

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

In the Matter of:	)	Docket No. TSCA-05-2025-0026
	)	
	)	
LK Technologies, Inc.,	)	Proceeding to Assess a Civil Penalty
Maple Heights, Ohio	)	Under Section 16(a) of the Toxic Substances
	)	Control Act, 15 U.S.C. § 2615(a)
	)	
Respondent	)	
<hr/>	)	

**Consent Agreement and Final Order**  
**Preliminary Statement**

1. This is an administrative action commenced and concluded under Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), and Sections 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules) as codified at 40 C.F.R. Part 22.
2. The Complainant is the Director of the Enforcement and Compliance Assurance Division, United States Environmental Protection Agency (EPA), Region 5.
3. The Director of the Enforcement and Compliance Assurance Division is, by lawful delegation, authorized to institute and settle civil administrative actions brought pursuant to Section 16(a) of the TSCA, 15 U.S.C. § 2615(a).
4. LK Technologies, Inc., d.b.a. The Gordon Glass Company, (Respondent) is a corporation formed in the State of Ohio.

5. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

6. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

7. Respondent consents to the assessment of the civil penalty specified in this CAFO, and to the terms of this CAFO.

### **Jurisdiction and Waiver of Right to Hearing**

8. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

9. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO. Respondent waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the final order accompanying the consent agreement.

### **Statutory and Regulatory Background**

10. Section 6(a) of TSCA, 15 U.S.C. § 2605(a), provides that if EPA determines that the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance or mixture presents an unreasonable risk of injury to health or the environment, EPA shall issue a rule establishing requirements to eliminate the unreasonable risk. *See* 15 U.S.C. § 2605(a).

11. Pursuant to Section 6(a) of TSCA, on March 27, 2019, EPA promulgated the Methylene Chloride Rule to address the risk of acute lethality presented by methylene chloride in paint and coating removal consumer products. *See* 40 C.F.R. Part 751.101 *et seq.*

12. The Methylene Chloride Rule prohibits “all retailers . . . from distributing in commerce methylene chloride, including any methylene chloride-containing products, for paint and coating removal” after November 22, 2019. 40 C.F.R. § 751.105(c).

13. “Retailer” as defined in 40 C.F.R. § 751.103 means “a person who distributes in commerce or makes available a chemical substance or mixture to consumer end users, including e-commerce internet sales or distribution. Any distributor with at least one consumer end user customer is considered a retailer. A person who distributes in commerce or makes available a chemical substance or mixture solely to commercial or industrial end users or solely to commercial or industrial businesses is not considered a retailer.”

14. “Person” as defined in 40 C.F.R. § 751.5 means “any natural person, firm, company, corporation, joint venture, partnership, sole proprietorship, association, or any other business entity; any State or political subdivision thereof; any municipality; any interstate body; and any department, agency, or instrumentality of the Federal government.”

15. “Distribute in commerce” as defined in 40 C.F.R. § 751.103 has the same meaning as in Section 3 of TSCA, 15 U.S.C. § 2602. The definition under Section 3 of TSCA is “to sell, or the sale of, the substance, mixture, or article in commerce; to introduce or deliver for introduction into commerce, or the introduction or delivery for introduction into commerce of, the substance, mixture, or article; or to hold, or the holding of, the substance, mixture, or article after its introduction into commerce.” 15 U.S.C. § 2602(5).

16. The term “chemical substance” means “any organic or inorganic substance of a particular molecular identity including any combination of such substances occurring in whole or in part as a result of a chemical reaction or occurring in nature, and any chemical element or uncombined radical.” 15 U.S.C. § 2602(2)(A).

17. “Paint and coating removal” as defined in 40 C.F.R. § 751.103 means “application of a chemical or use of another method to remove, loosen, or deteriorate any paint, varnish, lacquer, graffiti, surface protectants, or other coating from a substrate, including objects, vehicles, architectural features, or structures.”

18. Section 15 of TSCA, 15 U.S.C. § 2614, makes it a prohibited act for any person to fail or refuse to comply with any requirement of TSCA or any rule promulgated, order issued, or consent agreement entered into under this title.

19. Section 16 of TSCA, 15 U.S.C. § 2615, states that any person who violates a provision of Section 15 of TSCA, 15 U.S.C. § 2614, shall be liable to the United States for a civil penalty. The Administrator of EPA may assess a civil penalty of up to \$49,772 per day per violation for violations that occurred after November 2, 2015, where penalties are assessed on or after January 8, 2025 pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, and 40 C.F.R. Part 19.

### **Factual Allegations and Alleged Violations**

20. From at least May 3, 2021, to the present, Respondent was a “person” as that term is defined at 40 C.F.R. § 751.5.

21. At all times relevant to this CAFO, Respondent operated an e-commerce business in which it offered for sale a product called Zenex ZenaPower Gel Super Vandalism, Gasket and Paint Remover.

22. Zenex ZenaPower Gel Super Vandalism, Gasket and Paint Remover contains methylene chloride.

23. Methylene chloride is an organic substance which contains carbon and hydrogen bonds.

24. Methylene chloride is a “chemical substance” as the term is defined by Section 3(2) of TSCA, 15 U.S.C. § 2602(2)(A).

25. Between May 3, 2021, and July 7, 2023, on four occasions, Respondent sold Zenex ZenaPower Gel Super Vandalism, Gasket and Paint Remover, a methylene chloride-containing product, in commerce.

26. On each of the four occasions referenced in paragraph 25, above, Respondent sold its methylene chloride-containing product for application of methylene chloride or use of another method to remove paint as indicated by the product name, Zenex ZenaPower Gel Super Vandalism, Gasket and Paint Remover.

27. As referenced in paragraph 25, above, Respondent “distributed in commerce” Zenex ZenaPower Gel Super Vandalism, Gasket and Paint Remover.

28. As referenced in paragraph 25, above, Respondent was a “retailer.”

29. Respondent’s distribution in commerce on four occasions of a methylene chloride-containing product between May 3, 2021, and July 7, 2023, constitutes four separate violations of Section 15(1) of TSCA, 15 U.S.C. § 2614(1) and 40 C.F.R. § 751.105(c).

### **Civil Penalty**

30. Complainant has determined that an appropriate civil penalty to settle this action is \$100,000 for the TSCA violations identified above. The civil penalty is based upon consideration of the statutory factors set forth in Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B). EPA also considered its Interim Consolidated Enforcement Response and Penalty Policy (CERPP) for the TSCA New and Existing Chemicals Program and 40 C.F.R. Part 19.

31. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on

the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

32. When making a payment, Respondent shall:

a. Identify every payment with Respondent's name and the docket number of this CAFO, TSCA-05-2025-0026,

b. Concurrently with any payment or within 24 hours of any payment,

Respondent shall serve proof of such payment to the following person(s):

Regional Hearing Clerk (E-19J)  
U.S. EPA, Region 5  
[r5hearingclerk@epa.gov](mailto:r5hearingclerk@epa.gov)

Nora Wells (C-14J)  
Office of Regional Counsel  
U.S. EPA, Region 5  
[wells.nora@epa.gov](mailto:wells.nora@epa.gov)

Claudia Niess (ECP-17J)  
Pesticides and Toxics Compliance Section  
U.S. EPA, Region 5  
[niess.claudia@epa.gov](mailto:niess.claudia@epa.gov)  
and  
[R5LE CAB@epa.gov](mailto:R5LE CAB@epa.gov)

U.S. Environmental Protection Agency  
Cincinnati Finance Center  
Via electronic mail to:  
[CINWD\\_AcctsReceivable@epa.gov](mailto:CINWD_AcctsReceivable@epa.gov)

“Proof of payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent's name.

33. Interest, Charges, and Penalties on Late Payments. Pursuant to 15 U.S.C. § 2615, 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay any portion of the Assessed Penalty per this Agreement, the entire unpaid balance of the Assessed Penalty and all accrued interest shall become immediately due and owing, and EPA is authorized to recover the following amounts.

- a. Interest. Interest begins to accrue from the Filing Date. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. To protect the interests of the United States the rate of interest is set at the IRS large corporate underpayment rate, any lower rate would fail to provide Respondent adequate incentive for timely payment.
- b. Handling Charges. Respondent will be assessed monthly a charge to cover EPA's costs of processing and handling overdue debts. If Respondent fails to pay the Assessed Penalty in accordance with this Agreement, EPA will assess a charge to cover the costs of handling any unpaid amounts for the first thirty (30) day period after the Filing Date. Additional handling charges will be assessed every thirty (30) days, or any portion thereof, until the unpaid portion of the Assessed Penalty as well as any accrued interest, penalties, and other charges are paid in full.
- c. Late Payment Penalty. A late payment penalty of six percent (6%) per annum, will be assessed monthly on all debts, including any portion of the

Assessed Penalty, interest, and other charges, that remain delinquent more than ninety (90) days.

34. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this CAFO, EPA may take additional actions. Such actions EPA may take include, but are not limited to, the following.

- a. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.
- b. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H.
- c. Suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, 40 C.F.R. § 13.17.
- d. Per 15 U.S.C. § 2615(a), the Attorney General will bring a civil action in the appropriate district court to recover the full remaining balance of the debt plus interest. In such an action, the validity, amount, and appropriateness of the Assessed Penalty shall not be subject to review.

35. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late



penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.

36. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this CAFO shall not be deductible for purposes of federal taxes.

37. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service (“IRS”) annually, a completed IRS Form 1098-F (“Fines, Penalties, and Other Amounts”) with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor’s violation of any law or the investigation or inquiry into the payor’s potential violation of any law, including amounts paid for “restitution or remediation of property” or to come “into compliance with a law.” EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number (“TIN”), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires, and Respondent herein agrees, that:

- a. Respondent shall complete an IRS Form W-9 (“Request for Taxpayer Identification Number and Certification”), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
- b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent’s correct TIN or that Respondent has applied and is waiting for issuance of a TIN;

- c. Respondent shall email its completed Form W-9 to Milton Wise at EPA's Cincinnati Finance Center at [wise.milton@epa.gov](mailto:wise.milton@epa.gov), within 30 days after the effective date of this CAFO, and EPA recommends encrypting IRS Form W-9 email correspondence; and
- d. In the event that that Respondent has certified in its completed IRS Form W-9 that it does not yet have a TIN but has applied for a TIN, Respondents shall provide EPA's Cincinnati Finance Center with Respondent's TIN, via email, within five (5) days of Respondent's receipt of a TIN issued by the IRS.

### **General Provisions**

38. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: [wells.nora@epa.gov](mailto:wells.nora@epa.gov) (for Complainant) and [efriedman@gertsburglicata.com](mailto:efriedman@gertsburglicata.com) (for Respondent).

39. This CAFO resolves all liability of Respondent and its owners, shareholders, directors, and officers for federal civil penalties for the violations alleged in the CAFO.

40. This CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any other violations of law.

41. This CAFO does not affect Respondent's responsibility to comply with TSCA and other applicable federal, state and local laws.

42. This CAFO is a "final order" for purposes of EPA's Interim CERPP for the TSCA New and Existing Chemicals Program.


43. The terms of this CAFO bind Respondent, its successors and assigns.

44. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

45. Each party agrees to bear its own costs and attorney's fees in this action.
46. This CAFO constitutes the entire agreement between the parties.
47. The effective date for this CAFO is the date it is filed with the Regional Hearing Clerk.

**LK Technologies, Inc., Respondent**

July 31/2025  
Date

  
Gregory Kogan  
President  
LK Technologies, Inc.

**United States Environmental Protection Agency, Complainant**

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Date

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Carolyn Persoon  
Acting Division Director  
Enforcement and Compliance Assurance Division  
U. S. Environmental Protection Agency, Region 5

**In the Matter of:  
LK Technologies, Inc.  
Docket No. TSCA-05-2025-0026**

**Final Order**

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Ann L. Coyle  
Regional Judicial Officer  
United States Environmental Protection Agency  
Region 5