

**New York State Department of Environmental Conservation**  
**Division of Environmental Permits, Region 8**  
6274 E. Avon-Lima Road, Avon, NY 14414-9519  
Phone: (585) 226-5400 FAX: (585) 226-5380  
Website: [www.dec.ny.gov](http://www.dec.ny.gov)



Joe Martens  
Commissioner

January 26, 2015

Arline M. Liberti, Manager  
Kodak Rochester Facilities  
1999 Lake Avenue  
Rochester, New York 14650-2203

Sean T. Casten, President & CEO  
RED-Rochester, LLC  
640 Quail Ridge Drive  
Westmont, Illinois 60559

Re: DEC Permit No. 8-2614-00205/00104; USEPA ID No. NYD980592497  
Kodak – RED Eastman Business Park RCRA Part 373 Permit  
Town of Greece and City of Rochester, Monroe County

Dear Ms. Liberti and Mr. Casten:

The New York State Department of Environmental Conservation (“DEC”) has concluded its review of the application submitted by Eastman Kodak Company (“Kodak”) and RED-Rochester, LLC (“RED”) for renewal of the above-referenced Resource Conservation and Recovery Act (RCRA) permit. Based on our review of the application, and comments submitted on the draft permit, we have prepared the enclosed responsiveness summary and issued the renewal of the permit. An original, signed permit is enclosed, along with a CD containing electronic copies of the permit and related documents. The effective and expiration dates of the permit are January 26, 2015 and January 25, 2020, respectively. This permit replaces and supersedes prior versions of the RCRA permit.

Please be advised, the Uniform Procedures Regulations (6 NYCRR Part 621) provide that an applicant may request a public hearing if a permit is denied or contains conditions which are unacceptable to them. Any such requests must be made in writing within 30 calendar days of the date of permit issuance and must be addressed to the Regional Permit Administrator at the letterhead address. A copy should also be sent to the Chief Administrative Law Judge at NYSDEC, 625 Broadway, 1<sup>st</sup> Floor, Albany, NY 12233-1550.

The Department appreciates the cooperation, time and effort that Kodak and RED have put forth during this permit renewal process, and we look forward to continuing our productive working relationship. If you have any questions regarding this letter, please call me at (585) 226-5382. Thank you.

Sincerely,

Scott E. Sheeley  
Regional Permit Administrator

Enclosures: RCRA Permit and CD

Ecc: E. McTiernan, General Counsel, DEC Albany  
P. D’Amato, Regional Director, DEC Region 8  
D. Harkawik, Regional Attorney, DEC Region 8  
F. Ricotta, Regional Engineer, DEC Region 8  
B. Conlon, Office of General Counsel, DEC Albany  
T. Killeen/J. Lansing/L. Thomas, Environmental Remediation, DEC Albany  
W. Palomino, USEPA, Region 2  
M. Miles, Eastman Kodak Company  
M. Mullarkey, RED-Rochester, LLC



**PERMIT**  
**Under the Environmental Conservation Law (ECL)**

**Permittee and Facility Information**

**Permit Issued To:**  
RED-ROCHESTER LLC  
640 QUAIL RIDGE DR  
WESTMONT, IL 60559  
(630) 590-6049

**Facility:**  
EASTMAN BUSINESS PARK  
1999 LAKE AVE  
ROCHESTER, NY 14652

EASTMAN KODAK CO  
343 STATE ST  
ROCHESTER, NY 14650

**Facility Location:** in ROCHESTER in MONROE COUNTY

**Facility Principal Reference Point:** NYTM-E: 284.912    NYTM-N: 4786.437  
Latitude: 43°12'00.3" Longitude: 77°38'50.6"

**Project Location:** Eastman Business Park, Town of Greece and City of Rochester

**Authorized Activity:**

Eastman Kodak Company is permitted as the owner of the Eastman Business Park facility and operator of tank storage at Building 322 (HWMU-33). Eastman Kodak Company's activities are associated with the manufacturing of photographic films, papers, processing chemicals and synthetic organic chemicals.

RED-Rochester LLC is permitted as the operator of the waste multiple hearth incinerator (HWMU-32) at Kings Landing WWTP, and for other general and specific requirements associated with operation of the Kings Landing WWTP.

**Permit Authorizations**

**Resource Conservation and Recovery Act - Under Article 27, Title 9**

Permit ID 8-2614-00205/00104

(RCRA ID NYD980592497)

Renewal

Effective Date: 1/26/2015

Expiration Date: 1/25/2020



**NYSDEC Approval**

**By acceptance of this permit, the permittee agrees that the permit is contingent upon strict compliance with the ECL, all applicable regulations, and all conditions included as part of this permit.**

Permit Administrator: SCOTT SHEELEY, Regional Permit Administrator  
Address: NYSDEC REGION 8 HEADQUARTERS  
6274 E AVON-LIMA RD  
AVON, NY 14414

Authorized Signature:

Date 01/26/2015

**Permit Components**

RESOURCE CONSERVATION AND RECOVERY ACT PERMIT CONDITIONS

GENERAL CONDITIONS, APPLY TO ALL AUTHORIZED PERMITS

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

**RESOURCE CONSERVATION AND RECOVERY ACT PERMIT CONDITIONS**

1. **Special Conditions** This Permit is based on the assumption that the information submitted in the permit application received September 11, 2012 and all subsequent revisions as indicated below (hereafter referred to as the application) are complete and accurate and that the facility will be operated as specified in the application and this permit. Any inaccuracies or incompleteness found in the information may be grounds for termination or modification of this Permit and potential enforcement action. The Permittees must inform the New York State Department of Environmental Conservation (Department) of any deviation from or changes in the information in the application which would affect the Permittees' ability to comply with the applicable regulations or permit conditions.

2. The Permittees must comply with all the terms and conditions of this Permit. This Permit consists of the conditions contained herein (including all Modules, Attachments and documents incorporated by reference as specified in Schedule 1 of Module I) and the applicable regulations contained 6 NYCRR Parts 370 through 376, 621, and 624, as specified in this Permit. Applicable regulations are those which are in effect on the date of issuance of this Permit, except as provided in Condition A.4 of Module I of this Permit.



3. The Permittees must provide proper and safe conditions for Department access for inspections. Inspections, tests, photography, or observations by the Department, Department's Engineer, or third parties may be performed to provide information to the Department on compliance with this Permit; however, this provision is not intended to create any duty or obligation to the Permittee by the Department or its Engineer, nor is the information collected intended to fulfill the Permittees' obligations under this Permit.
4. The Permittee shall require its independent contractors, employees, agents and assigns to comply with this permit, including Schedule 1 of Module I and all special conditions, and such persons shall be subject to the same sanctions for violation of the Environmental Conservation Law as those prescribed for the Permittees.
5. Complete Application Documents: 6 NYCRR Part 373 Applications Materials received September 11, 2012 and all subsequent revisions.

**GENERAL CONDITIONS - Apply to ALL Authorized Permits:**

**1. Facility Inspection by The Department** The permitted site or facility, including relevant records, is subject to inspection at reasonable hours and intervals by an authorized representative of the Department of Environmental Conservation (the Department) to determine whether the permittee is complying with this permit and the ECL. Such representative may order the work suspended pursuant to ECL 71- 0301 and SAPA 401(3).

The permittee shall provide a person to accompany the Department's representative during an inspection to the permit area when requested by the Department.

A copy of this permit, including all referenced maps, drawings and special conditions, must be available for inspection by the Department at all times at the project site or facility. Failure to produce a copy of the permit upon request by a Department representative is a violation of this permit.

**2. Relationship of this Permit to Other Department Orders and Determinations** Unless expressly provided for by the Department, issuance of this permit does not modify, supersede or rescind any order or determination previously issued by the Department or any of the terms, conditions or requirements contained in such order or determination.



**3. Applications For Permit Renewals, Modifications or Transfers** The permittee must submit a separate written application to the Department for permit renewal, modification or transfer of this permit. Such application must include any forms or supplemental information the Department requires. Any renewal, modification or transfer granted by the Department must be in writing. Submission of applications for permit renewal, modification or transfer are to be submitted to:

Regional Permit Administrator  
NYSDEC REGION 8 HEADQUARTERS  
6274 E AVON-LIMA RD  
AVON, NY14414

**4. Submission of Renewal Application** The permittee must submit a renewal application at least 180 days before permit expiration for the following permit authorizations: Resource Conservation and Recovery Act.

**5. Permit Modifications, Suspensions and Revocations by the Department** The Department reserves the right to exercise all available authority to modify, suspend or revoke this permit. The grounds for modification, suspension or revocation include:

- a. materially false or inaccurate statements in the permit application or supporting papers;
- b. failure by the permittee to comply with any terms or conditions of the permit;
- c. exceeding the scope of the project as described in the permit application;
- d. newly discovered material information or a material change in environmental conditions, relevant technology or applicable law or regulations since the issuance of the existing permit;
- e. noncompliance with previously issued permit conditions, orders of the commissioner, any provisions of the Environmental Conservation Law or regulations of the Department related to the permitted activity.

**6. Permit Transfer** Permits are transferrable unless specifically prohibited by statute, regulation or another permit condition. Applications for permit transfer should be submitted prior to actual transfer of ownership.

## NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

### **Item A: Permittee Accepts Legal Responsibility and Agrees to Indemnification**

The permittee, excepting state or federal agencies, expressly agrees to indemnify and hold harmless the Department of Environmental Conservation of the State of New York, its representatives, employees, and agents ("DEC") for all claims, suits, actions, and damages, to the extent attributable to the permittee's acts or omissions in connection with the permittee's undertaking of activities in connection with, or operation and maintenance of, the facility or facilities authorized by the permit whether in compliance or not in compliance with the terms and conditions of the permit. This indemnification does not extend to any claims, suits, actions, or damages to the extent attributable to DEC's own negligent or



intentional acts or omissions, or to any claims, suits, or actions naming the DEC and arising under Article 78 of the New York Civil Practice Laws and Rules or any citizen suit or civil rights provision under federal or state laws.

**Item B: Permittee's Contractors to Comply with Permit**

The permittee is responsible for informing its independent contractors, employees, agents and assigns of their responsibility to comply with this permit, including all special conditions while acting as the permittee's agent with respect to the permitted activities, and such persons shall be subject to the same sanctions for violations of the Environmental Conservation Law as those prescribed for the permittee.

**Item C: Permittee Responsible for Obtaining Other Required Permits**

The permittee is responsible for obtaining any other permits, approvals, lands, easements and rights-of-way that may be required to carry out the activities that are authorized by this permit.

**Item D: No Right to Trespass or Interfere with Riparian Rights**

This permit does not convey to the permittee any right to trespass upon the lands or interfere with the riparian rights of others in order to perform the permitted work nor does it authorize the impairment of any rights, title, or interest in real or personal property held or vested in a person not a party to the permit.

## PART 373 PERMIT

### MODULE I – GENERAL CONDITIONS

**The Permittee is hereby authorized to operate only the hazardous waste units identified in Schedule 1 of Module I of this Permit. This Permit does not authorize the use of any other units to operate other than those identified in Schedule 1 of Module I.**

#### A. EFFECT OF PART 373 PERMIT

1. This Permit consists of the general and special conditions contained in this and the attached Modules, including **Schedule 1 of Module I**; including the Attachments and documents incorporated by reference; and the applicable requirements of the New York State Environmental Conservation Law (ECL) Article 27, Title 9, Section 27-0900 et seq., and the following regulations:

- 6 NYCRR 370 - Hazardous Waste Management System-General;
- 6 NYCRR 371 - Identification and Listing of Hazardous Wastes;
- 6 NYCRR 372 - Hazardous Waste Manifest System and Related Standards for Generators, Transporters and Facilities;
- 6 NYCRR 373 - Hazardous Waste Management Facilities;
- 6 NYCRR 374 - Management of Specific Hazardous Waste;
- 6 NYCRR 376 - Land Disposal Restrictions;
- 6 NYCRR 621 - Uniform Procedures; and,
- 6 NYCRR 624 - Permit Hearing Procedures.

The applicable regulations or requirements would be those which are in effect prior to final issuance of this Permit.

2. The following Remediation Guidance and Policy Documents are potentially relevant to this Permit. The Permittee shall consider applicable Department guidance when conducting activities required by this Permit.

CP-51 Soil Cleanup Guidance Policy

DER-10 Technical Guidance for Site Investigation and Remediation

DER-23 Citizen Participation Handbook for Remedial Programs

DER-31 Green Remediation

DER-33 Institutional Controls: A Guide to Drafting and Recording Institutional Controls

3. The following Commissioner Policies are potentially relevant to this Permit. The Permittee shall consider applicable Department policies when conducting activities required by this Permit.

CP-29 Environmental Justice and Permitting

CP-43 Groundwater Monitoring Well Decommissioning

CP-44 Natural Resource Damages

CP-45 Procedure to Demonstrate Compliance with Financial Test Requirements (for financial assurance)

CP-51 Soil Cleanup Guidance

4. Compliance with this Permit during its term constitutes compliance, for purposes of enforcement, with 6 NYCRR Parts 370 through 374 and 376 except for the following requirements not included in the Permit:
  - a. requirements which become effective by statute, including amendments thereto;
  - b. requirements which are promulgated under 6 NYCRR 376 restricting the placement of hazardous wastes in or on the land.;
  - c. requirements which are promulgated under 6 NYCRR 373-2 regarding leak detection systems for new and replacement surface impoundment, waste pile, and landfill units, and lateral expansions of surface impoundment, waste pile, and landfill units. The leak detections system requirements include double liners, CQA programs, monitoring, action leakage rates, and response action plans, and will be implemented through the procedures of 6 NYCRR 373-1.7 for major modifications; or
  - d. requirements which are promulgated under 6 NYCRR 373-3.27, 373-3.28, and 373-3.29, limiting air emissions.
5. The Permittee is authorized to manage hazardous waste in the permitted units identified in **Schedule 1 of Module I** in accordance with the conditions of this Permit. Any storage, treatment or disposal of hazardous waste not authorized by this Permit is prohibited unless exempt under 6 NYCRR Part 373-1.1(d). Issuance of this Permit does not authorize any injury to persons or property, any invasion of other private rights, or any infringement of federal, State or local laws or regulations.
6. All plans, reports, specifications and schedules required by the terms of this Permit and all subsequent amendments to those documents are incorporated by reference into this Permit when specifically noted in any written approval issued by the Department pursuant to 6 NYCRR 621.13 or 6 NYCRR 621.11. Upon incorporation, the



provisions of each such document will be binding upon the Permittee and have the same legal force and effect as the requirements of this Permit.

7. The Permittee must submit plans, reports, specifications, implementation schedules and any subsequent amendments to those documents required by this Permit to the Department for review and comment. Following its review of a document, if the document requires formal Department approval (as determined by the Department), the Department may either approve the document as submitted or issue comments on the submittal. If the Department issues comments on the document, subsequent activities for the document must proceed in accordance with the following schedule:
  - a. Meeting between the Permittee and the Department to discuss the document comments, if requested by the Permittee or deemed necessary by the Department; and,
  - b. Submission of a revised document to the Department for approval within thirty (30) calendar days of the above-described meeting. (If the above referenced meeting is determined not to be necessary, the Permittee must submit a revised document for Department approval, according to a schedule specified by the Department, not to exceed forty-five (45) calendar days of the Permittee's receipt of comments from the Department).
  - c. If the submission is not revised to the Department's satisfaction, the Department may revise the document and send the Permittee a notice of intent to modify the Permit to incorporate the revised document into the Permit, pursuant to 6 NYCRR 621.13.
8. The documents listed in **Condition B of Schedule 1 of Module I** are made part of this Permit, are binding upon the Permittee and have the same legal force and effect as the requirements of this Permit.
9. Informal advice, guidance, suggestion, or comment by the Department must not be construed as relieving the Permittee of the Permittee's obligation to obtain such formal approvals as may be required by this Permit. The Permittee consents to and agrees not to contest the authority and jurisdiction of the Department to enter into or enforce this Permit.
10. The Permittee must also comply with the following:
  - 6 NYCRR 373-1.1(f) – Uniform Procedures
  - 6 NYCRR 373-1.1(g) – Enforcement
  - 6 NYCRR 373-1.1(h) – Severability
11. The Permittee must maintain a current and complete paper copy of this Permit, including all Modules, Attachments and documents incorporated by reference, in at least one location at the Facility for review by the Department upon request.

12. For any Environmental Monitor(s) assigned to the Facility, the Permittee must maintain a complete set of paper copies of all submittals required by this Permit in the office of the Environmental Monitor or as otherwise directed by the Environmental Monitor(s).

B. DEFINITIONS

1. For the purposes of this Permit, the terms used herein shall have the same meanings as those provided in 6 NYCRR 370 through 376, and the terms defined in **Condition B.2** of this Module, unless this Permit specifically states otherwise. Where the terms are not otherwise defined, the meanings associated with such terms shall be as defined by a standard dictionary reference or the generally accepted scientific or industry meaning of the term.
2. The following additional terms used in this Permit are defined as such:
  - a. Action Levels. For the purposes of this Permit, “action levels” are hazardous constituent concentrations for a specific environmental medium which if exceeded indicate a potential threat to human health or the environment. The exceedence of action levels may trigger further investigations, studies and corrective measures. Where available, action levels are based on appropriate promulgated standards established for a specific environmental medium. When promulgated standards are not available, action levels can be media-specific hazardous constituent concentrations derived from non-promulgated human health risk data or environmental risk data with the latter levels being protective of aquatic life or wildlife. An action level may be set at the background level for a hazardous constituent for which data are inadequate to set a human health or environmental health-based level. The action levels for groundwater are the more stringent of the following for each compound or constituent: 6 NYCRR 703.5, New York State Department of Health’s Drinking Water Standards and the United States Environmental Protection Agency’s Maximum Contaminant Levels (MCLs).
  - b. Areas of Concern (AOC). Pursuant to the authority granted by 6 NYCRR 373-1.6(c)(2), an “area of concern” has been defined for purposes of this Permit to mean an area at the facility, or an off-site area, which is not at this time known to be a solid waste management unit (SWMU), where hazardous waste and/or hazardous constituents are present, or are suspected to be present, as a result of a release from the facility. The term shall include areas of potential or suspected contamination as well as actual contamination. Such area(s) may require study and a determination of what, if any, corrective action may be necessary. All Permit references to and conditions for SWMUs shall apply to areas of concern.
  - c. Corrective Action. For the purposes of this Permit, “corrective action” is a process that includes all activities related to the investigation, characterization and cleanup of a release of hazardous/mixed wastes or hazardous constituents from a solid waste management unit (SWMU) at a permitted or interim status treatment,

storage and disposal facility (TSDF) to any environmental medium, including groundwater. Module II of this Permit contains a more detailed discussion of the corrective action process.

- d. Environment. Pursuant to ECL Article 27, Title 9, Section 27-0901, “environment” means any water; water vapor; land, including land surface or subsurface; air; and, fish, wildlife, biota and all other natural resources.
- e. Hazardous Constituents. For the purposes of this Permit, “hazardous constituents” are those constituents listed in Appendix 23 of 6 NYCRR 371 or any constituent listed in Appendix 33 of 6 NYCRR 373-2.
- f. Permittee. For the purposes of this Permit, “Permittee” herein refers to the party(ies) subject to this Permit. In addition, refer to **Conditions R.2 and R.3** of this Module.
- g. Pre-existing Contamination. For the purposes of this Permit, the term “Pre-existing Contamination” shall have the meaning as given in the U.S. EBP Settlement Agreement [dated 3/12/2014] that is in Attachment L of this Permit. If a conflict in interpretation or a dispute arises, for purposes of liability, responsibilities, obligations, or other requirements of RED under this Permit, the Memorandum of Agreement between RED and the Department dated September 3, 2013 shall control with respect to RED's obligations. If a conflict in interpretation or a dispute arises, for purposes of liability, responsibilities, obligations, or other requirements of Kodak under this Permit, the Environmental Response Trust Fund Agreement between Kodak and the State of New York shall control with respect to Kodak's obligations.
- h. Priority Pollutant. Pursuant to 6 NYCRR 750-1.2(a)(67), “priority pollutant” means those pollutants listed in 40 CFR 122, Appendix D (see 6 NYCRR 750-1.24) as Organic Toxic Pollutants (volatiles, acid compounds, base/neutral compounds and pesticides), Metals, Cyanide and Total Phenols.
- i. Release. For purposes of this Permit, “release” includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment of any hazardous waste, including hazardous constituents, unless expressly authorized under the terms of this Permit or otherwise permitted under law (e.g., SPDES permitted discharges).
- j. Solid Waste Management Unit (SWMU). For purposes of this Permit, a “solid waste management unit” includes any discernible unit at which solid wastes have been placed at any time, irrespective of whether the unit was intended for the management of hazardous or solid wastes. Such units include any area at the facility at which solid wastes have been routinely and systematically released. These units include certain areas associated with production processes that have become contaminated as a result of routine and systematic releases.

C. GENERAL PERMIT CONDITIONS [6 NYCRR 373-1.6]

1. 6 NYCRR 373-1.6 provides conditions applicable to all Part 373 Permits which are therefore incorporated into this Permit. The provisions are incorporated into, and made enforceable under this Permit.
2. **Oral Reports:** The Permittee must orally report any noncompliance that may endanger health or the environment immediately from the time the Permittee becomes aware of the circumstances. The oral reports must be made to the Department using the New York State 24-hour oil and hazardous material spill notification number (800) 457-7362 and the National Response Center using its 24-hour number (800) 424-8802, or any designated telephone numbers which may subsequently replace those listed above. The Permittee must also provide such oral reports to Department staff that are on-site at the time of, or subsequent to, a reportable incident. The information reported must include that listed at 6 NYCRR 373-2.4(g)(4)(ii).
3. **Entry Upon Facility:**
  - a. The Permittee must allow, pursuant to 6 NYCRR 373-1.6(a)(9), entry upon the Facility (or areas in the vicinity of the Facility which may be under the control of the Permittee) at reasonable times by any duly designated officer or employee of the United States Environmental Protection Agency (USEPA), the Department or any State agency having jurisdiction with respect to matters addressed pursuant to this Permit, and by any agent, consultant, contractor or other person so authorized by the Department, upon presenting identification, for inspecting, sampling, copying records that must be maintained by this Permit, testing, and any other activities necessary to evaluate the Permittee's compliance with this Permit.
  - b. Upon request, the Permittee must: (i) provide the Department with suitable work space at the Facility, including access to a telephone, to the extent available; and, (ii) allow the Department full access to all records relating to matters addressed by this Permit. Raw data must be provided to the Department upon request.
  - c. In the event the Permittee is not the owner of the Facility property and is unable to obtain any authorization from third-party property owners necessary to provide access, the Permittee must immediately notify the Department and provide any requested assistance in obtaining such authorizations.
  - d. The Department shall have the right to take its own photographs, samples and scientific measurements and to obtain split samples, duplicate samples or both, as necessary to evaluate the Permittee's compliance with this Permit. The Department shall make the results available to the Permittee in accordance with Department policy. At the request of the Permittee, the Department will allow the Permittee's authorized representatives to take splits or duplicates of any samples collected by the Department.

D. PERMIT MODIFICATION AND PERMIT TRANSFER [6 NYCRR 373-1.7 and 621]

1. Proposed modifications to this Permit, including modifications to the Attachments and documents incorporated by reference into this Permit, must be addressed in accordance with 6 NYCRR 373-1.7 and 621.
2. The Permittee must contact the Department (or its representative) with respect to any and all proposed permit modifications requested by the Permittee. The Department shall make the determination as to whether a proposed permit modification is a minor or major modification in accordance with 6 NYCRR 373-1.7. For the purposes of this Permit, as described in **Condition D.2.a** of this Module, the Department will entertain proposed administrative modifications to this Permit that would not otherwise be required to follow the requirements of **Conditions D.2.b and/or D.2.c** of this Module. Administrative changes generally include in-kind replacements or minor updates to plans attached to this Permit or incorporated by reference. **However, the Department must determine whether any and all changes are administrative modifications to this Permit.**
  - a. For modifications determined by the Department to be administrative, the Permittee shall make the change in the Permittee's copy of all affected Attachment(s) and/or document(s) incorporated by reference. Submittal to the Department of a change that the Department has determined is administrative in nature is not necessary. However, at the time of Permit renewal, the Permittee must incorporate all administrative changes into this Permit. The Permittee must record all administrative changes in the Permit Modification Log provided as Attachment J of this Permit in accordance with **Condition D.3** of this Module. Note: The Department reserves the right to have its project manager, environmental monitor and/or permit writer request proposed administrative changes in writing by the Permittee's submission of a cover letter, written description of the proposed administrative modification and a clean copy of the modified affected pages for the Department's review and approval.
  - b. For modifications determined by the Department to be minor pursuant to 6 NYCRR 373-1.7(c) and 40 CFR 270.42(a), the Permittee must receive written approval from the Department before implementing the modification into this Permit, and subsequently follow the requirements of 6 NYCRR 373-1.7(e) and Department guidance for minor modifications.
  - c. For modifications determined by the Department to be major, the Permittee must treat the modification as a new application in accordance with 6 NYCRR 621.11 and follow the applicable requirements of 6 NYCRR 621.
3. The Permittee must maintain a log of all modifications requested and made to this Permit, including modifications made to the Attachments and documents incorporated by reference into this Permit. The log must conform to the Department-approved format presented in Attachment M of this Permit and must be submitted with each modification request. The log must be filled out in its entirety, except for the

issuance date. Upon issuance of each Permit modification, the Permittee must place the updated log in Attachment M of this Permit along with a copy of the Department's approval letters, when applicable, and replace all affected pages in the Modules, Attachments and/or documents incorporated by reference with the modified pages.

4. The Department may at any time, at its discretion, modify this Permit under the terms of 6 NYCRR 621.13 in accordance with the requirements contained therein.
5. Permit Transfer: The Permittee must process all changes in Facility ownership and/or operational control in accordance with the requirements of 6 NYCRR 373-1.7(a), including the timeframes specified therein. Prior to undertaking a change in Facility ownership and/or operational control, the Permittee must provide written notification to the Department and receive written approval from the Department to allow transfer of this Permit. The Permittee must demonstrate to the Department's satisfaction that the prospective transferee will be able to comply with all applicable laws and regulations, Permit conditions, financial assurance and other requirements to which the Permittee is subject. The written notification must include the identity of the transferee and of the nature and proposed date of the conveyance, and must notify the transferee in writing, with a copy to the Department, of the applicability of this Permit including the corrective action program, as appropriate. The Department will determine whether transfer of this Permit is acceptable and will require either a minor or major modification.

E. EXPIRATION AND CONTINUATION OF PERMITS [6 NYCRR 373-1.8]

1. Requests for continuation of this Permit must be submitted in accordance with 6 NYCRR 373-1.8 and 621.11.
2. No sooner than one (1) year and no later than 180 days before the expiration of this Permit, the Permittee must provide the Department with a report regarding the matters identified in ECL 27-0913(3) occurring within two years of the date of the report. The report must include any such matters involving the permitted Facility, all other facilities owned or operated by the Permittee and any duly incorporated parent or subsidiary managing hazardous wastes within the United States. The Permittee must supply such documents and pertinent details regarding the matters in the report as may be requested by the Department.
3. The Permittee must schedule a "Pre-Application" meeting with the Department at least 270 days prior to the expiration date of this Permit. Renewal applications with a significant change (as defined at 6 NYCRR 373-1.10(a)(1)) are subject to the requirements of 6 NYCRR 373-1.10.
4. Complete applications for permit renewal must be submitted at least 180 days before the expiration date of this Permit pursuant to 6 NYCRR 373-1.8(b).
5. At any time during the review of the renewal application, the Department may request that the Permittee submit any additional information in writing which is necessary for

determining the completeness of the application. Failure to provide such information by the date specified in the request may be grounds for denial of the application and the extension allowed pursuant to Section 401(2) of the State Administrative Procedures Act.

F. TERMINATION OF PERMIT ACTIVITIES

1. Should the Permittee cease the hazardous waste management activities allowed by this Permit prior to the expiration of this Permit, then, pursuant to 6 NYCRR 373-1.6(d), the Permittee must continue to comply with the applicable closure, post-closure and corrective action conditions and requirements stipulated in this Permit.
2. If the Permittee certifies closure of all hazardous waste management units at the Facility, and the Department accepts these closure certifications during the term of this Permit, and post-closure care or corrective action is determined to be necessary by the Department, the Department will make a determination whether a permit or other enforceable commitment document is appropriate, pursuant to Environmental Conservation Law (ECL) Section 71-2727(3). Based on that determination, the Permittee must enter into the appropriate enforceable commitment prior to the expiration of this Permit.

G. FACILITY OPERATION

1. In accordance with 6 NYCRR 373-2.3(b), the facility must be designed, constructed, maintained and operated to minimize the possibility of fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste(s) or hazardous waste constituents to air, soil, surface water or groundwater that could threaten human health or the environment.
2. The Permittee must at all times construct, operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Permittee as designed in accordance with this Permit including **Schedule 1 of Module I**.
3. The Permittee must inspect the Facility to prevent malfunctions and deterioration, operator errors, and discharges that may cause or lead to the release of hazardous waste(s) or hazardous waste constituents to the environment, or a threat to human health pursuant to 6 NYCRR 373-2.2(g).

H. COMPLIANCE SCHEDULE

1. The Permittee must complete any activities referenced in **Condition C of Schedule 1 of Module I** within the timeframes set forth therein and in accordance with 6 NYCRR 373-1.6(d).
2. The Permittee must submit reports in a Department-approved format no later than 14 days following each interim and the final compliance date that summarize the status of each of the activities listed in **Condition C of Schedule 1 of Module I**.

I. WASTE ANALYSIS [6 NYCRR 373-2.2(e)]

1. The Permittee must perform general waste analysis in accordance with the requirements of 6 NYCRR 373-2.2(e) and this Permit.
2. All laboratories utilized for the analysis of any closure, post-closure and/or corrective action samples must be certified under the New York State Department of Health's Environmental Laboratory Approval Program (ELAP). Any laboratory tests or sample analyses for which the commissioner of the New York State Department of Health (NYSDOH) issues certificates of approval must be performed by a laboratory certified to perform such tests or analyses pursuant to the NYSDOH Environmental Laboratory Approval Program.

J. PERSONNEL TRAINING PROGRAM [6 NYCRR 373-2.2(h)]

1. The Permittee must conduct personnel training in accordance with 6 NYCRR 373-2.2(h)(1), (2) and (3), and this Permit.
2. The Permittee must maintain training documents in accordance with 6 NYCRR 373-2.2(h)(4) and (5), and this Permit.

K. PREPAREDNESS AND PREVENTION, CONTINGENCY PLAN AND EMERGENCY PROCEDURES [6 NYCRR 373-2.3 and 2.4]

1. The Permittee must comply with the preparedness and prevention requirements in accordance with 6 NYCRR 373-2.3 and this Permit.
2. The Permittee must comply with contingency plan and emergency procedure requirements in accordance with 6 NYCRR 373-2.4 and this Permit.

L. WASTE REDUCTION REQUIREMENTS

1. The Permittee must comply with the requirements of Article 27, Title 9, Section 27-0908 of the ECL and 6 NYCRR 373-2.5(c)(2)(ix) relative to waste reduction requirements.

M. REQUIREMENTS FOR RECORDING AND REPORTING OF MONITORING RESULTS [6 NYCRR 373-1.6(b)]

1. The Permittee must comply with the recording, reporting and monitoring requirements listed in this Permit.
2. The Permittee must install, use and maintain monitoring equipment, utilize the approved methods, and report monitoring results as specified in this Permit, including **Schedule 1 of Module I** and 6 NYCRR 373-2.



N. DATA AND DOCUMENT STANDARDS

1. All analytical data required by this Permit, as well as all analytical data requested by the Department, must be submitted to the Department in the standardized format in accordance with the Department's Electronic Data Deliverable guidance within 30 days of receipt from the laboratory (see <http://www.dec.ny.gov/chemical/62440.html>). The Permittee must have all closure, post-closure and corrective action data validated by a third party prior to submission to the Department. The individual performing the third-party validation must prepare a Data Usability Summary Report (DUSR) consistent with the guidelines of the Department's DER-10. The DUSR must be submitted with the report containing the data in accordance with **Condition N.2** of this Module. The data deliverable submitted to the Department must include the results of the data validation.
2. The Permittee must deliver to the Department preliminary or final reports, specifications or drawings prepared pursuant to this Permit in an electronic format that complies with the Department's Electronic Document Standards (EDS) or as otherwise directed by the Department. All final documents are to be submitted in an electronic format that complies with the most recent DER EDS. Until such time as the Department establishes an EDS, final documents are to be submitted as a PDF document (see <http://www.dec.ny.gov/regulations/2586.html>). Also, the Permittee must, at the request of the Department, provide electronic versions of technical documents in MS Word and/or MS Excel, and plan drawings and/or other site drawings in AutoCAD, or other format suitable to the Department.
3. In addition to electronic copies, the Permittee must provide paper copies of any document (e.g., reports, plans, data, specifications, drawings, etc.) requested by the Department in paper format or as may be specified in paper format in **Schedule 1 of Module I**.

O. FINANCIAL ASSURANCE

As a result of the bankruptcy of Eastman Kodak Company [Chapter 11 Case No. 12-10202 (ALG)(Jointly Administered)], the United States Bankruptcy Court for the Southern District of New York issued judicial orders that adopted certain settlement agreements in connection with EBP ((1) the "U.S. EBP Settlement Agreement" between Kodak and the USEPA, dated March 12, 2014, includes the Funding Agreement between USEPA and DEC) and (2) the Environmental Response Trust Fund Agreement between Kodak and the State of New York, dated May 16, 2014 (includes the Amended and Restated NYS EBP Environmental Settlement Agreement and the DEC Covenant Not To Sue)), pursuant to which, Kodak agreed to establish and fund an environmental response trust (the Eastman Business Park Environmental Response Trust or "EBP-ET") to be administered by DEC to implement certain EBP Environmental Response Actions. Under the referenced judicial orders and settlement agreements, corrective action for "Pre-existing Contamination" (as defined in the U.S. EBP Settlement Agreement) is an obligation of the Eastman Business Park Environmental Trust (EBP-ET) until that trust's resources are exhausted and then any further corrective action for Pre-existing

Contamination shall be addressed as set forth in the settlement agreements. The judicial orders and settlement agreements are included in Attachment L of this Permit.

This permit addresses all RCRA corrective action requirements for the Eastman Business Park facility. However, to accommodate the judicial orders, this permit has been structured to separate the post-closure and corrective action requirements associated with “Pre-existing Contamination” that will be handled by the EBP-ET trust, from the closure and potential post-closure and corrective action requirements that will remain Permittee obligations. The post-closure and corrective action requirements associated with “Pre-existing Contamination” are included in Permit Exhibit B-3, a supplement to Module II – Corrective Action. The judicially ordered U.S. EBP Settlement Agreement contains a funding agreement for post-closure and corrective action requirements associated with “Pre-existing Contamination.”

The financial assurance requirements following are applicable to the closure and potential post-closure and corrective action requirements that remain Permittee obligations (these obligations are specified in Permit Exhibit B-1 (for Kodak) and Exhibit B-2 (for RED-Rochester, LLC)).

1. The Permittee must comply with all of the applicable requirements of 6 NYCRR 373-2.8 and this Permit. The definitions contained in 6 NYCRR 373-2.8(b) are applicable to the financial requirements within this Permit.
2. The Permittee must comply with this Permit and 6 NYCRR 373-2.6(l) for meeting the financial assurance requirements for corrective action for releases from any solid waste management unit located at the Facility, regardless of the time the waste was placed in the unit.
3. The Permittee must adjust for inflation all cost estimates required by 6 NYCRR 373-2.6(l), 373-2.8 and this Permit annually, and provide additional financial assurance for this adjustment in accordance with 6 NYCRR 373-2.8. These adjustments must be independent of any requests to decrease cost estimates, unless the Department has previously approved such a decrease (i.e., the inflationary adjustment must be made separately from any unapproved request for a decrease in the cost estimate). In addition, the total amount of any post-closure cost estimate must be established and maintained throughout the life of this Permit in at least the amount derived by multiplying the annual post-closure cost estimate by a minimum of 30 years unless the Department has approved a decrease in the post-closure care period for a unit or the Facility in accordance with 6 NYCRR 373-2.7(g)(1)(ii).
4. Cost estimates for 2014 are included in Attachment I. These cost estimates must be adjusted annually for inflation in accordance with **Condition O.3** of this Module.
5. The Permittee must obtain approval in writing from the Department prior to any reduction in the approved cost estimates and for any changes to the instrument(s) and/or mechanism(s) (e.g., type of instrument(s) and/or mechanism(s), the issuing company(ies)/institution(s) and/or a reduction in the dollar amount(s)).

6. **Corrective Action Cost Estimates:** For any and all corrective actions required under the authority of this Permit for any newly identified Solid Waste Management Units, both final and interim, the Permittee must submit for the Department's approval, written estimates, in current dollars, which reflect all costs involved in implementing corrective action through Department-approved completion. Such estimates must reflect the cost of hiring a third party to perform the corrective action in accordance with 6 NYCRR 373-2.8(e)(1)(i). For the final corrective measure(s), the Permittee must provide such estimates with the submission of the Corrective Measures Implementation (CMI) work plan. For Interim Corrective Measures (ICM) requiring work plans, the Permittee must provide such estimates with the submission of each ICM work plan required by this Permit.
7. **Short-Term Corrective Measures:** For financial assurance of final or interim corrective measures for any newly identified Solid Waste Management Units required by Department-approved work plans where the implementation schedule in the approved work plan(s) indicates anticipated completion of said action(s) within one (1) year, the Permittee must provide the Department with a letter certifying that the Permittee has sufficient liquid financial resources to perform and complete the approved corrective measure(s) based on the Department-approved cost estimate(s) required by **Condition O.6** of this Module. This letter must include a certification in accordance with 6 NYCRR 373-1.4(a)(5) and must be provided for the Department's acceptance with the Permittee's submission of a final or interim corrective measures work plan(s). If the Department notifies the Permittee that the certification is not acceptable, the Permittee must establish financial assurance for corrective measures in accordance with the requirements of financial assurance for Long-Term Corrective Measures as specified in **Condition O.8** of this Module within sixty (60) days of said notification. If the corrective action(s) are not completed within one year of the initial certification, the Permittee may request and the Department, at its discretion, may approve up to a one (1) year extension of the certification. If the corrective action(s) has not been completed to the Department's satisfaction at the end of the first year or a Department-approved extension, the Permittee must, within sixty (60) days, provide financial assurance in accordance with the requirements of financial assurance for Long-Term Corrective Measures as specified in **Condition O.8** of this Module.
8. **Long-Term Corrective Measures:** For final or interim corrective measures required for any newly identified Solid Waste Management Units by a Department-approved work plan(s) where the implementation schedule in the approved work plan(s) indicates that the anticipated completion of the final or interim corrective action(s) will take longer than one (1) year, the Permittee must establish and maintain a Department-approved financial assurance instrument(s) in accordance with 6 NYCRR 373-2.8(f). This financial assurance must be equal to the current dollar amount of the most recent Department-approved final or interim corrective measures cost estimate(s) required by **Condition O.6** of this Module. The Department-approved financial assurance must be one, or an allowable combination, of the financial assurance instruments, specified in 6 NYCRR 373-2.8(f)(1) through (4) and these instruments must be issued by an entity, or entities, that are legally and fiscally

separate and distinct from the Permittee and any parent or subsidiary thereof. If the Permittee chooses to use either 6 NYCRR 373-2.8(f)(2) or (3) (or a combination thereof), the Permittee must revise or establish a Standby Trust Fund in accordance with said regulations. The Permittee must submit the instrument(s), for the Department's approval, no later than sixty (60) days after the Department's approval of corrective measures work plan(s), or as required by the requirements of financial assurance for Short-Term Corrective Measures as specified in **Condition O.7** of this Module.

9. For any Permit modification request pertaining to the Closure Plan provided as Attachment I of this Permit involving an increase in cost, the Permittee must also submit a revised cost estimate, in current dollars, which includes the increase in these costs with appropriate third party justification. For any new or modified corrective measure required by this Permit and submitted by the Permittee subsequent to the issuance of this Permit which involves an increase in the cost of corrective action, the Permittee must also submit for Department approval, a revised cost estimate, in current dollars, which includes the cost increase associated with implementing the corrective measure with appropriate third party justification.
10. Within sixty (60) days of a modification of this Permit or Department approval of a new or modified corrective measure involving an increase in a cost estimate, the Permittee must establish additional financial assurance to cover the amount of the increase in the cost estimate in accordance with the requirements of 6 NYCRR 373-2.8.
11. The Permittee must maintain the Department-approved financial assurance instruments. Changes in existing financial assurance instruments or replacement of existing financial assurance instruments must be approved by the Department. The Permittee must provide annual evidence to the Department within thirty (30) days prior to the anniversary on which the initial approved financial assurance instrument was established, that all required instruments have been maintained and not allowed to lapse.
12. Within sixty (60) days after any increase in the approved cost estimate, the Permittee must, in accordance with 6 NYCRR 373-2.8, either:
  - a. Revise one or more of the Department approved financial assurance instrument(s) to increase the instrument(s) amount by at least the amount of the increase in the approved cost estimate and submit the revised instrument(s) for Department approval; or
  - b. Submit an additional financial assurance instrument, or instruments from the allowable instrument types specified in 6 NYCRR 373-2.8 with an amount equal to at least the amount of the increase in the approved cost estimate and submit the additional instrument(s) for Department approval.

13. If the Permittee elects to replace any instrument with new financial assurance instrument(s) as specified by 6 NYCRR 373-2.8, the new instruments must be issued by an entity, or entities, that are legally and fiscally separate and distinct from the Permittee and any parent or subsidiary thereof. Also, if applicable, any replacement instruments pertaining to post-closure and corrective action must be worded in accordance with 6 NYCRR 373-2.8(j) except that the words “post-closure and corrective action” must be substituted for the words “post-closure” in any such replacement instrument.

P. COMMUNICATIONS

1. The Permittee must transmit all communications pursuant to this Permit to the Department via electronic delivery to the recipients specified in **Schedule 1 of Module I** of this Permit. All deliverables must be transmitted in a Department-approved format as specified in **Condition N** of this Module.
2. If requested by the Department in lieu of or in addition to an electronic deliverable, the Permittee must transmit the requested written communications pursuant to this Permit to the Department by United States Postal Service, by private courier service or by hand delivery to the following address:

Chief, RCRA Permitting Section  
Division of Environmental Remediation  
New York State Department of Environmental Conservation  
625 Broadway, Albany, NY 12233-7017

3. The Permittee must submit additional copies of the specific deliverables identified in **Schedule 1 of Module I** to the addresses and agencies listed therein.

Q. PENALTIES

1. Permittee’s Obligations
  - a. The Permittee’s failure to comply with any term of this Permit constitutes a violation of this Permit and the ECL. Nothing herein abridges the Permittee’s right to contest any allegation that it has failed to comply with this Permit.
  - b. Payment of any penalties must not in any way alter the Permittee’s obligations under this Permit.

R. MISCELLANEOUS

1. The paragraph headings set forth in this Permit are included for convenience of reference only and must be disregarded in the construction and interpretation of any provisions of this Permit.
2. If there are multiple parties subject to this Permit, except where stated otherwise, the term “Permittee” must be read in the plural, the obligations of each such party under

this Permit are joint and several, and the insolvency of or failure by any Permittee to implement any obligations under this Permit must not affect the obligations of the remaining Permittee(s) under this Permit. Further delineation of each Permittee's responsibilities is provided in Module I Schedule 1 - Exhibit A Condition E.

3. If the Permittee is a partnership, the obligations of all general partners (including limited partners who act as general partners) under this Permit are joint and several and the insolvency or failure of any general partner to implement any obligations under this Permit must not affect the obligations of the remaining partner(s) under this Permit.
4. In any administrative or judicial action to enforce a condition of this Permit, the Permittee waives any objection to the admissibility as evidence of any data generated pursuant to this Permit.
5. Whenever materials or equipment are specified or described in this Permit using the name of a proprietary item or the name of a particular supplier, the naming of the item is intended to establish the type, function, quality, performance and design criteria required. In all cases, unless the name is followed by words indicating that "no 'or equal' or substitution is allowed" or similar language, materials or equipment of other suppliers may be accepted by the Department if sufficient information is submitted by the Permittee to allow the Department to determine that the material or equipment proposed is equivalent or equal to that named. Requests for review of "or equal" or substitute items of material and equipment will not be accepted by the Department from anyone other than the Permittee. If the Permittee wishes to furnish or use an "or equal" or substitute item of material or equipment, the Permittee must make written application to the Department for acceptance thereof, certifying that the proposed "or equal" or substitute will perform the same functions and achieve the same results called for by the general design, be similar and of equal substance and quality to that specified, and be suited to the same use as that specified.
6. The Permittee may submit a written request to the Department for a clarification on compliance with any condition in this Permit. Any such request must be submitted at least 30 days prior to the date on which the Permittee must comply with the condition identified in the clarification request. In response, the Department will provide the Permittee with a written clarification, detailing what constitutes compliance with the identified Permit condition. This clarification process shall in no way relieve the Permittee from the obligation to comply with all the terms and conditions of this Permit.

PART 373 PERMIT

SCHEDULE 1 OF MODULE I  
FACILITY-SPECIFIC CONDITIONS

**DEC Facility Name:** Eastman Business Park Facility  
(Eastman Kodak Company and RED-Rochester LLC)  
DER Facility No.: DEC UIS Site Code 828177  
EPA RCRA ID No.: NYD980592497

**Facility Address:** 1669 Lake Ave.  
Rochester, New York 14652  
Monroe County

Hereinafter referred to as "Facility" or "Site"

A. PERMITTED ACTIVITIES

The following hazardous waste management units, activities and types and quantities of hazardous waste to be managed are authorized by this Permit:

Unit Type	No. of Areas/Units	Activity Type	Waste Type	Quantity
Tanks (S02)	2 units	Storage	Liquid Waste	62,400 gallons
Incinerator (T03)	1 unit	Treatment	Sludge	Not Applicable

B. PERMIT DOCUMENTS

The following Modules, Attachments and documents incorporated by reference are considered part of this Permit:

Modules

- I General Conditions  
Schedule 1 of Module I
- II Corrective Action Requirements
- III RESERVED
- IV Tank Systems
- V RESERVED
- VI RESERVED
- VII Incinerators

## Attachments

- A Part A Application
- B General Facility Description
- C Waste Analysis Plan
- D Incineration
- D2 Storage in Tanks
- E Corrective Action Program
- F Inspection Schedule (Preparedness and Prevention)
- G Contingency Plan
- H Personnel Training
- I Closure Plan & Financial Assurance Requirements
- J Drawings
- K Reserved
- L Legal Documents:
  - (1) **Federal Judicial Order** (authorizing the New York State Environmental Settlement Agreement) – Dated August 19, 2013.
  - (2) **Memorandum of Agreement and Covenant Not To Sue between RED-Rochester LLC and NYSDEC** – Dated September 3, 2013.
  - (3) **U.S. EBP Environmental Settlement Agreement** (includes **Funding Agreement** between U.S., Kodak and NYSDEC) - Dated March 12, 2014.
  - (4) **Federal Judicial Order** (authorizing the U.S. EBP Environmental Settlement Agreement) – dated May 13, 2014.
  - (5) **Environmental Response Trust Fund Agreement** between Kodak and New York (includes: Trust Agreement; Amended and Restated NYS EBP Environmental Settlement Agreement; and Covenant Not To Sue – Dated May 16, 2014)
- M Permit Modification Log

## Documents Incorporated by Reference<sup>1, 2</sup>

1. “Human Health Risk Assessment Protocol for Hazardous Waste Combustion Facilities”, (January 2002)
2. “Human Health Risk Assessment”, (November 2002)
3. “Summary Table Update of MHI MPRA, (December 2008)
4. “Screening Level Ecological Risk Assessment”, (March 2003)
5. “Order-On-Consent DEC Case No. CO 8-2011-10022” (Property Transfers) between NYSDEC and Eastman Kodak Company (February 2013)
6. “Order-On-Consent DEC Case No. A8-0687-06-13” (RED Utility Acquisition) between NYSDEC and RED Rochester, LLC, (August 2013)



Footnote:

1. Each document referenced by this footnote includes the above dated original submission and any subsequent Department approved or judicially ordered document revisions.
2. In accordance with 6NYCRR Part 373-1.6(c)(4) these documents are being incorporated by reference to comply with the requirements set out in Module I Section A.

C. COMPLIANCE SCHEDULE

The Permittee must complete the following compliance activities within the timeframes indicated on the following table:

<b>Item No.</b>	<b>Title</b>	<b>Description</b>	<b>Compliance Date &amp; (Obligated Party)</b>
1.	Financial Assurance Requirements	RED shall maintain financial assurance consistent with the requirements of DEC Order on Consent Case No. A8-0687-06-13.	Submit within 30 days of the effective date of this Permit. Primary obligations:  (HWMU-32/Kings Landing RED).
2.	Risk Assessment Report	Prepare an assessment of risk to human health in accordance with a DEC-approved protocol in relation to HWMU-32	Submit within 120 days after DEC approval of protocol. ( RED)

D. SCHEDULE OF DELIVERABLES

The Permittee must complete the following compliance activities within the time frames indicated on the following table:

#	Item	Requirement	Compliance Date & (Obligated Party)
1	Site Management Plan	<p>Plan shall address institutional control obligations of the Permittee (and site occupants), including site use restrictions, prohibitions, soil vapor intrusion controls, excavation controls (consistent with 6NYCRR Part 375 SCOs), notifications, reporting and certification. The institutional control requirements contained in the plan shall be consistent with the controls previously approved by the Department as part of the Corrective Measures process. The plan shall also identify remedial system engineering controls and permittee obligation to provide access and to not interfere with such controls. The SMP shall be based on DER-10 Guidelines, with the exception that operation, monitoring and maintenance obligations related to Pre-existing Contamination that have been transferred to the EBP-ET do not need not be included in the SMP.</p> <p>[Module II Condition D.3]</p>	<p>Submit within 180 days of the effective date of this Permit. (Kodak obligation)</p>
2	Institutional Controls/Environmental Easements	<p>Secure environmental easements for all real property where residual contamination indicates a need for ICs/ECs to address potential future exposures to contaminants. This shall include the Weiland Road Landfill (delineating waste disposal areas, including historic radioactive material disposal), and as warranted, historic (closed) hazardous waste management units. Per ECL Title 36 - § 71-3601 and NYCRR Part 373-2.7(f)</p>	<p>Submit proposed easement package(s) to DEC within 180 days of the effective date of this Permit. Record with Monroe County Clerk within 45 days of DEC approval. (Kodak obligation)</p> <p>(where applicable, RED as signator to allow placement of environmental easement)</p>

E. RESERVED

F. ROUTINE REPORTING AND COMPLIANCE ACTIVITIES

The Permittee must submit the following routine reports to the Department by the indicated due date in accordance with the requirements of this Permit (Note: the table below is intended to serve as a guide for certain routine reporting required by this Permit. However, the Permittee is still obligated to comply with all applicable regulations cited in this Permit and all conditions and requirements contained in the Modules, Schedule 1 of Module I, Attachments and documents incorporated by reference into this Permit, regardless of whether they are or are not listed in the table below.):

#	Item	Frequency	Due Date	Requirement & (Obligated Party)
1	Annual Report	Annually	March 1 <sup>st</sup>	6 NYCRR 373-2.5(e) (Kodak/RED)
2	Hazardous Waste Reduction Report - Annual Status Reports and Biennial Updates	Annually	July 1 <sup>st</sup>	ECL 27-0908 and Module I, Condition L (Kodak/RED)
3	Financial Assurance (FA) – Adjustment and Update of Instrument(s)  Demonstrate FA Instruments have been Maintained and not Lapsed  FA Estimate Adjustment For Inflation	Annually	March 31 <sup>st</sup>	Module I, Condition O and 6 NYCRR 373-2.8(c)(2) (Kodak/RED)  RED shall annually provide inflationary adjusted financial assurance using the cost basis per DEC Order on Consent Case No. A8-0687-06-13
4	Post-Closure Cost Estimate Adjusted for Inflation (note that at permit issuance this item was not applicable)	Annually (when applicable)	Within 60 days of DEC’s initial determination that post-closure care of HWMU-32 or HWMU-33 is necessary	6 NYCRR 373-2.8(e)(2) and Module I, Condition O (HWMU- 32 RED) (HWMU-33 Kodak)
5	Periodic Review Report (Site Management Plan Reporting)	Annually	March 31 <sup>st</sup>	6 NYCRR 373-2.6(l) (Kodak)

#	Item	Frequency	Due Date	Requirement & (Obligated Party)
6	Solid Waste Management Unit – Update of SWMU Master List (new SWMUs and active/inactive status changes)	Annually	March 31 <sup>st</sup>	6 NYCRR 373-2.6(l) (Kodak/RED)
7	Marshaling Area Report	Semi-Annually	March 31 <sup>st</sup> and September 30 <sup>th</sup>	Module I, Schedule 1, Exhibit A, Condition D (Kodak/RED)
8	Tank Secondary Containment Assessment Report	Every Three Years (minimum); Dependent on Tank System Assessment Schedule	Report due within 90 days of assessment.	Module IV, Condition K.4 (Kodak)
9	Tank System Assessment Report	Dependent on Tank Estimated Remaining Useful Life	Must re-inspect before mid-point of tank’s prior inspection Estimated Remaining Useful Life is reached (not to exceed 5 years); Report due within 90 days of inspection.	Module IV, Condition K.3 (Kodak)

G. FACILITY-SPECIFIC REQUIREMENTS THAT SUPPLEMENT THE STANDARD MODULES

Exhibit A Supplements to Module I – General Provisions

- A General Conditions
- B Plans, Reports, Specifications, Implementation Schedules and Other Submittals
- C Special Conditions Related to Eastman Kodak Company Bankruptcy Settlement
- D Marshaling Areas, Process Related Areas, and Recyclable Materials Management Units
- E Description of Primary and Secondary Permittee Responsibilities
- F Alternate Enforcement Mechanism

<u>Exhibit B</u>	Supplements to Module II – Corrective Action
<u>Exhibit B-1</u>	Supplement to Module II – Corrective Action (Eastman Kodak Company)
<u>Exhibit B-2</u>	Supplement to Module II – Corrective Action (RED-Rochester, LLC)
<u>Exhibit B-3</u>	Supplement to Module II – Corrective Action (Eastman Business Park Environmental Trust)
<u>Exhibit C</u>	Reserved
<u>Exhibit D</u>	Supplement to Module IV – Tank Systems
A	Authorized Storage Tank, Waste Types and Storage Volume
<u>Exhibit E</u>	Reserved
<u>Exhibit F</u>	Reserved
<u>Exhibit G</u>	HWMU Closure/Post-Closure Care

**EXHIBIT A**

**SUPPLEMENT TO MODULE I – GENERAL PROVISIONS**

**EXHIBIT A  
SUPPLEMENT TO  
MODULE I - GENERAL PROVISIONS**

The following conditions supplement those conditions contained within Module I of this Permit:

A. General Conditions

1. The Permittee must make reasonable attempts to organize training events for local fire companies or departments, and to also arrange inspections of the Facility by these entities. During each inspection the Permittee shall solicit recommendations from the fire company or department concerning minimum suggested inventories for firefighting and safety equipment to be maintained at the facility. A report of each inspection, including any and all recommendations made by fire company or department inspectors and the Permittee's plans for addressing these recommendations, must be submitted to the Department by the Permittee within seven (7) days of each inspection.
2. The Permittee must provide a copy of the on-site contingency plan containing an inventory sheet listing the amount and location of all emergency equipment available on-site, to all employees involved in emergency response.
3. Upon notification by the Permittee of any partial closure of a unit or portion thereof, or of final closure of the Facility, the Department will determine at the time of said closures whether additional samples, sampling points, sampling techniques/methods and/or sample analysis (i.e., in addition to Closure Plan requirements in Attachment I of this Permit) will be necessary to verify the effectiveness of decontamination or removal of components, equipment, structures and contaminated soils.
  - a. These determinations will be based upon the past history of operating practices and types of wastes handled at the unit/Facility and on the closure regulations and other requirements in effect at the time of closure of the unit/Facility. The operating record, the record of spills, the types of waste released, location of spills and the condition of any secondary containment systems will also provide data to be used in these determinations. Also, at the time of said closures, the Department will determine whether more restrictive and/or additional criteria (i.e., more restrictive than, or in addition to Closure Plan criteria in Attachment I of this Permit) will be necessary to verify the effectiveness of decontamination or removal of components, equipment, structures and contaminated soils, based on the Department's regulatory cleanup standards in effect at the time of said closures.

- b. If the Department determines that additional sampling and analysis or more restrictive and/or additional criteria are necessary at the time of unit/Facility closure, the Department shall send the Permittee a notice of intent to modify this Permit in accordance with 6 NYCRR 621 to incorporate these requirements into the Permit. In the event the Department issues such a notice of intent, the Permittee will be restricted from issuing a certification of closure for the unit/facility in accordance with 6 NYCRR 373-2.7(f), until the associated 6 NYCRR 621 Permit modification process is completed and any associated closure requirement(s) that might result from this modification process are satisfied.

B. Plans, Reports, Specifications, Implementation Schedules And Other Submittals

1. Submittals required by the Permit must be provided to the Department and other identified Agencies as indicated below, must be submitted to the addresses and titles (or designees) listed below. The list below identifies the Department/Agencies staff by title that must receive submissions and indicates the types of submissions each must receive. At any time during the life of this Permit, the Department may designate alternate titles to receive submissions (different than those indicated below), and direct the Permittee to make submissions to the alternate title. The list below also indicates whether the submission must be a paper or electronic copy. Where electronic copies are indicated, the submission must be in a form as required by Condition N of Module I of this Permit. Submissions of electronic copies may be made by e-mail or other methods acceptable to the Department.
  - a. One (1) electronic copy of all submittals to:

Regional Remediation Engineer  
New York State Department of Environmental Conservation  
Region 8 Office  
6274 E. Avon-Lima Rd.  
Avon, NY 14414

Director, Remedial Bureau E  
Division of Environmental Remediation  
New York State Department of Environmental Conservation  
625 Broadway  
Albany, NY 12233-7017

Chief, RCRA Programs Branch  
Division of Environmental Planning and Protection  
U.S. Environmental Protection Agency



Region 2  
290 Broadway  
New York, NY 10007-1866

- b. One (1) paper copy of all financial assurance documents to:

RCRA C Financial Assurance Coordinator  
Division of Environmental Remediation  
New York State Department of Environmental Conservation  
625 Broadway  
Albany, NY 12233-7012

- c. One (1) paper copy of all waste reduction documents to:

Chief, Bureau of Waste Reduction & Recycling  
Division of Materials Management  
New York State Department of Environmental Conservation  
625 Broadway  
Albany, NY 12233-7253

C. Special Conditions Related to Eastman Kodak Company Bankruptcy Settlement

As a result of the bankruptcy of Eastman Kodak Company [Chapter 11 Case No. 12-10202 (ALG)(Jointly Administered)], the United States Bankruptcy Court for the Southern District of New York issued judicial orders that adopted certain settlement agreements in connection with EBP ((1) the “U.S. EBP Settlement Agreement” between Kodak and the USEPA, dated March 12, 2014 (includes the Funding Agreement between USEPA and DEC) and (2) the Environmental Response Trust Fund Agreement between Kodak and the State of New York, dated May 16, 2014, includes the Amended and Restated NYS EBP Environmental Settlement Agreement and the DEC Covenant Not To Sue)), pursuant to which, Kodak agreed to establish and fund an environmental response trust (the Eastman Business Park Environmental Response Trust or “EBP-ET”) to be administered by DEC to implement certain EBP Environmental Response Actions. Under the referenced judicial orders and settlement agreements, corrective action for “Pre-existing Contamination” (as defined in the U.S. EBP Settlement Agreement) is an obligation of the Eastman Business Park Environmental Trust (EBP-ET) until that trust’s resources are exhausted and then any further corrective action for Pre-existing Contamination shall be addressed as set forth in the settlement agreements. The judicial orders and settlement agreements are included in Attachment L of this Permit.

This permit addresses all RCRA corrective action requirements for the Eastman Business Park facility. However, to accommodate the judicial orders, this permit has been

structured to separate the post-closure and corrective action requirements associated with “Pre-existing Contamination” that will be handled by the EBP-ET trust, from the closure and potential post-closure and corrective action requirements that will remain obligations of the Permittee. The post-closure and corrective action requirements associated with “Pre-existing Contamination” are included in Permit Exhibit B-3, a supplement to Module II – Corrective Action.

“Pre-Existing Contamination” is defined in the U.S. EBP Environmental Settlement Agreement which is included in Attachment L of this permit. The threshold date for “Pre-existing Contamination” is prior to September 3, 2013. If a conflict in interpretation or a dispute arises, for purposes of liability, responsibilities, obligations, or other requirements of RED under this Permit, the Memorandum of Agreement between RED and the Department dated September 3, 2013 shall control with respect to RED's obligations. If a conflict in interpretation or a dispute arises, for purposes of liability, responsibilities, obligations, or other requirements of Kodak under this Permit, the Environmental Response Trust Fund Agreement between Kodak and the State of New York shall control with respect to Kodak's obligations.

D. Marshaling Areas, Process Related Areas, and Recyclable Materials Management Units

The New York State Department of Environmental Conservation (NYSDEC) grants Permittee, under the authority of 6 NYCRR 3731.1(e), a variance from the secondary containment requirements as provided in clause 373-1.1(d)(1)(iii)(a) under the following conditions:

- a. For Marshaling Areas:
  - (1) Each building will be allotted a maximum quantity of hazardous waste containers for their marshaling areas, but in no one marshaling area will there be more than 80 fifty-five gallon containers or the equivalent volume of hazardous waste in other containers, and stacked no more than 2 pallets high. Permittee will provide semi-annual updates to the NYSDEC on October 1<sup>st</sup> and April 1<sup>st</sup> of each year, in lieu of Permit modifications, as marshaling areas change.
  - (2) Containers will be stored in the marshaling areas for no more than five days. Each container must be clearly marked with the date it is placed in the marshaling area. If a container is not so dated, the end fill date will be presumed to be the date of entry into the marshaling area. The Permittee is not allowed to move drums from the 90-day storage areas to the marshaling areas.
  - (3) The marshaling areas will be managed under the standards for less-than-90 day storage areas found in clause 6 NYCRR 373-1.1(d)(1)(iii)(V), including any

amendments. However, secondary containment is not required for these marshaling areas.

- (4) Any incompatible wastes stored at marshaling areas will be separated from other materials or protected from them by means of a dike, berm, wall or other device.
- (5) Initial RCRA training and annual updates will be provided to personnel working in the marshaling areas.
- (6) A contingency plan will be available at or near the marshaling areas to address emergency preparedness and prevention for each area.
- (7) The marshaling areas will be inspected on a weekly basis and inspection records maintained for three years from the date of inspection. The inspection report (record) will include the corrective actions taken for any problems which are identified.
- (8) A sign identifying a hazardous waste accumulation area will be installed at each marshaling area. The allocated storage area will be delineated or the allotment will be indicated so that it is visible.
- (9) The marshaling areas for ignitable or reactive wastes will be at least 50 feet from the Eastman Business Park RCRA facility property line.
- (10) When closing a marshaling area, Permittee will first remove any containers that may be in the marshaling area and transfer them to an appropriate on-site or off-site storage or treatment unit. Any visible contamination will be cleaned up and all residues and cleanup materials properly disposed. Next, an inspection form will be completed which will identify whether there is evidence of releases to the environment at that marshaling area. This form will be provided to the NYSDEC via the Corrective Action Program and addressed through that Program.

b. For "Process-Related Waste Storage Areas" (including "Pilot Process" Waste and "Process Upset" waste):

- (1) Containers will be stored in Process-Related Waste Storage Areas for less than 30 days from initial placement. Each container must be clearly marked with the date it is placed in the storage area. Thirty-day extensions may be granted from the NYSDEC Regional Office in the event waste cannot be removed due to unforeseen circumstances. The Permittee is not allowed to move drums from the 90-day storage areas to these areas.
- (2) The storage areas will be managed under the standards for less-than-90 day storage areas found in clause 6 NYCRR 373-1.1(d)(1)(iii)(V), including any amendments. However, secondary containment is not required for these process-related waste

storage areas.

- (3) Any incompatible wastes stored in these areas will be separated from other materials or protected from them by means of a dike, berm, wall or other device.
- (4) Initial RCRA training and annual updates will be provided to personnel working in the storage areas.
- (5) A contingency plan will be available at or near the storage areas to address emergency preparedness and prevention for each area.

The storage area will be inspected on a daily basis and inspection records maintained for three years from the date of inspection. The inspection record will include the corrective actions taken for any problems which are identified.

- (7) A sign identifying a hazardous waste accumulation area will be installed at each storage area.
- (8) The storage areas for ignitable or reactive wastes will be at least 50 feet from the Eastman Business Park RCRA facility property line.
- (9) Permittee will record the location, capacities and operating period for these areas, and retain such records for a minimum of three years.
- (10) When closing a storage area, permittee will first remove any containers that may be in the storage area and transfer them to an appropriate on-site or off-site storage or treatment unit. Any visible contamination will be cleaned up and all residues and cleanup materials properly disposed. Next, an inspection form will be completed which will identify whether there is evidence of releases to the environment at that storage area. This form will be provided to the NYSDEC via the Eastman Business Park Corrective Action Program and addressed through that program.
- (11) When the Permittee establishes a new process-related storage area, the NYSDEC is to be notified within 30 working days. Also, when such areas are closing, Permittee will notify the NYSDEC within 30 working days of the removal of the final wastes stored at that location.

c. For Recyclable Materials Management Units (RMMUs):

- (1) Any storage, treatment, or disposal of hazardous waste not authorized by this Permit is prohibited unless the wastes are those managed in RMMUs that are the subject of the petition from Eastman Kodak Company dated October 8, 2014 for a

variance from the definition of Solid Waste made pursuant to 6 NYCRR 370.3(d)(1)(iii) until such time as DEC makes a final determination on the petition, are managed in accordance with the terms of this Permit for Marshaling Areas (see Condition D.a above), or are otherwise exempt from the permitting requirements of 6 NYCRR Part 373.

E. Description of Primary and Secondary Permittee Responsibilities

Roles and Responsibilities

Eastman Kodak Company (Kodak) is the owner of the multi-tenant industrial park known as Eastman Business Park (EBP), including lands upon which various utilities are located, including operations commonly known as "King's Landing." Associated with King's Landing is a multiple hearth incinerator subject to this RCRA Permit as hazardous waste management unit (HWMU-32). RED and Kodak are co-permittees under this RCRA Permit. Kodak is a co-permittee as the owner of lands comprising the facility, and as the operator of Tank Storage (HWMU-33). RED is a co-permittee as operator of the Multiple Hearth Incinerator (HWMU-32) located at King's Landing.

All obligations under this Permit remain the responsibility of Kodak. As an operator, RED shall have primary responsibility for compliance with the permit requirements associated with HWMU-32.

The table below summarizes responsibilities of the co-permittees for addressing permit obligations. In the event of a violation or a default by RED on a primary responsibility, the Department may pursue Permit compliance through Kodak. The Department may seek compliance by proceeding against Kodak independent of or simultaneously with any actions taken against RED to enforce the violation or default. The Department is not required to exhaust its remedies against RED before seeking compliance from Kodak.

Permit Section	Description	Comments
Module I	General Provisions	<p>Applies to both Kodak and RED.</p> <p>Kodak is subject to General Provisions related to the hazardous waste storage tanks (HWMU-33) including financial assurance, as well as other general hazardous waste management provisions (RCRA Contingency, Emergency Response, etc.); corrective action obligations per Module I Schedule 1 Exhibit B-1.</p> <p>RED is subject to General Provisions related to the MHI (HWMU-32), including financial assurance, as well as other general hazardous waste management provisions (RCRA Contingency,</p>

Permit Section	Description	Comments
		Emergency Response, etc.); corrective action obligations per Module I Schedule 1 Exhibit B-2.
Module I Schedule 1	Compliance Schedule, Exhibits	Schedule – See tasks assignments in schedule. Exhibit A - Applies to both Kodak and RED. Exhibit B – B-1 applies to Kodak. B-2 applies to RED. Exhibit C – N/A [reserved] Exhibit D – Applies to Kodak. Exhibit E – N/A [reserved] Exhibit F – N/A [reserved] Exhibit G - Applies to both Kodak and RED.
Module II	Corrective Action	Applies to both Kodak and RED. Additional Kodak-specific obligations per Module I Schedule 1 Exhibit B-1. Additional RED-specific obligations per Module I Schedule 1 Exhibit B-2.
Module IV	Storage in Tanks	Applies to Kodak.
Module VII	Multiple Hearth Incineration	Applies to RED.
Attachment A	Part A Application	Page 7 Comment Section (XIX): RED will have primary responsibility for operation and maintenance of the King's Landing Multiple Hearth Incinerator at Eastman Business Park, Rochester, New York (MHI).
Attachment B	Facility Description	Applies to both Kodak and RED
Attachment C	Waste Analysis Plan	C-1 applies to RED; C-2 & C-3 apply to both RED and Kodak; C-4 applies to Kodak.
Attachment D	Incineration	Applies to RED.
Attachment D-2	Storage in Tanks	Applies to Kodak.
Attachment E	SWMU Master List	Reference for both Kodak and RED.
Attachment F	Inspection Schedule (preparedness & prevention)	Applies to both Kodak and RED.
Attachment G	Contingency Plan	Applies to both Kodak and RED.
Attachment H	Personnel Training	Applies to both Kodak and RED.
Attachment I	HWMU Closure, Cost Estimate for Financial Assurance	Applies to Kodak for HWMU-33; applies to RED for HWMU-32.

F. Alternate Enforcement Mechanism

NYSDEC Consent Order Index# CO 8-2011-10022 (Property Transfers) may be used to administer corrective action/remedial obligations currently residing in the Permit. With

DEC concurrence, properties placed under such order and conveyed to other parties may be excluded from the RCRA facility provided that the requirements under the Order are at least as stringent as the permit requirements. Properties removed from the RCRA facility and placed under such a mechanism shall be processed as minor permit modifications.

**EXHIBIT B**

**SUPPLEMENT TO MODULE II – CORRECTIVE ACTION**



**EXHIBIT B-1**  
**SUPPLEMENT TO**  
**MODULE II - CORRECTIVE ACTION**  
**EASTMAN KODAK COMPANY OBLIGATIONS**

1. Eastman Kodak Company has the primary corrective action obligation for the Solid Waste Management Units listed in Exhibit B-1 Table 1 described below. These are currently active units. In the event that there is a release, the response actions outlined in Condition C of Module II shall be implemented.
2. For HWMU-33 (B-322 Tank System), in the event that the unit closes, and the clean closure performance criteria cannot be attained, HWMU-33 will be subject to post-closure care and corrective action pursuant to 373-2.7.
3. Kodak shall provide office space and accommodations for related services associated with conducting site management activities in relation to Pre-existing Contamination. The EBP-ET shall compensate Kodak for reasonable costs for these services.
4. Per Schedule 1 Module I, Item D (Compliance Schedule) Kodak shall submit an institutional control/environmental easement package for all real property where residual contamination indicates a need for Institutional Controls/Engineering Controls to address potential future exposures to contaminants. This shall include the Weiland Road Landfill (delineating waste disposal areas, including historic radioactive material disposal), and as warranted, historic (closed) hazardous waste management units. Per ECL Title 36 - § 71-3601 and NYCRR Part 373-2.7(f).

[See Exhibit B-1 Table 1 (list of active SWMUs ascribed to Kodak) that follows, located at the end of Exhibit B-1.]

Exhibit B-1 Table 1  
Kodak SWMU List

ID	INVESTIGATION AREA	UNIT TYPE	GENERAL DESCRIPTION	BUILDING NUMBER	LOCATION NOTES	OPERATIONAL STATUS	CORRECTIVE ACTION STATUS
E-021	EIA-27	TT	Trap Tank ID TT0271IS	B-027	Under #46 Unit	ACTIVE	Closed <sup>1</sup>
E-022	EIA-27	TT	Trap Tank ID TT0274IS	B-027	West of Salvage Water Tank	ACTIVE	Closed <sup>1</sup>
E-023	EIA-27	TT	Trap Tank ID TT0272IS	B-027	Under #47 Machine	ACTIVE	Closed <sup>1</sup>
E-024	EIA-27	TT	Trap Tank ID TT0273IS	B-027	Under #31 Machine, Salvage Water Tank	ACTIVE	Closed <sup>1</sup>
E-025	EIA-27	TT	Trap Tank ID TT0275IS	B-027	Under #33 Unit	ACTIVE	Closed <sup>1</sup>
E-026	EIA-27	TT	Trap Tank ID TT0276IS	B-027	Under #23 Machine	ACTIVE	Closed <sup>1</sup>
E-027	EIA-27	TT	Trap Tank ID TT0278IS	B-027	Under #34 Unit	ACTIVE	Closed <sup>1</sup>
E-028	EIA-27	TT	Trap Tank ID TT0277IS	B-027	Under #24 Machine	ACTIVE	Closed <sup>1</sup>
E-031	UNGROUPED	PMR	Silver Recovery Rich Pit	B-029	B-29-10 West	ACTIVE	Closed <sup>1</sup>
E-032	UNGROUPED	PMR	Silver Recovery Tank System	B-029	B-29-13 Room North, Spill collection sump (Record updated 7/15/1998 to incl. E-033 tank information)	ACTIVE	Closed <sup>1</sup>
E-034	UNGROUPED	PMR	Silver Recovery Tank System	B-029	B-29-14 Room (Basement level); 3,300 Gal Sec. Containment	ACTIVE	Closed <sup>1</sup>
E-036	EIA-30	PMR	Silver Recovery Rich Pit	B-030	B-30-A	ACTIVE	Closed <sup>1</sup>
E-037	EIA-30	PMR	Silver Recovery Rich Pit	B-030	B-30-C	ACTIVE	Closed <sup>1</sup>
E-040	EIA-30	TAS	former HWMU-01 Storage Tank	B-030	Vault, Northeast Corner	ACTIVE	Closed <sup>1</sup>
E-047	UNGROUPED	PMR	Silver Recovery, concrete secondary containment system	B-035	B-35, West side of building, south of door DD	ACTIVE	Closed <sup>1</sup>
E-049	UNGROUPED	PMR	Silver Recovery	B-035	B-35, West side of building, east of door F	ACTIVE	Closed <sup>1</sup>
E-054	UNGROUPED	PMR	Silver Recovery	B-038	B-38-RW Center, SW Basement	ACTIVE	Closed <sup>1</sup>
E-077	UNGROUPED	MA	Marshaling Area	B-059	B-59 North Side, inside, loading dock door G	ACTIVE	Closed <sup>1</sup>
E-078	UNGROUPED	PMR	Silver Recovery	B-059	Sub-Basement	ACTIVE	Closed <sup>1</sup>
E-087	UNGROUPED	TT	Trap Tank ID TT0055IS	B-081	Room 90, Solvent Storage Room, B-81 South	ACTIVE	Closed <sup>1</sup>
E-088	UNGROUPED	CS	90-Day Container Storage Area	B-082	B-82D Chemical Stockroom	ACTIVE	Closed <sup>1</sup>
E-091	EIA-82	TS	former HWMU-24 Transfer Station	B-082	Transfer Pad adjacent to B-82 Tank Farm	ACTIVE	Closed <sup>1</sup>
E-119	EIA-53	S	Sump ID SP0250ST	B-053	Northwest Side of B-53	ACTIVE	Closed <sup>1</sup>
E-148	UNGROUPED	SAS	KPE Sanitary Sewer System	B-000	KPE Park Section	ACTIVE	Closed <sup>1</sup>
E-234	UNGROUPED	TT	Sump	B-087	B-087 west of the locker room area	ACTIVE	Closed <sup>1</sup>
E-246	EIA-30	MA	Marshaling Area	B-030	B-30; inside; first floor, south of loading dock LL; located between columns H2-H3 and G2-G3	ACTIVE	Closed <sup>1</sup>
E-254	EIA-30	CS	90-Day Container Storage Area	B-030	Building 30, Room 726	ACTIVE	Closed <sup>1</sup>
E-257	EIA-82	CS	90-Day Container Storage Area	B-082	B-82, inside room D004	ACTIVE	Closed <sup>1</sup>
E-258	EIA-53	MA	Marshaling Area	B-053	B-53 Loading Dock K	ACTIVE	Closed <sup>1</sup>
M-005	MIA-301	CS	former HWMU-09 Trailer Station	B-302	East of Tank Farm	ACTIVE	Closed <sup>1</sup>
M-016	MIA-301	MA	Marshaling Area	B-303	East Side, Inside Headhouse	ACTIVE	Closed <sup>1</sup>
M-017	MIA-301	S	B-303 Tunnel Scrubber Sump	B-303	Inside NW Corner	ACTIVE	Closed <sup>1</sup>
M-019	MIA-301	TT	Trap Tank ID TT3351IS	B-303	Outside South, Bay 7	ACTIVE	Closed <sup>1</sup>
M-022	MIA-301	TT	Trap Tank ID TT4040IS	B-303	Outside North, Bay 13	ACTIVE	Closed <sup>1</sup>
M-026	MIA-301	TT	Trap Tank ID SP4010IS	B-304	Outside, North, Bay 9 Side Sump	ACTIVE	Closed <sup>1</sup>
M-027	MIA-301	TT	Trap Tank ID TT3364IS	B-304	Outside North, Bay 10, Side Sump	ACTIVE	Closed <sup>1</sup>
M-028	MIA-301	TT	Trap Tank ID TT3365IS	B-304	Outside North, Bay 11, Side Sump	ACTIVE	Closed <sup>1</sup>
M-029	MIA-301	TT	Trap Tank ID TT3366IS	B-304	Outside South, Bay 1 (Blender)	ACTIVE	Closed <sup>1</sup>
M-030	MIA-301	TT	Trap Tank ID TT3363IS	B-304	Outside North, Bay 17 (Blender)	ACTIVE	Closed <sup>1</sup>
M-031	MIA-301	TT	Trap Tank ID TT4005(2)IS	B-304	Trap Tank, West	ACTIVE	Closed <sup>1</sup>
M-042	MIA-308	TT	Trap Tank ID TT4020IS (catch tank)	B-308	Outside, North of B-307	ACTIVE	Closed <sup>1</sup>
M-046	MIA-308	TT	Trap Tank ID TT4015IS	B-308	B-308	ACTIVE	Closed <sup>1</sup>

Exhibit B-1 Table 1  
Kodak SWMU List

ID	INVESTIGATION AREA	UNIT TYPE	GENERAL DESCRIPTION	BUILDING NUMBER	LOCATION NOTES	OPERATIONAL STATUS	CORRECTIVE ACTION STATUS
M-062c	MIA-317	CS	90-Day Container Storage Area	B-317	QQ Dock Door.	ACTIVE	Closed <sup>1</sup>
M-077	MIA-308	TS	West Trailer Station	B-322	Northwest Trailer Station in B-322 Courtyard	ACTIVE	Closed <sup>1</sup>
M-083	MIA-301	TT	Trap Tank ID TT4055IS	B-323	B-323 Southeast Corner	ACTIVE	Closed <sup>1</sup>
M-086	MIA-301	MA	Marshaling Area	B-325	Loading Dock, West Side, Inside on Concrete Floor	ACTIVE	Closed <sup>1</sup>
M-096	MIA-301	TT	Trap Tank ID TT3376IS, Inspected in 1993. Good condition.	B-325	Bay 3, Side Sump, Northwest of B-325	ACTIVE	Closed <sup>1</sup>
M-097	MIA-301	TT	Trap Tank ID TT3377IS	B-325	Bay 8, Side Sump, Northeast of B-325	ACTIVE	Closed <sup>1</sup>
M-098	MIA-301	TT	Trap Tank ID TT3378IS, Inspected in 1993. Good condition.	B-325	Bay 18, Side Sump, Outside, Southwest	ACTIVE	Closed <sup>1</sup>
M-099	MIA-301	TT	Trap Tank ID TT3379IS	B-325	Southeast Corner of B-325	ACTIVE	Closed <sup>1</sup>
M-100	MIA-301	TT	Trap Tank ID TT4350IS	B-325	Northeast Corner on East Side of North/South Head House	ACTIVE	Closed <sup>1</sup>
M-105	UNGROUPED	TT	Trap Tank ID TT4030IS	B-326	Door R & Q Between Cols 29 & 28, Outside, South	ACTIVE	Closed <sup>1</sup>
M-118	MIA-WRL	S	Sump ID SP4060IS, Leachate collection system for WRLF	B-334	West of B-334, Intersection of Latona and Weiland Road, M-7	ACTIVE	Closed <sup>1</sup>
M-120	MIA-301	MA	Marshaling Area	B-337	North Side, Inside on Concrete Floor	ACTIVE	Closed <sup>1</sup>
M-122	MIA-329	TT	Trap Tank ID TT4025IS	B-349	East Side, Outside	ACTIVE	Closed <sup>1</sup>
M-132	MIA-301	TS	Spent Solvent (Transfer Station)	B-325	North of B-325	ACTIVE	Closed <sup>1</sup>
M-139	MIA-301	S	Sump ID SP3355IS	B-303	Bay 3, Ejector Sump	ACTIVE	Closed <sup>1</sup>
M-140	MIA-301	S	Sump ID SP3356IS	B-303	Bay 16, Ejector Sump, North	ACTIVE	Closed <sup>1</sup>
M-146	UNGROUPED	S	Sump ID SP4000ST	B-332	Southeast Corner, Basement	ACTIVE	Closed <sup>1</sup>
M-152	MIA-308	UST	Underground Storage Tank	B-322	Tank Farm, South of B-322	ACTIVE	Closed <sup>1</sup>
M-169	MIA-351	SI	Retention Pond	B-352	West of B-352	ACTIVE	Closed <sup>1</sup>
M-170	UNGROUPED	SAS	KPM Sanitary Sewer System	B-300	KPM Park Section	ACTIVE	Closed <sup>1</sup>
M-174	MIA-WRL	R	Release	B-334	Near M-32 Tractor Shed	ACTIVE	Closed <sup>1</sup>
M-243	MIA-301	CS	90-Day Container Storage Area	B-325	B-325, 1st Floor Head House, adjacent to Marshaling Area	ACTIVE	Closed <sup>1</sup>
M-244	MIA-301	CS	90-Day Container Storage Area	B-303	B-303, 1st Floor Head House, adjacent to Marshaling Area	ACTIVE	Closed <sup>1</sup>
M-268	MIA-301	TT	Trap Tank ID TT3367IS	B-304	East of Building 303	ACTIVE	Closed <sup>1</sup>
M-269	MIA-308	CS	90-Day Container Storage Area	B-308	At the northwest corner of the B-308 Train Shed	ACTIVE	Closed <sup>1</sup>
M-275	UNGROUPED	MA	Marshaling Area	B-326	B-326 at Loading dock E-1	ACTIVE	Closed <sup>1</sup>
M-277	MIA-329	CS	90-Day Container Storage Area	B-349	B-349, south side of room 118	ACTIVE	Closed <sup>1</sup>
M-278	MIA-308	CS	90-Day Container Storage Area	B-322	B-322 Trailer Unloading Area	ACTIVE	Closed <sup>1</sup>
M-280	MIA-308	HWMU TaS	HWMU-33 Tank Storage	B-322	B-322 Tanks, TK-682 and TK-675	ACTIVE	Closed <sup>2</sup>
W-002A	WIA-KPW	PMR	40' and 60' Silver Recovery Clarifiers	B-110	B-110 East Side	ACTIVE	Closed <sup>1</sup>
W-002B	WIA-KPW	PMR	70' Silver Recovery Clarifiers	B-110	North of B-145	ACTIVE	Closed <sup>1</sup>
W-008	WIA-KPW	PMR	Silver Recovery Pit	B-110	Center of B-110	ACTIVE	Closed <sup>1</sup>
W-032	WIA-KPW	TT	Trap Tank ID TT1126IS	B-119	M-Wing, Bunker, Side Sump	ACTIVE	Closed <sup>1</sup>
W-042	WIA-KPW	S	Sump ID SP1450IS	B-120	B-120, Northwest Side	ACTIVE	Closed <sup>1</sup>
W-043	WIA-KPW	S	Sump ID SP1460IS	B-120	South of B-120 Bay 11, Inside	ACTIVE	Closed <sup>1</sup>
W-045	WIA-KPW	S	Sump ID SP14856I	B-120	B-120 Bay 4	ACTIVE	Closed <sup>1</sup>
W-046	WIA-KPW	TS	Transfer Station TS #120-264	B-120	B-121 Courtyard, North of B-121	ACTIVE	Closed <sup>1</sup>
W-098	WIA-KPW	TT	Trap Tank ID TT1165IS	B-148	Outside, B-148, South	ACTIVE	Closed <sup>1</sup>
W-099	WIA-KPW	TT	Trap Tank ID TT1170IS	B-148	Outside, B-148, South	ACTIVE	Closed <sup>1</sup>
W-100	WIA-KPW	TT	Trap Tank ID TT1180IS	B-148	Outside B-148, South	ACTIVE	Closed <sup>1</sup>
W-101	WIA-KPW	TT	Trap Tank ID TT1190IS	B-148	Outside B-148, South	ACTIVE	Closed <sup>1</sup>
W-102	WIA-KPW	TT	Trap Tank ID TT1200IS	B-148	Outside B-148, South	ACTIVE	Closed <sup>1</sup>
W-103	WIA-KPW	TT	Trap Tank ID TT1210IS	B-148	South	ACTIVE	Closed <sup>1</sup>

Exhibit B-1 Table 1  
Kodak SWMU List

ID	INVESTIGATION AREA	UNIT TYPE	GENERAL DESCRIPTION	BUILDING NUMBER	LOCATION NOTES	OPERATIONAL STATUS	CORRECTIVE ACTION STATUS
W-109	WIA-KPW	PMR	Silver Recovery	B-156	B-156	ACTIVE	Closed <sup>1</sup>
W-111	WIA-KPW	TS	Transfer Station TS # 110-287	B-110	B-110 North Side	ACTIVE	Closed <sup>1</sup>
W-115	WIA-KPW	S	Sump ID SP1130IS	B-117	Northeast Corner, Outside B-117	ACTIVE	Closed <sup>1</sup>
W-122	WIA-KPW	S	Sump ID SP1410IS	B-143	Outside B-143, South Wall	ACTIVE	Closed <sup>1</sup>
W-155	WIA-KPW	S	Sump ID SP1430IS	B-120	Southwest of B-120	ACTIVE	Closed <sup>1</sup>
W-156	WIA-KPW	S	Sump ID SP1510IS	B-142	Outside, West of B-142	ACTIVE	Closed <sup>1</sup>
W-157	WIA-KPW	TT	Trap Tank ID TT1320IS	B-114	Basement East Wall Between Cols 301 and 302	ACTIVE	Closed <sup>1</sup>
W-158	WIA-KPW	S	Sump ID SP1117IS	B-117	Northeast Corner of B-117 (Room 115)	ACTIVE	Closed <sup>1</sup>
W-162	WIA-KPW	S	Sump ID SP1116IS	B-117	North-Center of B-117, Rm 110, Reactor Room East	ACTIVE	Closed <sup>1</sup>
W-175	WIA-KPW	PMR	Precious Metals Recovery Filters (Walnut Filter System)	B-144	B-144	ACTIVE	Closed <sup>1</sup>
W-201	WIA-KPW	SAS	KPW Sanitary Sewer System	B-100	KPW Park Section	ACTIVE	Closed <sup>1</sup>
W-213	WIA-KPW	S	Sump ID SP1118IS	B-117	Inside B-117, Room 110 (Reactor Room West)	ACTIVE	Closed <sup>1</sup>
W-214	WIA-KPW	S	Sump WSP117020ISI	B-117	Inside B-117, Room 118	ACTIVE	Closed <sup>1</sup>
W-215	WIA-KPW	S	Sump WSP117024ISI	B-117	Door M	ACTIVE	Closed <sup>1</sup>
W-259	WIA-KPW	CS	90-Day Container Storage Area	B-116	Center of B-116 at D-32 which is a dock attached to B-116	ACTIVE	Closed <sup>1</sup>
W-267	WIA-KPW	TAS	90-Day Storage Tank	B-120	Surge tank STK-64, used to collect a variety of streams in B-120	ACTIVE	Closed <sup>1</sup>
W-273	WIA-KPW	MA	Marshaling Area	B-148	B-148, Door M	ACTIVE	Closed <sup>1</sup>
X-030	XIA-218	CS	former HWMU-07 Drum Storage	B-218	B-218 Indoor	ACTIVE	Closed <sup>1</sup>
X-031	XIA-218	CS	former HWMU-07 Container Storage	B-218	Northeast of B-218, Outside	ACTIVE	Closed <sup>1</sup>
X-041	XIA-218	TS	Sewer Station	B-218	South of B-218	ACTIVE	Closed <sup>1</sup>
X-053	UNGROUPED	SAS	KPX Sanitary Sewer System	B-200	KPX Park Section	ACTIVE	Closed <sup>1</sup>
X-074	XIA-218	CS	90-Day Container Storage Area	B-218	B-218 at the north side loading dock	ACTIVE	Closed <sup>1</sup>
X-075	XIA-208	CS	90-Day Container Storage Area	B-213	Decontamination and Disposal Facility, south of former B-213	ACTIVE	Closed <sup>1</sup>

Notes:

1. Closed<sup>1</sup> - previously designated as No Further Action ("NFA"). Releases from these units have been evaluated and remedies have been implemented where necessary.

Unit remains in active service and potentially subject to corrective action in event of new discovery of contamination. Unit subject to decommissioning inspection when removed from service.

Corrective action to the extent related to a new release is Kodak responsibility, and corrective action to extent related to newly discovered "Pre-Existing Contamination" is EBP-ET responsibility.

2. Closed<sup>2</sup> - previously designated as No Further Action ("NFA"). HWMU-33 remains subject to closure and post-closure (if warranted) when removed from service.

Unit remains in active service and potentially subject to corrective action in event of new discovery of contamination. Unit subject to closure when removed from active service.

Corrective action to the extent related to a new release is Kodak responsibility, and corrective action to extent related to newly discovered "Pre-Existing Contamination" is EBP-ET responsibility.

**EXHIBIT B-2  
SUPPLEMENT TO  
MODULE II - CORRECTIVE ACTION  
RED-ROCHESTER, LLC OBLIGATIONS**

1. RED-Rochester, LLC has the primary corrective action obligation for the Solid Waste Management Units listed in Exhibit B-2 Table 1 provided below. These are currently active units. In the event that there is a release, the response actions outlined in Condition C of Module II shall be implemented.
2. For HWMU-32 (Multiple Hearth Incinerator), in the event that the unit closes, and the clean closure performance criteria cannot be attained, HWMU-32 will be subject to post-closure care and corrective action pursuant to 373-2.7.
3. RED shall continue the Kings Landing concrete integrity inspection and maintenance program for the wastewater treatment plant infrastructure that is in active use. This activity is described in the remedial decision document that was issued by DEC for EIA-KL (the Kings Landing Investigation Area) in 2003.
4. RED shall continue to operate, control and maintain the Building 42 Pollution Minimization Program equipment (industrial sewer solids filtration system) unless otherwise approved in writing by DEC.
5. In the event that RED intends to no longer operate and control the Weiland Road Landfill M-7 Lift Station and associated ancillary equipment, RED shall provide DEC with 90 days advance written notice. The EBP-ET shall compensate RED for reasonable costs incurred for the M-7 operational services, costs of required maintenance, and capital equipment expenses.
6. As co-permittee, Kodak has responsibility for this work in the event of a default by RED-Rochester, LLC.

[See Exhibit B-2 Table 1 (list of SWMUs ascribed to RED) that follows.]

Exhibit B-2 Table 1  
RED SWMU List

ID	INVESTIGATION AREA	UNIT TYPE	GENERAL DESCRIPTION	BUILDING NUMBER	LOCATION NOTES	OPERATIONAL STATUS	CORRECTIVE ACTION STATUS
E-001	EIA-IS	IS	Industrial Sewer components of the Waste Water Treatment Unit located in KPE	B-000	KPE Park Section	ACTIVE	Closed <sup>3</sup>
E-096	EIA-KL	S	Waste Water Treatment Unit Sump ID SP0091IS	B-091	B-91 Floor Drains and B-91 Sanitary Sewage	ACTIVE	Closed <sup>1</sup>
E-097	EIA-KL	S	Waste Water Treatment Unit Sump ID SP00171IS	B-093	B-93 Center, outside lab	ACTIVE	Closed <sup>1</sup>
E-098	EIA-KL	S	Waste Water Treatment Unit Sump ID SP0099IS	B-093	Northeast of B-93 (R-17)	ACTIVE	Closed <sup>1</sup>
E-099	EIA-KL	S	Waste Water Treatment Unit Sump ID SP0200ST	B-094	South of B-94	ACTIVE	Closed <sup>1</sup>
E-100	EIA-KL	CS	90-Day Container Storage Area	B-095	B-95, 1st floor, Northeast, by hearth	ACTIVE	Closed <sup>1</sup>
E-101	EIA-KL	HWMU I	HWMU-32 Multiple Hearth Incinerator/Ash Handling System	B-095	King's Landing (B-95)	ACTIVE	Closed <sup>2</sup>
E-105	EIA-KL	S	Waste Water Treatment Unit Sump ID SP0089IS	B-095	Southeast of B-95, Inside	ACTIVE	Closed <sup>1</sup>
E-106	EIA-KL	S	Waste Water Treatment Unit Sump ID SP0097IS	B-095	West of B-95	ACTIVE	Closed <sup>1</sup>
E-107	EIA-KL	WTS	Wastewater Treatment Plant (associated releases)	B-095	KLWPP	ACTIVE	Closed <sup>1</sup>
E-110	EIA-KL	S	Waste Water Treatment Unit Sump ID SP0090IS, Return sludge pits	B-099	West of B-99	ACTIVE	Closed <sup>1</sup>
E-111	EIA-KL	S	Waste Water Treatment Unit Sump ID SP0092IS, Return sludge pits	B-099	North of B-99	ACTIVE	Closed <sup>1</sup>
E-112	EIA-KL	S	Waste Water Treatment Unit Sump ID SP0093IS, Return sludge pits	B-099	North of B-99	ACTIVE	Closed <sup>1</sup>
E-117	EIA-KL	S	Waste Water Treatment Unit lift station to aeration basin, Sump ID SP0098IS	B-095	South of aeration basins	ACTIVE	Closed <sup>1</sup>
E-120	EIA-KL	S	Multiple Hearth Scrubber Sump ID SP0096IS	B-095	Basement, B-95 West	ACTIVE	Closed <sup>1</sup>
E-147	EIA-KL	RS	King's Landing Discharge to River	B-095	King's Landing Discharge to Genesee River	ACTIVE	Closed <sup>3</sup>
E-151	EIA-KL	S	Waste Water Treatment Unit Sump ID SP0088IS	B-099	Northwest of B-99	ACTIVE	Closed <sup>1</sup>
E-159	EIA-KL	S	Waste Water Treatment Unit Sump ID SP0087IS	B-091	North East Corner B-91, (R-6)	ACTIVE	Closed <sup>1</sup>
E-163	EIA-KL	CS	90-Day Exempt Storage Area, RO containers	B-091	Along primary clarifier on asphalt with diking	ACTIVE	Closed <sup>1</sup>
E-164	EIA-KL	CS	90-Day Storage Area, Totes and RO Boxes	B-095	East of R-9. Outside on Asphalt.	ACTIVE	Closed <sup>1</sup>
E-167	EIA-KL	CS	90-Day Container Storage Area	B-091	By MEMO Shop - Concrete	ACTIVE	Closed <sup>1</sup>
E-170	EIA-KL	CS	90-Day Container Storage Area	B-095	Basement - Concrete	ACTIVE	Closed <sup>1</sup>
E-172	EIA-KL	CS	90-Day Container Storage Area	B-095	Lab in Basement - Concrete	ACTIVE	Closed <sup>1</sup>
E-174	EIA-KL	CS	90-Day Container Storage Area	B-096	1st Floor	ACTIVE	Closed <sup>1</sup>
E-235	EIA-KL	CS	90-Day Container Storage Area	B-095	Inside B-095, 1st floor in lab - Tile covered concrete	ACTIVE	Closed <sup>1</sup>
E-247	EIA-KL	CS	90-Day Container Storage Area	B-095	Basement, B-95	ACTIVE	Closed <sup>1</sup>
E-259	UNGROUPED	WTS	Water Treatment Filtration	B-042	B-42 1st Floor	ACTIVE	Closed <sup>1</sup>
M-001	MIA-IS	IS	Industrial Sewer components of the Waste Water Treatment Unit located in KPM	B-300	KPM Park Section	ACTIVE	Closed <sup>1</sup>
M-177	UNGROUPED	MA	Marshaling Area	B-321	West Side of B-321	ACTIVE	Closed <sup>1</sup>
W-001	WIA-IS	IS	Industrial Sewer components of the Waste Water Treatment Unit located in KPW	B-100	KPW Park Section	ACTIVE	Closed <sup>3</sup>
X-001	XIA-IS	IS	Industrial Sewer components of the Waste Water Treatment Unit located in KPX	B-200	KPX Park Section	ACTIVE	Closed <sup>1</sup>

Notes:

1. Closed<sup>1</sup> - previously designated as No Further Action ("NFA"). Releases from these units have been evaluated and remedies have been implemented where necessary.

Unit remains in active service and potentially subject to corrective action in event of new discovery of contamination. Unit subject to decommissioning inspection when removed from active service. Corrective action to the extent related to a new release is RED responsibility, and corrective action to extent related to newly discovered "Pre-Existing Contamination" is EBP-ET responsibility.

2. Closed<sup>2</sup> - previously designated as No Further Action ("NFA"). HWMU-32 remains subject to closure/post-closure (if warranted) when removed from service.

Corrective action to the extent related to a new release is RED responsibility, and corrective action to extent related to newly discovered "Pre-Existing Contamination" is EBP-ET responsibility.

3. Closed<sup>3</sup> - "Pre-existing contamination" from SWMU is active EBP-ET obligation per Exhibit B-3.

However, unit remains in active service and potentially subject to corrective action in event of new discovery of contamination. Unit subject to decommissioning inspection when removed from service.

Corrective action to the extent related to a new release is RED responsibility, and corrective action to extent related to newly discovered "Pre-Existing Contamination" is EBP-ET responsibility.

**EXHIBIT B-3  
SUPPLEMENT TO  
MODULE II - CORRECTIVE ACTION  
EASTMAN BUSINESS PARK - ENVIRONMENTAL TRUST OBLIGATIONS**

- As described in the Special Conditions (Exhibit A, Condition C) certain corrective action obligations associated with “Pre-existing Contamination” from the Eastman Business Park are being administered through the Eastman Business Park Environmental Response Trust (EBP-ET) per a federal judicial order. The EBP-ET corrective action obligations associated with the Eastman Business Park RCRA facility are listed below in Table 1. This table shows the next expected deliverable(s) in the RCRA corrective action process. As outlined in Module II Condition D of this Permit, subsequent steps in the RCRA corrective action process will be undertaken as warranted for these items.

<u>Exhibit B-3 – Table 1<sup>1</sup></u>	
<u>Item</u>	<u>Deliverable</u>
Lower Genesee River	RCRA Facility Investigation/Corrective Measures Study Submit Draft Investigation Work Plan by 10/15/14 Finalize Investigation Work Plan by 3/31/15 Implement field sampling program during 2015
EBP-E Industrial Sewers	Remedial System Optimization (RSO) Supplemental Data Collection Plan
EBP-W Industrial Sewers	RSO Assessment Report Integrity assessment projected finished by RED in August 2014. Data evaluation and report that follow will be handled by EBP-ET.
Spector Tire	No Further Action Determination Incorporate monitoring into EBPGSAP.
Site Management of Final Corrective Measures/Remedies	Annual Groundwater and Corrective Measures Performance Report Specific remedies and related elements currently subject to this reporting provision are shown in Exhibit B-3 Table 2.

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<sup>1</sup> Note that SWMUs currently listed in Exhibits B-1 and B-2 (as Kodak and RED obligations, respectively) could experience a new discovery of contamination. Corrective action to the extent that the discovered contamination is related to a new release is a Permittee responsibility (Kodak or RED). Corrective action to the extent that the discovered contamination is related to newly discovered “Pre-Existing Contamination” is EBP ET responsibility.

Exhibit B-3 – Table 1<sup>1</sup>

<u>Item</u>	<u>Deliverable</u>
Cost Estimate	Annual update of projected costs for Corrective Action and Post-Closure Care associated with Pre-Existing Contamination (per Attachment I, Appendix I-4)

Exhibit B-3 – Table 2

<u>Investigation Area</u>	<u>Description of Key Elements of Final Corrective Measures</u>	<u>Year Established</u>
WIA-EBPW	<p>Groundwater:</p> <ol style="list-style-type: none"> <li>1. Parking Lot 50 Migration Control System - Grimsby/Queenston Zone Hydrofractured System (multiple well containment system located in southern KPW).</li> <li>2. KPW North Migration Control System - Top-of-Rock Zone Hydrofractured System (multiple well containment system located in northern KPW).</li> <li>3. Source area groundwater collection (below water table industrial sewer laterals in vicinity B-115)</li> <li>4. Institutional Control/Deed Restriction on Future Use</li> <li>5. EBPGSAP monitoring program.</li> </ol> <p>Soils:</p> <ol style="list-style-type: none"> <li>1. Physical Access Controls.</li> <li>2. Institutional Control/Property Restriction on Future Use.</li> </ol> <p>Reference: NYSDEC WIA-KPW Statement of Basis, 1996; KPW North Fenceline Migration Control System, 1998.</p>	1998
MIA-351	<p>Groundwater:</p> <ol style="list-style-type: none"> <li>1. Overburden Migration Control System - Interceptor Trench Located between B-351 and B-324; Length - 1520 Feet</li> <li>2. Top-of-Rock Blasted Trenches - near B-351 and B-319; Length - 200 Feet</li> <li>3. EBPGSAP monitoring program.</li> </ol> <p>Soils:</p> <ol style="list-style-type: none"> <li>1. Physical Access Controls.</li> <li>2. Institutional Control/Property Restriction on Future Use.</li> </ol> <p>Reference: NYSDEC MIA-351 Statement of Basis, 2002.</p>	2002
XIA-218	<p>Groundwater:</p> <ol style="list-style-type: none"> <li>1. Overburden Interceptor Trench (Northeast KPX groundwater migration control system) Length - 250 Feet</li> <li>2. EBPGSAP monitoring program.</li> </ol> <p>Soils:</p> <ol style="list-style-type: none"> <li>1. Physical Access Controls.</li> <li>2. Institutional Control/Property Restriction on Future Use.</li> </ol> <p>Reference: NYSDEC XIA-218 Statement of Basis, 2002.</p>	2002



Exhibit B-3 – Table 2

Investigation Area	Description of Key Elements of Final Corrective Measures	Year Established
<p>NE-EBPE (EIA-53, EIA-82, EIA-27, EIA-62)</p>	<p>Groundwater:</p> <ol style="list-style-type: none"> <li>1. Source Area Recovery Wells (4 pumping wells in B-53/B-57 area)</li> <li>2. Fractured Bedrock Trenches: Northern Trench (Parking Lot 42 - 190 feet long) Eastern Trench (Parking Lot 41 - 420 feet long)</li> <li>3. EBPGSAP monitoring program.</li> </ol> <p>Soils:</p> <ol style="list-style-type: none"> <li>1. Physical Access Controls.</li> <li>2. Institutional Control/Property Restriction on Future Use.</li> </ol> <p>Reference: NYSDEC EIA-NEKPE Statement of Basis, 2002.</p>	<p>2002</p>
<p>MIA-WRL (KPM Weiland Road Landfill)</p>	<p>Groundwater etc.:</p> <ol style="list-style-type: none"> <li>1. Top-of-Rock Blasted Fracture Zone (Located at West edge of landfill) Length - 300 Feet.</li> <li>2. Groundwater Seepage Interceptor/Drain System (Parking Lot 73 source area control system) Length - 850 Feet.</li> <li>3. EBPGSAP monitoring program.</li> <li>4. Environmental Monitoring Program (EMP); Landfill Cover System, Leachate collection system (O&amp;M)</li> </ol> <p>Soils:</p> <ol style="list-style-type: none"> <li>1. Physical Access Controls.</li> <li>2. Institutional Control/Property Restriction on Future Use.</li> </ol> <p>Reference: NYSDEC MIA-WRL Statement of Basis, 2003.</p>	<p>2003</p>
<p>MIA-329 (KPM Building 329/349)</p>	<p>Groundwater:</p> <ol style="list-style-type: none"> <li>1. Top-of-Rock Fractured Bedrock Zones: Northern Trench (B349 North Side, 200 feet long) Eastern Trench (B329 East Side, 150 feet long)</li> <li>2. EBPGSAP monitoring program.</li> </ol> <p>Soils:</p> <ol style="list-style-type: none"> <li>1. Physical Access Controls.</li> <li>2. Institutional Control/Property Restriction on Future Use.</li> </ol> <p>Reference: NYSDEC MIA-329 Statement of Basis, 2003.</p>	<p>2003</p>
<p>EIA-KL (KPE Kings Landing)</p>	<p>Groundwater:</p> <ol style="list-style-type: none"> <li>1. EBPGSAP Monitoring Program</li> </ol> <p>Soils:</p> <ol style="list-style-type: none"> <li>1. Physical Access Controls.</li> <li>2. Institutional Control/Property Restriction on Future Use.</li> </ol> <p>Reference: NYSDEC EIA-KL Statement of Basis, 2003.</p>	<p>2003</p>
<p>MIA-301 (KPM Building 301 area)</p>	<p>Groundwater:</p> <ol style="list-style-type: none"> <li>1. Overburden Migration Control System - Interceptor Trench Located between B-351 and B-324; Length - 1520 Feet</li> <li>2. Top-of-Rock Blasted Trenches - near B-351 and B-319 Length - 200 Feet</li> <li>3. Source area conventional pumping wells (3)</li> <li>4. EBPGSAP monitoring program.</li> </ol> <p>Soils:</p> <ol style="list-style-type: none"> <li>1. Physical Access Controls.</li> <li>2. Institutional Control/Property Restriction on Future Use.</li> </ol> <p>Reference: NYSDEC MIA-301 Statement of Basis, 2003.</p>	<p>2003</p>

Exhibit B-3 – Table 2

Investigation Area	Description of Key Elements of Final Corrective Measures	Year Established
MIA-308	<p>Groundwater:</p> <ol style="list-style-type: none"> <li>1. Overburden Migration Control System - Interceptor Trench Located between B-351 and B-324; Length - 1520 Feet</li> <li>2. Top-of-Rock Blasted Trenches - near B-351 and B-319 Length - 200 Feet</li> <li>3. Source area groundwater recovery/treatment required.</li> <li>4. EBPGSAP monitoring program.</li> </ol> <p>Soils:</p> <ol style="list-style-type: none"> <li>1. Physical Access Controls.</li> <li>2. Institutional Control/Property Restriction on Future Use.</li> </ol> <p>Reference: NYSDEC MIA-308 Statement of Basis, 2006.</p>	2007
MIA-317	<p>Groundwater:</p> <ol style="list-style-type: none"> <li>1. Overburden Migration Control System - Interceptor Trench Located between B-351 and B-324; Length - 1520 Feet</li> <li>2. Top-of-Rock Blasted Trenches - near B-351 and B-319 Length - 200 Feet</li> <li>3. EBPGSAP monitoring program.</li> </ol> <p>Soils:</p> <ol style="list-style-type: none"> <li>1. Physical Access Controls.</li> <li>2. Institutional Control/Property Restriction on Future Use.</li> </ol> <p>Reference: NYSDEC MIA-317 Statement of Basis, 2006.</p>	2007
MIA-333	<p>Groundwater:</p> <ol style="list-style-type: none"> <li>1. Existing migration control features (MIA-329 Migration Control System near B-329/349).</li> <li>2. Source area groundwater and LNAPL recovery near M-95.</li> <li>3. EBPGSAP monitoring program.</li> </ol> <p>Soils:</p> <ol style="list-style-type: none"> <li>1. Physical Access Controls.</li> <li>2. Institutional Control/Property Restriction on Future Use.</li> </ol> <p>Reference: NYSDEC MIA-333 Statement of Basis, 2006.</p>	2007
XIA-202/208	<p>Groundwater:</p> <ol style="list-style-type: none"> <li>1. Existing migration control features ( XIA-218 Migration Control System near B-218)</li> <li>2. EBPGSAP monitoring program.</li> </ol> <p>Soils:</p> <ol style="list-style-type: none"> <li>1. Physical Access Controls (placement of protective cover).</li> <li>2. Institutional Control/Property Restriction on Future Use.</li> </ol> <p>Reference: NYSDEC XIA-202/208 Statement of Basis, 2006.</p>	2007
EIA-SEKPE	<p>Groundwater:</p> <ol style="list-style-type: none"> <li>1. Existing migration control features (EIA-NEKPE Migration Control System)</li> <li>2. EBPGSAP monitoring program.</li> </ol> <p>Soils:</p> <ol style="list-style-type: none"> <li>1. Physical Access Controls.</li> <li>2. Institutional Control/Property Restriction on Future Use.</li> </ol> <p>Reference: NYSDEC EIA-SEKPE Statement of Basis, 2006.</p>	2007

**EXHIBIT C**

**RESERVED**

**EXHIBIT D**

**SUPPLEMENT TO MODULE IV – TANK SYSTEMS**

**EXHIBIT D**

**SUPPLEMENT TO  
MODULE IV – TANK SYSTEMS**

The Permittee must operate and maintain the Tank Systems in accordance with Attachment D2 of this Permit Application and **Module IV** of this Permit, and the following supplement the conditions contained within **Module IV** of this Permit:

A. Authorized Storage Tank, Waste Types and Storage Volume

1. The Permittee is authorized to use the following tank systems for the storage and/or treatment of the following wastes subject to the terms of this Permit:

**Table D-1 – Authorized Tank Storage**

<b>Tank #</b>	<b>Maximum Permitted Capacity (gallons)</b>	<b>Tank Usage &amp; Material of Construction</b>	<b>Waste Description</b>
EPV-160 (Tank 675)	33,600	Stainless steel internal wall and a fiberglass coated carbon steel external shell	Organic Solvents
EPV-163 (Tank 682)	28,800	Stainless steel internal wall and a fiberglass coated carbon steel external shell	Organic Solvents

**NOTES:**

1. The specific types of waste allowed at each unit, by EPA waste code and chemical characteristics, are given in Table D-2 of this supplement and Attachment C (WAP);
2. The total amount of waste allowed in the area includes all waste, regardless of whether it is hazardous or not [6 NYCRR 360-1.1(b)];
3. Maximum allowable volume of liquids stored in each tank shown is limited and equal to the volume at the redundant high level alarm (96%) for each tank.

**Table D-2 Authorized Waste Streams**

<b>D</b>	<b>F</b>	<b>K</b>	<b>U</b>
D001	F001	K156	U001 U036 U073 U109 U144 U179 U218
D002	F002	K157	U002 U037 U074 U110 U145 U180 U219
D004	F003	K158	U003 U038 U075 U111 U146 U181 U220
D005	F004	K159	U004 U039 U076 U112 U147 U182 U221
D006	F005		U005 U041 U077 U113 U148 U183 U222
D007	F039		U006 U042 U078 U114 U149 U184 U223
D008			U007 U043 U079 U115 U150 U185 U225
D009			U008 U044 U080 U116 U151 U186 U226
D010			U009 U045 U081 U117 U152 U187 U227
D011			U010 U046 U082 U118 U153 U188 U228
D018			U011 U047 U083 U119 U154 U189 U234
D019			U012 U048 U084 U120 U155 U190 U235
D021			U014 U049 U085 U121 U156 U191 U236
D022			U015 U050 U086 U122 U157 U192 U237
D023			U016 U051 U087 U123 U158 U193 U238
D024			U017 U052 U088 U124 U159 U194 U239
D025			U018 U053 U089 U125 U160 U196 U240
D026			U019 U055 U090 U126 U161 U197 U243
D027			U020 U056 U091 U127 U162 U200 U244
D028			U021 U057 U092 U128 U163 U201 U246
D029			U022 U058 U093 U129 U164 U203 U247
D030			U023 U059 U094 U130 U165 U204 U248
D032			U024 U060 U095 U131 U166 U205 U249
D033			U025 U061 U096 U132 U167 U206 U278
D034			U026 U062 U097 U133 U168 U207 U279
D035			U027 U063 U098 U134 U169 U208 U328
D036			U028 U064 U099 U135 U170 U209 U353
D037			U029 U066 U101 U136 U171 U210 U359
D038			U030 U067 U102 U137 U172 U211 U404
D039			U031 U068 U103 U138 U173 U213
D040			U032 U069 U105 U140 U174 U214
D041			U033 U070 U106 U141 U176 U215
D042			U034 U071 U107 U142 U177 U216
D043			U035 U072 U108 U143 U178 U217

B. Assessment of Tank Systems Secondary Containment

1. As described in **Attachment D-2**, HWMU-33 consists of two underground double-walled hazardous waste storage tanks. The external walls provide secondary containment in the event of a leak from the internal storage tank. Given the design of the tank system, the outer shell of the tanks are not accessible for physical inspection to check for potential leaks. Therefore, the Permittee shall conduct a pressure test of the interstitial space in the double walled tank. The test shall be designed to detect a potential leak in the secondary containment system (the assumption is that the tank system assessment specified in **Condition K.3 of Module IV** would rule out any leaks from the internal tank itself). The test shall be designed in accordance with the guidelines of NFPA 30 section 21.5.2.7, and must be submitted to and approved by the Department prior to testing. The proposed test must be submitted to the Department at least 45 days before the planned date of the test. The pass/fail criteria for the test will be included in the test design. An independent, qualified Professional Engineer licensed in New York State or a qualified inspector working under an independent Professional Engineer licensed in New York State shall observe and certify the test.
2. For each tank system, the secondary containment assessment test will be conducted according to the following schedule:
  - a. The test will be conducted at a minimum of once every three years.
  - b. For tanks operating on a three-year or less-than-three-year inspection cycle for the tank system assessment (specified in **Condition K.3 of Module IV**), secondary containment tests will be conducted in conjunction with each inspection.
  - c. For tanks operating on a greater-than-three-year inspection cycle for the tank system assessment (specified in **Condition K.3 of Module IV**), secondary containment tests will be conducted twice during this cycle: once in conjunction with each inspection, and once at the midpoint. For four and five-year inspection cycles, the midpoint will be 24 and 36 months, respectively, from the date of the previous test, plus or minus one month.
3. The Permittee must notify the Department at least 21 days in advance of the assessment date to allow time for the Department to coordinate staff to oversee the test.
4. If a potential leak is detected from a test performed while the tank system is out of service, the tank system shall not be put back into service until the source of the leak has been identified and corrected. If a potential leak is detected from a test performed while the tank system is in service, a first attempt to identify and repair the leak must be performed within 10 business days from the date of the test. The Permittee must notify the Department of the state of repairs at the end of this 10 day period, and must provide plans (for approval by the Department) for further repair if first attempts were unsuccessful. Once any defects have been repaired, the secondary containment area(s) must be re-tested by the Permittee per the procedure described above to evaluate the

adequacy of the repairs and to confirm that the secondary containment area(s) meets the requirements of 6 NYCRR 373-2.10(d) and **Condition C of Module IV**.

5. The results of each leak check event and any follow-up repairs and testing shall be documented by the engineer/inspector in an assessment report. Copies of each assessment report must be retained by the Permittee in accordance with 6 NYCRR 373-1.6(a)(10) and made available for review upon Department request. The Permittee should submit the assessment report to the Department as specified in **Condition F of Schedule 1 of Module I**.



**EXHIBIT E**

**RESERVED**

**EXHIBIT F**

**Reserved**

**EXHIBIT G**

**CLOSURE/POST-CLOSURE**

## EXHIBIT G

### HWMU CLOSURE/POST-CLOSURE

#### A. CLOSURE

1. The Permittee must perform closure for each regulated unit (HWMU-32 and HWMU-33) authorized by this Permit in accordance with the requirements of 6 NYCRR 373-2, this Permit, the Department-approved Closure Plan provided as Attachment I of this Permit.
2. In the event the Department determines that a HWMU has not attained the clean closure performance criteria following completion of the closure actions, and that post-closure care is necessary, the Permittee must perform long-term post-closure care and corrective action. In such an event, the Permittee shall determine the costs associated with long-term post-closure care and corrective action in accordance with the following:
  - a. The total amount of the cost estimate for the entire post-closure care and corrective action period shall be calculated using the total annual cost estimate for post-closure and corrective action according to the following procedure:
    - i. The total amount of the Facility's Annual Post-Closure and Corrective Action Cost Estimate, in current dollars, must be multiplied by a 30-year post-closure care and corrective action period to derive the total 30-year post-closure cost estimate in accordance with 6 NYCRR 373-2.8(e)(1)(ii).
    - ii. Using the total amount of the Facility's Annual Post-Closure and Corrective Action Cost Estimate, calculate the present value of the cost over the entire post-closure care and corrective action period by dividing the total annual amount by the most recent Department-approved discount rate.
    - iii. The total amount of the cost estimate for the entire post-closure care and corrective action period shall always be the greater of the two amounts calculated according to **Conditions A.3.a.i and A.3.a.ii** of this Exhibit.
  - b. The calculation required by **Condition A.3.a** of this Exhibit must be repeated anytime there is an increase in the Facility's Annual Post-Closure or Corrective Action Cost Estimate, with the results submitted to the Department. If this calculation results in an increase in the previously approved Department cost estimate, the Permittee must establish additional financial assurance to cover the amount of the increase in the cost estimate in accordance with **Condition O of Module I**.

## PART 373 PERMIT

### MODULE II – CORRECTIVE ACTION REQUIREMENTS

#### A. APPLICABILITY

1. Statute and Regulations: Article 27, Title 9, Section 27-0913, and 6 NYCRR 373-2.6(l) requires corrective action, including corrective action beyond the Facility boundary where necessary to protect human health and the environment, for all releases of hazardous wastes, including hazardous constituents, from any solid waste management unit (SWMU) regardless of the time at which waste was placed in such unit. Pursuant to 6 NYCRR 373-1.6(c)(2), the Department may impose Permit conditions as the Department determines necessary to protect human health and the environment (such as areas of concern (AOCs) as defined in **Module I** of this Permit).
2. Solid Waste Management Units (SWMUs) and Areas of Concern (AOCs): The Permittee must initiate and complete the corrective action process for all SWMUs and AOCs at the Facility that are designated as Permittee obligations in Schedule 1 Module I Exhibits B-1 and B-2. The conditions of this Module apply to:
  - a. All known SWMUs and AOCs designated as Permittee obligations in Schedule 1 of Module I Exhibit B (further delineation of each Permittee’s responsibilities is provided in Module I Schedule 1 – Exhibit A Condition E);
  - b. Any newly-identified SWMUs and AOCs identified during the course of groundwater monitoring, field investigations, environmental audits or other means including, but not necessarily limited to, those identified pursuant to **Condition C** of this Module. And,
  - c. Corrective action for “Pre-existing Contamination” as described in Module I Schedule 1 – Exhibit A Condition C. Such action shall be an obligation of the Eastman Business Park Environmental Response Trust (included in Attachment L).

#### B. STANDARD CONDITIONS FOR CORRECTIVE ACTION

1. The Permittee must perform corrective action as specified in **Condition A.2** of this Module.
2. The Permittee must follow the requirements as specified in **Schedule 1 of Module I** of this Permit.

3. The Permittee and its consultants/contractors performing corrective action activities must demonstrate completion of appropriate training in accordance with the Department-approved Personnel Training Program Plan incorporated by reference into this Permit by **Schedule 1 of Module I** and follow all applicable health and safety plans.
4. Compliance with Governmental Requirements: During investigative activities, interim corrective measures and final corrective measures (including, but not limited to, equipment decommissioning, excavation and unit demolition) required by this Module, the Permittee must ensure that the transportation, treatment, storage, discharge, and disposal of all contaminated materials generated as a result of such activities (including, but not limited to, soil, sediments, liquids, tanks, pipes, pumps, rubble, debris and structural materials) are performed in an environmentally sound manner pursuant to all applicable federal, State and local requirements, and in a way that is protective of human health and the environment. Nothing in this Module shall be construed to require the Permittee to proceed in a manner which is in violation of any such requirements.
5. Notifications<sup>1</sup>:
  - a. Groundwater Contamination: If at any time the Permittee discovers that hazardous constituents in groundwater released from the Facility have migrated beyond the Facility boundary in concentrations that exceed an action level, the Permittee must, within fifteen (15) calendar days of discovery, provide written notice to the Department.
  - b. Air Contamination: If at any time the Permittee discovers that hazardous constituents in air have been released from a SWMU or AOC at the Facility, and have or are migrating to areas beyond the Facility boundary in concentrations that exceed action levels in the Department's DAR-1 ("Guidelines for the Control of Toxic Ambient Air Contaminants"), and that residences or other places at which continuous, long-term human exposure to such constituents might occur are located within such areas, the Permittee must immediately initiate all appropriate actions necessary to mitigate the release to concentrations below the action levels or cease operation immediately. In addition, the Permittee must:

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<sup>1</sup> For the notifications detailed in this section below, if such hazardous waste or hazardous constituents involve Pre-existing Contamination, the Permittee who discovers such hazardous waste or hazardous constituents will indicate this in its notice to the Department. Corrective action to the extent that the discovered contamination is related to a new release is a Permittee responsibility (Kodak or RED). Corrective action to the extent that the discovered contamination is related to newly discovered "Pre-Existing Contamination" is EBP ET responsibility.

- i. Provide written notification to the Department within fifteen (15) calendar days of such discovery; and
  - ii. Immediately initiate any actions that might be necessary to provide notice to all individuals who have been or may become exposed to the released constituents.
- c. Residual Contamination: If hazardous wastes or hazardous constituents are located within or have been released from SWMUs or AOCs and will remain in or on the land, including groundwater, after the term of this Permit has expired, the Permittee must record, in accordance with State law, a notation in the deed to the Facility property or in some other instrument acceptable to the Department which is normally examined during title search that will, in perpetuity, notify any potential purchaser of the property, of the types, concentrations and locations of such hazardous wastes or hazardous constituents.
- d. Newly Discovered SWMUs and AOCs: The Permittee must notify the Department, in writing, of any additional SWMUs and AOCs discovered during the course of groundwater monitoring, field investigations, environmental audits or other means within fifteen (15) days of discovery. Thereafter, the Permittee must proceed with the assessment, investigation, evaluation and remediation of the SWMU and/or AOC as set forth in **Condition C** of this Module.
- e. Newly Discovered Releases: The Permittee must notify the Department, in writing, of any release(s) of hazardous wastes, including hazardous constituents, discovered during the course of groundwater monitoring, field investigations, environmental audits, or other activities no later than fifteen (15) calendar days of discovery. Such newly-discovered release(s) may be from newly-identified unit(s)/area(s), from unit(s)/area(s) for which, based on the findings of the RCRA Facility Assessment (RFA), the Department had previously determined that no further investigation was necessary, or from unit(s)/area(s) investigated as part of a RCRA Facility Investigation (RFI). Based on the information provided in the notification, the Department shall determine the need for further investigation of the release(s). If the Department determines that such investigations are needed, the Department shall, by written notification, require the Permittee to prepare an RFI Work Plan in accordance with **Condition D** of this Module. The Department may, at its discretion, also require the Permittee to prepare an Interim Corrective Measures (ICM) Work Plan.

6. Determination of No Further Action:

- a. Based on the results of a RFA or a RFI for a particular SWMU or AOC, or combination of SWMUs and/or AOCs, and any other relevant information, the Permittee may submit an application to the Department for a permit modification under 6 NYCRR 373-1.7(b) and 621.13 to terminate the subsequent corrective action requirements of this Module and **Schedule 1 of Module I** for the subject SWMU(s) or AOC(s). The permit modification application must contain information demonstrating that no release(s) of hazardous wastes, including hazardous constituents, have occurred from the subject SWMU(s) and/or AOC(s), or that such releases do not and will not pose a threat to human health or the environment. The permit modification application must also include the information required in 6 NYCRR 373-1, 373-2 and 621.4(n).
- b. If, based upon review of the Permittee's request for a permit modification, the results of the RFI, and other information, including comments received during the forty-five (45) calendar day public comment period required for major permit modifications, the Department determines that the release(s) or the suspected release(s) investigated are either non-existent or do not pose a threat to human health or the environment, the Department may grant the requested modification.
- c. A determination of no further action shall not preclude the Department from modifying this Permit in accordance with 6 NYCRR 621.13 in order to implement the following actions:
  - i. Require the Permittee to perform such investigations as necessary to comply with the requirements of this Module and **Schedule 1 of Module I** if new information or subsequent analysis indicates that there are, or are likely to be, releases from SWMUs/AOCs that may pose a threat to human health or the environment; and/or,
  - ii. Require continual or periodic monitoring of air, soil, groundwater, surface water, sediment or subsurface gas, if necessary, to protect human health and the environment, when site-specific circumstances indicate the release(s) of hazardous waste(s), including hazardous constituents, are likely to occur from any SWMU(s) and/or AOC(s).



C. SCHEDULE FOR ASSESSMENT OF NEWLY IDENTIFIED SWMUs AND AOCs<sup>2</sup>

1. Notification of Assessment: The Permittee must notify the Department, in writing, of any additional SWMU(s) and/or AOC(s) not listed in **Schedule 1 of Module I**, which are identified during the course of groundwater monitoring, field investigations, environmental audits, or other means within fifteen (15) calendar days of discovery.
2. SWMU/AOC Assessment Report: Within thirty (30) calendar days of notifying the Department, the Permittee must submit a SWMU/AOC Assessment Report. This report must provide, at a minimum, the following information for each newly identified SWMU/AOC:
  - a. Type of unit/area;
  - b. Location of each unit/area on a topographic map of appropriate scale;
  - c. Dimensions, capacities, and structural descriptions of the unit/area (supply available engineering drawings);
  - d. Function of unit/area;
  - e. Dates that the unit/area was operated;
  - f. Description of the wastes that were placed or spilled at the unit/area;
  - g. Description of any known releases from the unit/area (to include groundwater data, soil analyses, air monitoring data, and/or surface water/sediment data);
  - h. The results of any sampling and analysis required for the purpose of determining whether releases of hazardous wastes, including hazardous constituents, have occurred, are occurring, or are likely to occur from the unit/area; and
  - i. Whether this unit/area, individually or in combination with other units/areas described in **Schedule 1 of Module I**, is a significant source of contaminant release.
3. SWMU/AOC Sampling and Analysis Plan: If prior to or after submission of the SWMU/AOC Assessment Report required in **Condition C.2** of this Module the Department determines and notifies the Permittee that sampling and analysis is

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<sup>2</sup> In the event that the Permittee asserts that the newly identified SWMUs and/or AOCs involve Pre-existing Contamination, corrective action to the extent that the discovered contamination is related to a new release is a Permittee responsibility (Kodak or RED). Corrective action to the extent that the discovered contamination is related to newly discovered "Pre-Existing Contamination" is EBP ET responsibility.

required, the Permittee must, within thirty (30) calendar days of such notification, submit to the Department for approval a plan prepared in accordance with **Condition D** of this Module, for sampling and analysis of specific environmental media including, but not limited to, groundwater, land surface and subsurface strata, surface water/sediment or air, as necessary to determine whether a release of hazardous waste, including hazardous constituents, from such unit(s) and/or area(s) has occurred, is likely to have occurred, or is likely to occur. The SWMU/AOC Sampling and Analysis Plan must demonstrate that the sampling and analyses program, if applicable, is capable of yielding representative samples and must include parameters sufficient to identify migration of hazardous waste, including hazardous constituents, from the newly-discovered SWMU(s) and/or AOC(s) to the environment.

4. Subsequent Assessment Actions: Following submission of the SWMU/AOC Assessment Sampling and Analysis Plan set forth in **Condition C.3** of this Module, the Department may either approve the Plan as submitted or issue comments on the Plan. If approved, the Permittee must implement sampling in accordance with the Plan within thirty (30) calendar days of receipt of the Department's approval. If the Department issues comments on the Plan, subsequent activities for the Plan must proceed in accordance with **Condition A.7 of Module I** of this Permit.
5. SWMU/AOC Sampling and Analysis Report: Within thirty (30) calendar days of receipt by the Permittee of validated analytical data generated under the approved SWMU/AOC Sampling and Analysis Plan, the Permittee must follow reporting requirements in the approved Plan and submit a SWMU/AOC Sampling and Analysis Report to the Department. The Report must describe all results obtained from the implementation of the approved Plan.
6. Assessment Conclusions: Based on the results of the SWMU/AOC Sampling and Analysis Report, the Department shall determine the need for further investigations at the specific unit(s) covered in the SWMU/AOC Assessment Report. If the Department determines that such investigations are needed, the Department shall, by written notification, require the Permittee to prepare and submit for approval a RFI Work Plan. In addition, the Department may, at its discretion, require the Permittee to submit an Interim Corrective Measures (ICM) Work Plan if an ICM is deemed necessary by the Department to safeguard human health and the environment. Any additional activities required by the Department must be undertaken in accordance with **Condition D** of this Module.

D. DEVELOPMENT AND IMPLEMENTATION OF CORRECTIVE ACTION PROGRAM

For the purposes of this Permit, the technical and administrative guidelines of “DER-10 – Technical Guidance for Site Investigation and Remediation” are applicable where corrective action has been determined by the Department to be necessary. Since DER-10 uses State Superfund nomenclature, the following table provides a cross-reference between Resource Conservation and Recovery Act (RCRA) and State Superfund nomenclature when using “DER-10 – Technical Guidance for Site Investigation and Remediation”:

<b><u>RCRA Program Element</u></b>	<b><u>Equivalent Superfund Program Element</u></b>
RCRA Facility Assessment (RFA) (including Preliminary Review [PR], Visual Site Inspection [VSI] and Sampling Visit [SV])	Site Characterization (SC)
RCRA Facility Investigation (RFI)	Remedial Investigation (RI)
Corrective Measures Study (CMS)	Feasibility Study (FS)
Interim Corrective Measure (ICM)	Interim Remedial Measure (IRM)
Statement of Basis (SOB)	Record of Decision (ROD)
Corrective Measures Implementation (CMI) (design)	Remedial Design (RD)
CMI (construction)	Remedial Action (RA)
Post-Closure / Effectiveness Evaluations	Site Management (SM)

Accordingly, when the Department, as part of this Permit, requires the Permittee to prepare any component (e.g., work plan, report, study, design, remedy, etc.) of a specific RCRA Program element identified in the above table, the Permittee shall utilize DER-10 - Technical Guidance for Site Investigation and Remediation for the preparation of the appropriate RCRA analog. The program element shall be captioned with the appropriate RCRA title. This is the required approach unless specific alternative direction is otherwise provided by the Department in writing.

1. Work Plan Development

- a. The Permittee must submit a corrective action work plan to the Department within thirty (30) days of notification by the Department that such work plan is necessary.
- b. All corrective action activities at the Facility must be conducted pursuant to one or more Department-approved work plans. The Permittee shall consider

Department guidance when preparing work plan(s) developed pursuant to this Permit. Where appropriate such plans must address both on-site and off-site contamination.

- c. Relevant guidance shall include but not necessarily be limited to “DER-10 - Technical Guidance for Site Investigation and Remediation.” Work plans prepared to address corrective action at active units or units under post-closure care must also incorporate the applicable requirements of 6 NYCRR 373-2.6 and 373-2.7.
  - d. All Department-approved work plans will be incorporated into this Permit when specifically noted in such approvals, pursuant to 6 NYCRR 621.13, and become enforceable under this Permit.
  - e. The Department may, at its discretion, direct the Permittee to prepare “supplemental” work plans, studies and/or designs as it determines necessary to ensure protection of human health and the environment.
  - f. The Permittee may opt to propose one or more supplemental work plans (including one or more IRM Work Plans) at any time, which the Department shall review for appropriateness and technical sufficiency.
  - g. Any proposed work plan must be submitted for the Department’s review and approval, and must include, at a minimum, a chronological description of the anticipated activities, a schedule for performance of those activities, and sufficient detail to allow the Department to evaluate that work plan. The requirements for submittal review are specified in **Condition D.4** of this Module.
  - h. Within twenty (20) days of the Department’s request for a work plan, the Permittee must submit for review and approval a written citizen participation plan prepared in accordance with applicable Department guidance. Upon approval, the citizen participation plan shall be incorporated by reference into this Permit.
  - i. All work plans prepared pursuant to this Module must be certified in accordance with 6 NYCRR 373-1.4(a)(5), and by a Professional Engineer or other qualified environmental professional as the Department may find acceptable.
2. Work Plan Implementation
- a. Upon approval of a work plan by the Department, the Permittee must implement such work plan in accordance with the schedule contained therein.

- b. The Department must be notified at least 7 days in advance of, and be allowed to attend, any field activities to be conducted under a Department-approved work plan, as well as any pre-bid meetings, job progress meetings, substantial completion meeting and inspection, and final inspection and meeting.
  - c. During all field activities conducted under a Department-approved work plan, the Permittee must have, on-site, a representative who is qualified to supervise the activities undertaken. Such representative may be an employee or a consultant retained to perform such supervision.
  - d. The Permittee must follow the notification requirements of **Condition B.5** of this Module during work plan implementation.
  - e. All corrective action activities must be conducted in accordance with **Condition B.4** of this Module.
  - f. In accordance with the schedule contained in a Department-approved work plan, the Permittee must submit a final report (e.g., RFI report, etc.) that summarizes all data generated during implementation of the work plan, and includes a complete description of all assessments and evaluations required by the work plan.
  - g. Any final report or final engineering report that includes construction activities must include “as built” drawings showing any changes made to the remedial design or the IRM.
  - h. All final reports and final engineering reports must be submitted for the Department’s review and approval. The requirements for submittal review are specified in **Condition D.4** of this Module.
  - i. All final reports and final engineering reports must be certified in accordance with 6 NYCRR 373-1.4(a)(5), and by a Professional Engineer or other qualified environmental professional as the Department may find acceptable.
3. Remedy Selection
- a. The Department shall select a proposed remedy in accordance with DER-10 following receipt of the Corrective Measures Study (CMS) or Feasibility Study (FS). The proposed remedy shall be set forth in a draft Statement of Basis (SOB) prepared by the Department for the Facility. The selected remedy in the final SOB shall be incorporated by reference into this Permit by modification pursuant to 6 NYCRR 621.13.

- b. Once the SOB has been incorporated into this Permit, the Permittee must submit a Corrective Measures Implementation (CMI) Work Plan or Remedial Design/ Remedial Action (RD/RA) Work Plan that provides for the development and implementation of final plans and specifications for implementing the remedial alternative set forth in this Permit (i.e., in the SOB). This work plan must, unless otherwise provided in writing by the Department, be submitted within one hundred twenty (120) days of the effective date of the Permit modification. The Permittee must commence implementation of the CMI Work Plan or RD/RA Work Plan within thirty (30) days of the Department's approval of such work plan.
- c. The Permittee must submit a Site Management Plan (SMP) or an update to an existing SMP, as necessary, in accordance with the schedule set forth in the approved CMI Work Plan or RD/RA Work Plan, or in accordance with a request from the Department. The Permittee must commence implementation of the Site Management Plan within thirty (30) days of the Department's approval of such plan.
- d. The Permittee must submit an initial periodic review report (PRR) in accordance with the schedule in the SMP and thereafter annually, unless the Department approves an alternate frequency in writing. The periodic review report shall include information consistent with DER-10 guidelines and other applicable NYSDEC guidance, and must also include, but not be limited to, documentation of the performance of any required groundwater compliance inspections, operation and maintenance inspections, groundwater comprehensive monitoring evaluations, and any required corrective measures effectiveness evaluations related to the remedy(ies) in place at the Facility that are identified as Permittee obligations in Exhibit B of Schedule 1 of Module I, as well as a description and results summary for any investigation or corrective action activity that occurred at the Facility during the period. The PRR must be certified in accordance with 6 NYCRR 373-1.4(a)(5), and by a Professional Engineer or other qualified environmental professional as the Department may find acceptable.
- e. As part of the periodic review report submission, the Permittee must provide an annual certification of institutional and engineering controls that are identified as Permittee obligations in Exhibit B of Schedule 1 of Module I until such time that the Department notifies the Permittee in writing that this certification is no longer needed. Therefore, the PRR must: (a) contain certification that the institutional controls and engineering controls put in place are still in place and are either unchanged from the previous certification or are compliant with Department-approved modifications; (b) allow the Department access to the site; and, (c) state

that nothing has occurred that would impair the ability of the control to protect public health or the environment, or constitute a violation or failure to comply with the SMP unless otherwise approved by the Department. The Permittee must submit a written certification in accordance with 6 NYCRR 373-1.4(a)(5).

- f. The Permittee must continue operation of the selected remedy until such time that the remedial objectives have been achieved and the Department determines that continued operation is technically impracticable or not feasible.

#### 4. Review of Submittals

- a. The Department shall review and respond in writing to each submittal (e.g., plans, studies, reports, schedules, written submittals, etc.) the Permittee makes pursuant to this Permit, unless the Department determines that a response is not necessary. The Department's response shall include an approval, modification request, or disapproval of the submittal, in whole or in part. Failure of the Permittee to act in accordance with the requirements of this Condition is a violation of this Permit.
- b. Following its review of a submittal, the Department may either approve the submittal or issue comments. If approved, the Permittee must implement the submittal or initiate the next step in the program in accordance with the schedule contained in the submittal or the Department's approval letter. If the Department issues comments on the submittal, subsequent activities for the submittal must proceed in accordance with **Condition A.7 of Module I** of this Permit.
- c. In the event the Department provides conditional approval of a submittal, within thirty (30) days of the Department's conditional approval the Permittee must modify the submittal in accordance with any Department comments and resubmit the document, including all required supporting data and documents in an electronic format acceptable to the Department in accordance with the requirements of **Condition N of Module I**. All resubmissions must be certified in accordance with 6 NYCRR 373-1.4(a)(5), and by a Professional Engineer or other qualified environmental professional as the Department may find acceptable.
- d. Upon approval, the submittal will be incorporated into this Permit when specifically noted by the Department in such approval, pursuant to 6 NYCRR 621.13. If directed by the Department, the Permittee must place the submittal within the Facility's document repository within fifteen (15) days of receipt of the Department's approval.
- e. In the event that the Permittee and the Department cannot resolve the Department's comments, the Department shall, pursuant to 6 NYCRR 621.13 and

within 45 days of notice of disapproval or required modifications, send to the Permittee a notice of intent to modify this Permit with regard to all unresolved issues in order to safeguard human health and the environment.

E. OTHER REQUIREMENTS

1. Reservation of Rights

- a. Nothing contained in this Permit shall be construed as barring, diminishing, adjudicating, or in any way affecting any of the Department's rights or authorities, including, but not limited to, the right to require performance of further investigations and/or response action(s), and/or to exercise any summary abatement powers with respect to any person, including the Permittee.
- b. Except as otherwise provided in this Permit, the Permittee specifically reserves all rights and defenses under applicable law, and further reserves all rights respecting the enforcement of this Permit, including the rights to notice, to be heard, to appeal, and to any other due process. The existence of this Permit or the Permittee's compliance with it shall not be construed as an admission of liability, fault, wrongdoing, or breach of standard of care by the Permittee, and shall not give rise to any presumption of law or finding of fact, or create any rights, or grant any cause of action, which shall inure to the benefit of any third party.

2. Environmental Easement

- a. If a Statement of Basis (SOB), or other approved work plan, for the Facility relies upon one or more institutional and/or engineering controls, the Permittee (or the owner of the Facility) must submit to the Department for approval an environmental easement and/or restrictive covenant (or updates to existing easements or covenants) to run with the land in favor of the State which must be:
  - i. created and recorded pursuant to ECL Article 71, Title 36;
  - ii. in a form and manner as prescribed by the Department;
  - iii. in compliance with General Obligations Law (GOL) 5-703(1) and ECL 71-3605(2); and,
  - iv. recordable pursuant to Real Property Law (RPL) 291.
- b. Upon acceptance of the environmental easement and/or restrictive covenant by the State, the Permittee must comply with the requirements of **Condition E.2** of this Module.



- c. Agents, employees or other representatives of the State may enter and inspect the property burdened by an environmental easement with reasonable prior notice to the property owner, to assure compliance with the restrictions identified by the environmental easement.
- d. If the SOB provides for no action other than implementation of one or more institutional controls, the Permittee must cause an environmental easement to be recorded under the provisions of **Condition E.2.a** of this Module.
- e. If the Permittee does not cause such environmental easement to be recorded in accordance with **Condition E.2.a** of this Module, the Department may file an Environmental Notice on the Facility.

### 3. Progress Reports

- a. The Permittee must submit a written progress report of its actions under this Permit to the parties identified in **Schedule 1 of Module I** by the 10th day of each month commencing with the month subsequent to the approval of the first work plan and ending with the completion of a work item requiring reporting as specified in this Permit or a Department-approved work plan.

### 4. Dispute Resolution<sup>3</sup>

- a. The Permittee must submit any dispute related to the Department's comments to the designated individual in writing no more than 15 days after it knew or should have known of the facts which are the basis of the dispute. The designated individual shall render a written decision and furnish a copy thereof to the Permittee, which shall be the final Department determination, unless the Permittee files a written appeal of that decision with the designated appeal individual within 20 days of receipt of that decision.
  - i. Upon receipt of the written appeal pursuant to **Condition E.4.a** of this Module, the designated appeal individual, will review the record and decision. The designated appeal individual will take one of the following actions, with written notice to the Permittee:
    - 'a') remand the matter to the program staff for further negotiation or information if it is determined that the matter is not ripe for review;

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<sup>3</sup> Any dispute concerning liability for Pre-existing Contamination between RED and DEC shall be subject to the Dispute Resolution provisions of the Memorandum of Agreement between RED and the Department dated September 3, 2013. Any dispute concerning liability for Pre-existing Contamination between Kodak and DEC shall be subject to the Dispute Resolution provisions of the Trust Agreement between Kodak and the Department dated May 16, 2014.

- 'b') determine that there is no need for further action, and that the determination of the designated individual is confirmed; or,
    - 'c') make a determination on the record as it exists.
  - ii. The decision of the designated appeal individual shall be the final Department decision unless, within 20 days of receipt of the decision, the Permittee requests that the Department proceed in accordance with **Condition E.4.b** of this Module.
  - iii. The designated individual to:
    - 'a') hear disputes is a bureau director in the Department's Division of Environmental Remediation; and,
    - 'b') to review dispute decisions is the assistant director of the Department's Division of Environmental Remediation.
- b. In the event that the Department issues comments that cannot be resolved with the Permittee, the Department shall, pursuant to 6 NYCRR 621.13, send to the Permittee a notice of intent to modify this Permit with regard to all unresolved issues in order to safeguard human health and the environment.
- c. Upon receipt of a notice of intent from the Department, the Permittee must act in accordance with 6 NYCRR 621.13(d) or the Department's action will become effective on the date specified in the notice of intent. In the event that the Permittee acts in accordance with 6 NYCRR 621.13(d) within the specified timeframe, the procedure for dispute resolution will continue in accordance with 6 NYCRR 621.13.

F. MISCELLANEOUS

1. Required Authorizations

- a. The Permittee must use best efforts to obtain all Facility access, permits, easements, approvals, institutional controls, and/or authorizations necessary to perform the Permittee's obligations under this Permit, including all Department-approved work plans and the schedules contained therein. If, despite the Permittee's best efforts, any access, permits, easements, approvals, institutional controls, or authorizations cannot be obtained, the Permittee must promptly notify the Department and include a summary of the steps taken. The Department may, as it deems appropriate and within its authority, assist the Permittee in obtaining same.

- b. If an interest in property is needed to implement an institutional control required by a work plan and such interest cannot be obtained, the Department may require the Permittee to modify the work plan to reflect changes necessitated by the Permittee's inability to obtain such interest. Within 15 days of receipt of such notice, the Permittee must elect in writing to either: a) modify the work plan as requested by the Department, or accept a Department modified work plan, within 30 days of receipt of the written notice; or, b) invoke dispute resolution in accordance with **Condition E.4** of this Module.

## PART 373 PERMIT

### MODULE IV - TANK SYSTEMS

#### A. AUTHORIZED TANK SYSTEMS AND WASTES

- a. The Permittee is authorized to use the tank systems for the storage and/or treatment of hazardous wastes subject to the terms of this Permit as described in **Schedule 1 of Module I**. **Schedule 1 of Module I** provides information regarding the location, capacity and type of waste stored for each permitted tank system. This Permit is applicable to wastes stored or treated in accordance with 6 NYCRR 373-2.10(a), with exceptions noted in, and in compliance with, 6 NYCRR 373-1.1(d)(1)(iii) and 373-2.1(a).
- b. The Permittee must operate and maintain the tank systems in accordance with this Permit and with 6 NYCRR 373-2.10.
- c. For tank systems used to store or treat materials that are newly defined as hazardous waste in the future, the Permittee must comply with 6 NYCRR 373-2.10 and 373-1.7(g).

#### B. DESIGN AND INSTALLATION OF NEW TANK SYSTEMS OR COMPONENTS [6 NYCRR 373-2.10(c)]

- a. For new hazardous waste tank systems or components (such as the secondary containment system) not authorized by this Permit, which the Permittee proposes to construct in the future, the Permittee must, prior to construction for a new or replacement tank system and prior to operation of a repurposed or modified tank system, submit to the Department an application to modify this Permit including design plans, specifications and a written assessment of the tank systems' structural integrity, as required by 6 NYCRR 373-2.10(c) and obtain a permit modification.
- b. The term "new hazardous waste tank system(s)" includes new tank system(s), replacement tank system(s), repurposed tank system(s) and modified tank system(s).
- c. Upon completion of construction and prior to commencing operation, the Permittee must obtain and keep on file certifications of construction in accordance with 6 NYCRR 373-2.10(c)(7).
- d. The Permittee may not use any tank until:
  - a. The Permittee has submitted to the Department by Certified Mail or hand delivery a letter signed by the Permittee and a New York registered Professional Engineer stating that the tank has been constructed or modified in compliance with this Permit;

- b. A Department representative has inspected the newly constructed or modified tank and has found it is in compliance with the conditions of this Permit; or
- c. If, within 15 days of the date of submission of the letter specified in **Condition B.4.a** of this Module the Permittee has not received notice from the Department of its intent to inspect, the inspection requirement specified in **Condition B.4.b** of this Module is waived and the Permittee may use the tank, per 6 NYCRR 373-1.6(a)(12)(ii)(‘b’)(‘2’).

C. CONTAINMENT AND DETECTION OF RELEASES [6 NYCRR 373-2.10(d)]

- a. In order to prevent the release of hazardous waste or hazardous constituents to the environment, tank system(s) secondary containment must be provided and operated in a manner that meets the requirements of 6 NYCRR 373-2.10(d) and this Permit, including **Schedule 1 of Module I**, except for ancillary equipment meeting the requirements of 6 NYCRR 373-2.10(d)(6).

D. GENERAL OPERATING REQUIREMENTS [6 NYCRR 373-2.10(e)]

- a. The Permittee must operate hazardous waste tank systems and components authorized by this Permit in accordance with 6 NYCRR 373-2.10(e) and this Permit including **Schedule 1 of Module I**.

E. INSPECTIONS [6 NYCRR 373-2.10(f)] AND REPAIR/REMEDIAL ACTION [6 NYCRR 373-2.2(g)(3)]

- a. The Permittee must inspect tank systems and components authorized by this Permit in accordance with 6 NYCRR 373-2.2(g), 373-2.10(f) and this Permit, including the Department-approved Security and Facility Inspection Plan incorporated by reference into this Permit and **Schedule 1 of Module I**.
- b. Loading and unloading areas must be inspected daily when in use in accordance with 6 NYCRR 373-2.2(g)(2)(iv) and this Permit.
- c. For any leak, overflow, defect, deterioration, malfunction or other problem found as a result of the inspection or assessment of any tank system, including secondary containment and ancillary equipment, the Permittee must record the occurrence in the inspection log and maintain the log as part of the operating record required by 6 NYCRR 373-2.5(c). The Permittee must indicate in the facility’s operating record the date the defect was identified, the date repairs were completed and a brief description of said repairs.
- d. If leaks (except minor drips) or overflows are discovered associated with any hazardous waste tank system (including ancillary equipment), the Permittee must immediately report the situation as specified in **Condition C.2 of Module I** (i.e., Oral Reports) and implement the Department-approved Contingency Plan incorporated by reference into this Permit as necessary.

- e. For any identified leak (including minor drips) or defect which creates the potential for leakage from a tank or from a tank's ancillary equipment (e.g., piping, pump, valve, etc.) containing hazardous waste, the Permittee must take immediate action to stop or prevent the leak, take steps in accordance with 6 NYCRR 373-2.10(g) and clean up any leaked or spilled material as required by 6 NYCRR 373-2.10(g)(2) in accordance with the procedures contained in the Department-approved Contingency Plan incorporated by reference into this Permit.
- f. The Permittee must take action in response to any of the aforementioned tank system deficiencies in accordance with 6 NYCRR 373-2.2(g)(3), **Condition E.8** of this Module and, if applicable, **Condition F** of this Module. The Permittee must maintain the secondary containment system for tanks free of cracks or gaps and sufficiently impervious to contain leaks, spills and accumulated precipitation. The Permittee must remove all liquid precipitation and other accumulated liquids from any hazardous waste secondary containment structure within 24 hours.
- g. If a tank system secondary containment is found to be breached or in such a deteriorated condition that it is obviously incapable of containing a release, the Permittee must: a) take immediate action to stop or prevent any release from the system; b) take steps in accordance with the Department-approved Contingency Plan incorporated by reference into this Permit to clean up any leaked or spilled material; and, c) immediately cease operation of the system and relocate any material stored within the system until the defect is repaired to the satisfaction of the Department.
- h. For any identified deterioration or malfunction of equipment or structures associated with a hazardous waste management unit which do not result in a release or create the potential for a release of hazardous waste from the unit's primary containment (i.e., defects other than those described in **Condition E.5** of this Module) or for situations where the waste has been removed from the primary containment unit in accordance with **Conditions E.7 or F** of this Module, except for specific defects where other Permit conditions or the regulations require repairs within other specified time periods, the Permittee must unless otherwise addressed in an alternate schedule approved by the Department, either:
  - a. Schedule and complete repairs to the defect within thirty (30) days from the date the defect was first identified;
  - b. Submit a proposed schedule for Department approval within seven (7) days from the date the defect was first identified, if it is anticipated that it will take longer than 30 days to complete repairs. The proposed schedule must include the date for completing the repairs which must be within six (6) months from the date when the defect was identified; or
  - c. The Permittee may request, and the Department may approve, extensions to the schedule provided the Permittee has adequately demonstrated that the extension is needed due to unforeseen circumstances or circumstances beyond the Permittee's

control and that the delay will not lead to an environmental or human health hazard.

F. RESPONSE TO LEAKS OR SPILLS AND DISPOSITION OF LEAKING OR UNFIT-FOR-USE HAZARDOUS WASTE TANK SYSTEMS [6 NYCRR 373-2.10(g)]

- a. A tank system or secondary containment system authorized by this Permit from which there has been a leak or spill, or which is unfit for use, must be removed from service immediately and the Permittee must take all action required in accordance with 6 NYCRR 373-2.10(g) and this Permit.
- b. With respect to notifications of releases to the environment, reporting must be in accordance with 6 NYCRR 373-2.10(g)(4) and **Module I** of this Permit.

G. CLOSURE AND POST-CLOSURE CARE [6 NYCRR 373-2.10(h)]

- a. At closure of a tank system authorized by this Permit, the Permittee must comply with the closure requirements in accordance with 6 NYCRR 373-2.10(h), 6 NYCRR 373-2.7 and this Permit, including the Department-approved Closure Plan provided as Attachment I of this Permit. For tank systems where the Department accepts the Permittee's demonstration in accordance with 6 NYCRR 373-2.10(h)(2), the Permittee must meet the closure and post-closure requirements of 6 NYCRR 373-2.14(g), 6 NYCRR 373-2.7(g) through (j), and this Permit, including a Department-approved modified Closure Plan and new or modified Post-Closure Plan provided as Attachment I of this Permit.

H. SPECIAL REQUIREMENTS FOR IGNITABLE OR REACTIVE WASTES [6 NYCRR 373-2.10(i)]

- a. The Permittee must manage all ignitable or reactive waste placed in tank systems authorized by this Permit in accordance with 6 NYCRR 373-2.10(i) and this Permit.

I. SPECIAL REQUIREMENTS FOR INCOMPATIBLE WASTES [6 NYCRR 373-2.10(j)]

- a. The Permittee must adhere to the special requirements for the management of incompatible waste in tank systems authorized by this Permit in accordance with 6 NYCRR 373-2.10(j) and this Permit.

J. AIR EMISSION STANDARDS [6 NYCRR 373-2.10(k)]

- a. The Permittee must manage all hazardous wastes placed in tank systems authorized by this Permit in accordance with 6 NYCRR 373-2.27, 373-2.28 and 373-2.29 as applicable and this Permit.

K. OTHER REQUIREMENTS

1. Tank System Process and Instrumentation Diagrams: The Permittee must operate and maintain all tank systems in accordance with the Department-approved Process & Instrumentation Diagrams (PIDs) provided in Attachment D2 of this Permit. The Permittee may replace tank system ancillary equipment (e.g., pipes, pumps, valves, etc.) without modification of this Permit or the above referenced PIDs, provided that the materials/components used are identical to the materials/components depicted on the referenced PIDs (e.g., 4-inch HDPE pipe to be replaced with 4-inch HDPE pipe, etc.). To replace tank system ancillary equipment with materials/components that are not identical to the materials/components depicted on the referenced PIDs (e.g., 4-inch HDPE pipe to be replaced with 4-inch steel pipe, etc.), the Permittee must submit the revised PID(s) along with information to support the equivalency of the replacement materials/components, and obtain Department approval of the revisions prior to implementing the replacement. At its discretion, the Department may review the revised PID(s) and grant verbal approval for such proposed replacements to allow implementation, which will be followed by a written approval. Revisions to PIDs that only involve replacement of existing tank system ancillary equipment, do not require modification of this Permit, unless the Department determines that a Permit modification is needed due to the nature and/or extent of the revisions. For revisions to PIDs that involve new, modified or replacement tanks or new additional ancillary equipment not depicted on the referenced PIDs, the Permittee must comply with all requirements specified by **Condition B** of this Module.
2. Electronically Operated Ancillary Equipment: The Permittee must perform annual testing of any electronically operated tank system interconnection and overflow prevention controls, and leak detection equipment, including but not limited to the following:
  - tank high level sensors and alarms;
  - interconnected tank valves and alarms;
  - pump disabling switches tied to tank high level sensors;
  - pump disabling switches tied to interconnected tank valves; and
  - leak detection sensors and alarms.

The testing must be conducted by manually simulating the condition each device is designed to detect, and observing to see if the designed reaction occurs. The Permittee must record the results of this testing in the operating record required by 6 NYCRR 373-2.5(c). If any device or its associated electronic system fails to function as designed, the Permittee must make all necessary repairs in accordance with 6 NYCRR 373-2.2(g)(3) and **Condition E** of this Module, and re-test the repaired system.



### 3. Independent Assessment of Tank Systems

- a. In addition to the inspections required by **Condition E** of this Module, the Permittee must have each tank system assessed by an independent, qualified, Professional Engineer registered in New York, or alternatively, by an independent, qualified inspector working under a registered New York State Professional Engineer. Each tank system must be independently assessed at a minimum of once every five (5) years as measured from the end of the calendar year of the tank system's most recent assessment, or as otherwise specified in **Schedule 1 of Module I** of this Permit. Each time a tank system is assessed, its next assessment shall be required to occur within five (5) calendar years of its most recent assessment.
- b. Each tank system assessment must entail an inspection of all visible tank system components including but not necessarily limited to the tank exterior, tank supports, piping, pumps, valves and any overflow prevention controls (tank system secondary containment must be inspected in accordance with **Condition E and K.4** of this Module). The tank system assessment also requires a visual inspection of the tank's interior for any tank(s) identified in **Schedule 1 of Module I** as requiring such additional assessment. Any tank(s) requiring an internal inspection must be completely emptied and cleaned to expose all internal tank surfaces for examination by the engineer/inspector. The engineer/inspector must identify and record all observed cracks, leaks, corrosion, interior coating defects (where applicable) and any other areas of deterioration that could affect the integrity of the tank system. For steel tanks, the engineer/inspector must also obtain ultrasonic thickness measurements of all accessible tank surfaces to determine the integrity of the tank shell.
- c. After each assessment, the engineer/inspector must report to the Permittee as specified in the schedule provided in **Schedule 1 of Module I** of this Permit any and all tank system defects identified during the assessment along with repair recommendations. The Permittee must repair all identified defects in accordance with the engineer's/inspector's recommendations and have the engineer/inspector verify the adequacy of the repairs. Any tank system that is found to be leaking or unfit for use by the engineer/inspector must be immediately removed from service and must not be returned to service until the Permittee obtains a certification of major repairs in accordance with 6 NYCRR 373-2.10(g) and this Permit.
- d. The engineer/inspector must prepare a detailed report for all tank systems that are assessed. For each tank system, the report must include a description of observations made during the visual inspection, the result of any ultrasonic thickness measurements taken of the tank shell and the engineer's/inspector's evaluation of these measurements, a description of any defects identified, and an evaluation of all repairs made by the Permittee. The annual report must also include a statement from the engineer/inspector which certifies that all repairs were made in accordance with the engineer's/inspector's recommendations and that all in-service tank systems assessed are capable of handling hazardous wastes

without release for the intended life of the system. This report must be submitted to the Department within 90 days of the assessment, unless the Department approves an extension of no greater than 30 days or as otherwise specified in **Schedule 1 of Module I**.

4. Independent Assessment of Tank Systems Secondary Containment
  - a. For the tank systems authorized by this Permit with secondary containment designed in accordance with 6 NYCRR 373-2.10(d)(4)(iii), assessments must be conducted in accordance with the schedule and conditions specified in **Condition B of Exhibit D in Schedule 1 of Module I**.
  
5. Precautions in Flammable & Oxidizer Waste Storage Areas: Machinery and equipment must not be permitted in flammable and oxidizer waste storage areas or any process area where a flammable atmosphere may exist unless it has been fitted with appropriate safeguard devices approved by Underwriters Laboratories (UL) to render the machinery/equipment intrinsically safe. Only non-sparking tools shall be used in these storage areas.

PART 373 PERMIT

MODULE VII - INCINERATORS

A. GENERAL

1. The Permittee is authorized to operate the incineration unit(s) included in **Schedule 1 of Module I** of this Permit for the treatment and destruction of hazardous wastes in accordance with the Hazardous Waste Combustors Maximum Achievable Control Technology (HWC-MACT) found at 40 CFR Part 63 Subpart EEE and incorporated by reference into the state regulations in accordance with 6 NYCRR Part 200.10.
2. In the event that the facility has multiple incineration units, the provisions of this Permit apply individually to each unit.
3. The Department may, based on a site-specific Risk Assessment, add terms and conditions to this Permit, in accordance with 6 NYCRR 621.13 if it is determined that the standards found at 6 NYCRR 373-2.15 or 374-1.8 are not sufficient to protect human health or the environment. These site-specific conditions, if applicable, are included in **Schedule 1 of Module I** of this Permit.

B. WASTE ANALYSIS [6 NYCRR 373-2.15(b) and 374-1.8(c)(2)]

1. The wastes fed to the incineration unit(s) authorized under this Permit must conform to that approved by the Department as presented in the facility's Waste Analysis Plan (WAP), which is incorporated by reference into this Permit by **Condition B of Schedule 1 of Module I**. No other materials may be fed into the incineration unit(s) authorized by this Permit, except as noted at 6 NYCRR 373-2.15(e)(1).
2. The waste streams (including fuel) fed to the incineration unit(s) authorized by this Permit must be sampled and analyzed per the facility's WAP, which is incorporated by reference into this Permit by **Condition B of Schedule 1 of Module I**.
3. The Permittee must ensure that each waste stream that is fed to the incineration unit(s) authorized by this Permit meets the requirements of 6 NYCRR 376.1(c)(3) at the point of generation.

C. TRIAL BURN/COMPREHENSIVE PERFORMANCE TEST (CPT) AND RISK ASSESSMENT (RA)

1. If determined necessary by the Department, a RA protocol is to be prepared in accordance with relevant State and federal guidance and standards. The RA protocol is to be based on the most recent EPA methodology, using the most recent meteorological dispersion modeling program (currently AERMOD), and is due to the Department for review and approval within 30 days of the Trial Burn/CPT Plan submission.

2. Once the Department approves the RA protocol, the Permittee shall conduct the Trial Burn/CPT and prepare the RA (using emission rates derived from the Trial Burn/CPT). The Permittee must prepare the RA according to the timeframes presented in the Department-approved CPT Plan.
3. The RA report must demonstrate that the proposed operating limits will comply with applicable performance and health risk standards.
4. The RA protocol and RA reports must include sufficient supporting information as determined by the Department. Failure to provide any requested information in a timely manner which is reasonably necessary for the Department to make required findings or determinations may be grounds for denial or revocation of this Permit.
5. All updates to the Department-approved RA Protocol must be performed in accordance with all applicable State or federal regulations, guidance and standards.
6. All analytical work must be performed by a New York State Department of Health Environmental Laboratory Accreditation Program (ELAP) certified laboratory.
7. All test protocols (e.g., air modeling) must utilize current State or federal methods, unless alternative protocols are approved by the Department.

D. CLOSURE [6 NYCRR 373-2.15(h), 374-1.8(c)(5)(xi) and 6 NYCRR 373-2.7]

1. The Permittee must close the incineration unit(s) authorized by this Permit and all associated equipment in accordance with 6 NYCRR 373-2.15(h) or 374-1.8(c)(5)(xi), 6 NYCRR 373-2.7, and this Permit, including the Department-approved Closure Plan and/or Post-Closure Plan provided as Attachment I of this Permit.
2. The Permittee must notify the commissioner at least 45 days prior to the date the Permittee expects to begin closure or partial closure of the incinerator unit(s) authorized by this Permit, as required by 6 NYCRR 373-2.7(c)(4)(i) and this Permit.
3. Within 90 days after receiving the final volume of hazardous wastes, the Permittee must treat and dispose of all hazardous wastes and waste residues generated by the incineration unit(s) authorized by this Permit, including but not limited to, ash, scrubber water and scrubber sludge and complete the closure activities in accordance with 6 NYCRR 373-2.7(d) and this Permit, including **Schedule 1 of Module I**.
4. Unless the Permittee can demonstrate, in accordance with 6 NYCRR 371.1(d)(4) that the residue removed from the incineration unit(s) and ancillary equipment is not a hazardous waste, the Permittee becomes a generator of hazardous waste and must manage it in accordance with all applicable requirements of 6 NYCRR Parts 372 through 374 and 376.