or removed, in violation of 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. § 262.34(a)(1)(i);
 - i. In Area U60, a black 55-gal drum with solvent-contaminated rags had rags hanging out the side of the drum preventing complete contact between the lid and the rim all around the top of the drum. The drum was labeled “HAZARDOUS WASTE” FOR “RAG/FILTER WASTE”. Solvent-contaminated rags were not being added or removed at the time of the CEI.
 - ii. Within the coater of Area U72, the lid of a red 6-gal container with solvent-contaminated rags was partially open. Solvent-contaminated rags were not being added or removed at the time of the CEI.

- (3) Respondent failed to mark containers of hazardous waste with an accumulation start date, as required by 9 VAC-20-60-262, which incorporates by reference 40 C.F.R. 262.34(a)(4);
 - i. In the Area 72 Hallway’s hazardous waste accumulation area (“HWAA”), a black 55-gal drum that had a hazardous waste label for gelled solvent did not have an accumulation start date at the time of the CEI.
 - ii. In the Mix Room’s HWAA, a black 55-gal drum with a hazardous waste

label for gelled solvent did not have an accumulation start date at the time of the CEI.

- (4) Respondent failed to provide annual hazardous waste training or maintain annual hazardous waste training records for 2 employees, as required by 9 VAC-20-60-262, which incorporates by reference 40 C.F.R. 262.34(a)(4);
 - i. One employee had certified the 2021 biennial report on March 1, 2022. At the time of the CEI, annual training records for 2021 and 2022 for this employee were not observed.
 - ii. One employee had signed hazardous waste manifests and certified the 2023 biennial report on February 27, 2024. Annual training records for this employee were not observed for the years 2021, 2023, and 2024.
- (5) Respondent failed to maintain an updated contingency plan, as required by 9 VAC-20-60-262, which incorporates by reference 40 C.F.R. 262.34(a)(4);
 - i. At the time of the CEI, the contingency plan was last updated on September 2022. The employee listed as an alternate emergency coordinator in the contingency plan was no longer employed by the Respondent at the time of the CEI.
- b. On July 23, 2024, Respondent had open containers of hazardous waste when waste was neither being added or removed, in violations of 9 VAC 20-60-265, which incorporates by reference 40 C.F.R. § 265.173(a);
 - (1) In Area U60, a black 55-gal drum with solvent-contaminated rags had rags hanging out the side of the drum preventing complete contact between the lid and the rim all around the top of the drum. The drum was labeled "HAZARDOUS WASTE" FOR "RAG/FILTER WASTE". Solvent-contaminated rags were not being added or removed at the time of the CEI.
 - (2) Within the coater of Area U72, the lid of a red 6-gal container with solvent-contaminated rags was partially open. Solvent-contaminated rags were not being added or removed at the time of the CEI.
- c. From at least May 23, 2024 until August 1, 2024, Respondent stored universal waste longer than a year, in violation of 9 VAC-20-60-273, which incorporates by reference 40 C.F.R. § 273.15(a);
 - (1) At the time of the CEI, an 8ft container with waste lamps had an accumulation start date of 5/23/2023. A 4 ft container with waste lamps had an accumulation start date of 6/21/2023. Two 8-gal containers with

waste lamp ballasts had accumulation start dates of 5/22/2023 and 6/20/2023.

- (2) The four containers were shipped offsite on 8/01/2024 and 8/02/2024.
 - d. Respondent failed to provide annual hazardous waste training or maintain annual hazardous waste training records for two employees, as required by 9 VAC-20-60-265, which incorporates by reference 40 C.F.R. 265.16(c) and (e);
 - (1) One employee had certified the 2021 biennial report on March 1, 2022. At the time of the CEI, annual training records for 2021 and 2022 were not observed for this employee.
 - (2) One employee had signed hazardous waste manifests and certified the 2023 biennial report on February 27, 2024. Annual training records had not been observed for the years 2021, 2023, and 2024 for this employee.
 - e. Respondent failed to maintain an updated contingency plan, as required by 9 VAC-20-60-265, which incorporates by reference 40 C.F.R. 265.52(d);
 - (1) At the time of the CEI, the contingency plan was last updated in September 2022. The employee listed as an alternate emergency coordinator in the contingency plan was no longer employed by the Respondent at the time of the CEI.
11. Complainant and Respondent agree that settlement of this matter for a total penalty of **SEVEN THOUSAND, FIVE HUNDRED DOLLARS (\$7,500.00)** is in the public interest. In calculating this amount, Complainant considered the statutory factors set forth in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), and with specific reference to EPA's October 1990 RCRA Civil Penalty Policy, as revised in June 2003 and May 2020 ("RCRA Penalty Policy"), and the 2021 RCRA Expedited Settlement Agreement Pilot.
 12. Respondent agrees that, within 30 days of the effective date of this Agreement, Respondent shall make a payment of **\$ 7,500** to "**United States Treasury**" with the case name, address and docket number of this Agreement (RCRA-03-2025-0030), for the amount specified above. Respondent shall pay the assessed penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.
 13. Within 24 hours of payment, Respondent shall also send proof of payment (a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer), by electronic mail to:

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

and

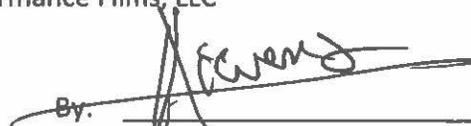
Regional Hearing Clerk (3RC00)
U.S. EPA, Region 3
R3_Hearing_Clerk@epa.gov

14. In signing this Agreement, Respondent: admits the jurisdictional allegations in this Agreement; neither admits nor denies the specific factual allegations in this Agreement, except as provided in the jurisdictional admission above; agrees not to contest EPA's jurisdiction with respect to the execution of this Agreement, the issuance of the attached Final Order, or the enforcement the Agreement; expressly waives its right to a hearing on any issue of law or fact in this Agreement and any right to appeal the accompanying Final Order; consents to the issuance of the Agreement and agrees to comply with its terms; agrees to bear its own costs and attorney's fees; and agrees not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.
15. By its signature below, Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that (1) the alleged violations have been corrected, and (2) any documentation or information provided to EPA was true and accurate.
16. This Agreement and the attached Final Order constitute a settlement by EPA of its claims for civil penalties for the violations alleged in this Agreement.
17. By signing this Agreement, Respondent waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the final order accompanying the Agreement.
18. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Sections 22.18(c) and 22.31(a) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under the RCRA, the RCRA regulations promulgated, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this Agreement, following its filing with the Regional Hearing Clerk.

19. Late payment of the agreed upon penalty may subject Respondent to interest, administrative costs and late payment penalties in accordance with 40 C.F.R. § 13.11.
20. This Agreement is effective upon filing, in accordance with 40 C.F.R. § 22.31(b).
21. The undersigned representative certifies that she/he is fully authorized to execute this Agreement and to legally bind Eastman Performance Films, LLC.
22. As permitted under 40 CFR § 22.6, the Regional Hearing Clerk will serve copies of this Agreement and Final Order by e-mail to the parties at the following valid e-mail addresses: dearden.jeremy@epa.gov (for Complainant), and kkliev@eastman.com (for Respondent).
23. By signing this Agreement, Respondent acknowledges that this Agreement and Final Order will be available to the public and represents that, to the best of Respondent's knowledge and belief, this Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.

For Respondent: Eastman Performance Films, LLC

Date: 01/08/2025

By. 

Kristoff Lievens
Site Manager

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

After reviewing the Agreement and other pertinent matters, I, the undersigned Director of the Enforcement and Compliance Assurance Division of the United States Environmental Protection Agency, Region 3, agree to the terms and conditions of this Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

[Digital Signature and Date]

Karen Melvin, Director
Enforcement and Compliance Assurance Division

does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of Subtitle C of the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6921 et seq., and the regulations promulgated thereunder.

The effective date of the foregoing Expedited Settlement Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

[Digital Signature and Date]

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

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3
Philadelphia, Pennsylvania 19103

In the Matter of:	:	
	:	
Eastman Performance Films, LLC	:	
345 Beaver Creek Drive	:	U.S. EPA Docket No. RCRA-03-2025-0030
Martinsville, Virginia 24112	:	
	:	
Respondent.	:	Proceeding under Section
	:	3008(a) and (g) of the Resource
	:	Conservation and Recovery Act, as
Eastman Performance Films, LLC	:	amended, 42 U.S.C. § 6928(a) and (g)
345 Beaver Creek Drive	:	
Martinsville, Virginia 24112	:	
	:	
Facility	:	

CERTIFICATE OF SERVICE

I certify that the foregoing *Expedited Settlement Agreement and Final Order* was filed with the EPA Region 3 Regional Hearing Clerk on the date that has been electronically stamped on the *Expedited Settlement Agreement and Final Order*. I further certify that on the date set forth below, I caused to be served a true and correct copy of the foregoing to each of the following persons, in the manner specified below, at the following addresses:

Copies served via email to:

Kristoff Lievens, Site Manager
Eastman Performance Films, LLC
kkliev@eastman.com
345 Beaver Creek Drive
Martinsville, Virginia 24112

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

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

