

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III**

Philadelphia, Pennsylvania 19103

In the Matter of:	:	
	:	
Voith Hydro, Inc.	:	U.S. EPA Docket No. RCRA-03-2022-0034
760 E. Berlin Road	:	
York, PA 17408	:	Proceeding under Section 3008(a) and (g)
	:	of the Resource Conservation and Recovery
Respondent and Facility.	:	Act, as amended, 42 U.S.C. § 6928(a) and (g)
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CONSENT AGREEMENT

PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III (“Complainant”) and Voith Hydro, Inc. (“Respondent”) (collectively the “Parties”), pursuant to Section 3008(a) and (g) of the Solid Waste Disposal Act, commonly known as the Resource Conservation and Recovery Act of 1976, as amended by *inter alia*, the Hazardous and Solid Waste Amendments of 1984 (collectively referred to hereinafter as “RCRA”), 42 U.S.C. § 6928(a) and (g), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. Part 22. Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), authorizes the Administrator of the U.S. Environmental Protection Agency to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated the authority to enter into consent agreements to the Complainant. This Consent Agreement and the attached Final Order resolve Complainant’s civil penalty claims against Respondent under the Resource Conservation and Recovery Act (“RCRA” or the “Act”) for the violations alleged herein.
2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

JURISDICTION

3. The U.S. Environmental Protection Agency has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.

4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(4).
5. In accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), and by written letter dated August 24, 2020, EPA notified the Pennsylvania Department of Environmental Protection (“PADEP”) of EPA’s intent to commence this administrative action against Respondent in response to the violations of RCRA Subtitle C that are alleged herein.

GENERAL PROVISIONS

6. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.
7. Except as provided in Paragraph 6, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.
8. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this Consent Agreement and Final Order.
9. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and Final Order and waives its right to appeal the accompanying Final Order.
10. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
11. Respondent shall bear its own costs and attorney’s fees in connection with this proceeding.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

12. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.
13. The Commonwealth of Pennsylvania has received federal authorization to administer a Hazardous Waste Management Program (the “Pennsylvania Hazardous Waste Management Program”) in lieu of the federal hazardous waste management program established under RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g. Effective January 30, 1986, the Commonwealth of Pennsylvania Hazardous Waste Regulations were authorized by EPA pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, Subpart A. The Commonwealth of Pennsylvania has revised, and EPA has re-

authorized, the Commonwealth of Pennsylvania Hazardous Waste Regulations several times subsequent to this original authorization. The most recent authorized (revised) regulations became effective on June 29, 2009 (74 Fed. Reg. 19453). The provisions of the current authorized (revised) Commonwealth of Pennsylvania Hazardous Waste Management Regulations, codified at 25 Pa. Code Chapters 260a-266a, 266b, and 268a-270a (“PAHMWR”), have thereby become requirements of RCRA Subtitle C and are enforceable by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

14. When EPA last authorized the Pennsylvania hazardous waste regulations on June 29, 2009, EPA approved Pennsylvania’s incorporation by reference of the federal regulations which were in effect as of October 12, 2005, including, among other things, incorporation of 40 C.F.R. § 262.34 (Accumulation Time, which lists the requirements for the generator permit exemption). As a result, 40 C.F.R. § 262.34 (2005) is the currently federally enforceable version of that RCRA regulation in Pennsylvania. On November 28, 2016, EPA re-codified the generator permit exemption, effective on May 30, 2017. The federal requirements previously found in 40 C.F.R. § 262.34 are now re-codified at 40 C.F.R. §§ 262.15 – 262.17. The Code of Federal Regulation citations to Parts 260-265 used herein are to the 2005 Federal regulation
15. 25 Pa. Code § 260a.1, which incorporates by reference 40 C.F.R. § 260.10, defines “generator” as any person whose act or process produces hazardous waste identified or listed in 40 C.F.R. Part 261 or whose act first causes a hazardous waste to become subject to regulation.
16. 25 Pa. Code § 260a.1, which incorporates by reference 40 C.F.R. § 260.10, defines “owner” as the person who owns a facility or part of a facility.
17. 25 Pa. Code § 260a.1, which incorporates by reference 40 C.F.R. § 260.10, define “operator” as the person responsible for the overall operation of a facility.
18. 25 Pa. Code § 260a.10 defines “person” as, *inter alia*, a corporation.
19. 25 Pa. Code § 260a.1, which incorporates by reference 40 C.F.R. § 260.10, defines “hazardous waste” as that term is defined in 40 C.F.R. § 261.3.
20. 25 Pa. Code § 260a.10 defines “facility” as “[t]he land, structures and other appurtenances or improvements where municipal or residual waste disposal or processing is permitted or takes place, or where hazardous waste is treated, stored, or disposed.”
21. Respondent is a privately owned multi-national corporation with locations throughout the United States, including the Facility. Respondent is now, and was at the time of the violations alleged herein, a “person” as that term is defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

22. Respondent's facility is located at 760 E. Berlin Road, York, PA 17408 ("Facility"), and is further described below.
23. Respondent's Facility is a large quantity generator of hazardous waste. Respondent does not have and has not applied for a treatment, storage or disposal permit under RCRA Subtitle C. The Facility manufactures and refurbishes hydroelectric power turbines and turbine parts.
24. On April 24 and 25, 2019, Respondent stored hazardous waste at a "facility," as that term is defined in 40 C.F.R. § 260.10.
25. On April 24 and 25, 2019, Respondent was the "operator" and the "owner" of a "facility," described in Paragraphs 22 and 23, as the term "facility" is defined in 40 C.F.R. § 260.10, and as the terms "owner" and "operator" are defined in 40 C.F.R. § 260.10, as incorporated by reference in 25 Pa. Code § 260a.10.
26. At all times relevant to the allegations set forth in this CA, Respondent is, and has been, a "generator" of, and has engaged in the accumulation in "containers" at the Facility of materials described below that are "solid wastes" and "hazardous wastes," as those terms are defined in 40 C.F.R. § 260.10, as incorporated by reference in 25 Pa. Code § 260a.10.
27. On April 24-25, 2019, inspectors from the U.S. Environmental Protection Agency, Region III ("EPA") conducted a Compliance Evaluation Inspection at the Facility ("Inspection"), to examine the Facility's compliance with Subtitle C of RCRA, as amended, 42 U.S.C. §§ 6901 et seq., the federal hazardous waste regulations set forth at 40 C.F.R. Parts 260-266, 268 and 270-273, and the authorized Pennsylvania Hazardous Waste Management Regulations, 25 Pa. Code Ch. 260a-266a, 266b, 268a and 270a.
28. To gather additional information about the issues raised during the Inspection, and to request documents, EPA sent an information request letter to Respondent, dated September 12, 2019, pursuant to Section 3007(a) of RCRA, 42 U.S.C. § 6927(a). Respondent responded to this request in a letter dated October 9, 2019.
29. On the basis of EPA's findings during the Inspection and other information provided by Respondent to EPA, EPA concludes that Respondent has violated certain requirements and provisions of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, and certain federally-authorized PAHMWR requirements promulgated thereunder.

Count I
Operating a Without a Permit

30. The information in the preceding Paragraphs is incorporated herein by reference, as though fully set forth at length.
31. Pursuant to Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and 25 Pa.

Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), no person may own or operate a facility for the treatment, storage or disposal of hazardous waste without first obtaining a permit or interim status for such facility, unless they meet the exemption conditions found in the regulations.

32. 25 Pa. Code § 262a.10 incorporates by reference 40 C.F.R. § 262.34(a), which, provides:

[A] generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that:

(1) The waste is placed: (i) In containers and the generator complies with the applicable requirements of subparts I, AA, BB, and CC of 40 CFR part 265;

* * *

(2) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;

(3) While being accumulated on-site, each container and tank is labeled or marked clearly with the words, "Hazardous Waste," and

(4) The generator complies with the requirements for owners or operators in Subparts C and D in 40 CFR part 265, with §265.16, and with 40 CFR 268.7(a)(5).

33. The Facility did not qualify for such exemption because of its failure to comply with certain applicable exemption conditions for its management of hazardous waste.

34. At the time of the Inspection, the following acts or omissions prevented Voith from meeting the regulatory permit exemption requirements:

- a. Failure to date and label containers with the words "Hazardous Waste" as identified during EPA's Inspection that identified four containers of hazardous waste that were not properly labeled;
- b. Failure to comply with the Part 265 subpart I requirement to keep hazardous waste containers closed, as described in Count II below;
- c. Failure to comply with Part 265 Subpart CC Container Requirements, as described in Count III below; and
- d. Failure to comply with the requirements of 265 C.F.R. § 265.16 to provide annual hazardous waste training, as described in Count IV below.

35. Voith was required by 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), to obtain a permit for the hazardous waste storage activities described in this count.
36. At the time of the Inspection, Voith violated 25 Pa. Code § 270a.1, 40 C.F.R. § 270.1(b) and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), by operating a hazardous waste storage facility without a permit, interim status or a valid exemption to the permit requirement.

Count II
Failure to Keep Containers Closed During Storage

37. The information in the preceding Paragraphs is incorporated herein by reference, as though fully set forth at length.
38. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.173(a), (pertaining to “Management of Containers”), provides: “A container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.”
39. EPA observed an open cubic yard supersack container of sandblast dust located in the Sandblast Vacuum Area. The container was open at a time when it was not necessary to add or remove waste. The container was dated and labeled with the words “Hazardous Waste.” The Facility determined the sandblast dust waste to be a characteristic (D008) hazardous waste due to its lead content.
40. EPA observed two open 55-gallon containers of solvent-based hazardous waste that was generated from the Facility’s paint booth operation. The containers were dated, labeled with the words “Hazardous Waste”, and labeled with the following waste codes: D001, F003, and F005. The containers of waste paint and thinners were fitted with level probes, which were observed to be loose during the CEI. At the time of the observation, it was not necessary to add or remove waste to either container. According to Facility personnel, the level probes are used on the liquid hazardous waste paint containers to monitor the level of waste in the containers.
41. Failure to keep the three containers of hazardous waste closed is a violation of 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.173(a).

Count III
Failure to Comply with Subpart CC Container Requirements

42. The information in the preceding Paragraphs is incorporated herein by reference, as though fully set forth at length.
43. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.1086(c)(ii), requires that containers with a capacity of 0.1 m³ that contain VOC hazardous waste must

be equipped with a cover that forms a continuous barrier over the container openings such that when the cover and closure devices are secured in the closed position, there are no visible holes, gaps, or other open spaces into the interior of the container.

44. EPA observed two open 55-gal containers of hazardous waste paint and thinners that was generated from the paint booth operations. The containers were labeled with the words “Hazardous Waste”, and with the waste codes: D001, F003, and F005. Also, the containers were fitted with level probes, which were observed to be loose during the CEI.
45. Respondent indicated that each container had a capacity of 0.2 m³.
46. Facility operators indicated that the level probes were loose because they did not fit the drum holes properly.
47. Failure to keep the two containers of hazardous waste closed with the required cover is a violation of 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.1086(c)(ii).

Count IV

Failure to Provide Annual Hazardous Waste Refresher Training

48. The information in the preceding Paragraphs is incorporated herein by reference, as though fully set forth at length.
49. Failure to provide annual refresher hazardous waste training for employees that manage hazardous waste is a violation of 25 Pa. Code § 264a.1, which in turn references 40 C.F.R. § 264.16(c). 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.16(a)(1) and (c), (pertaining to “Personnel Training”), requires the owner or operator of a hazardous waste facility to provide initial hazardous waste training and annual refresher training to each person employed in a position related to hazardous waste management.
50. Based on the Inspection and other information, EPA determined that Respondent did not provide annual hazardous waste training to 4 employees in 2016, 4 employees in 2017, and 5 employees in 2018. The Facility also failed to train its emergency coordinators who were listed in its contingency plan.
51. The Facility’s failure to provide the required refresher hazardous waste training as noted above is a violation of 25 Pa. Code § 264a.1, which in turn references 40 C.F.R. § 264.16(c).

Count V

Failure to Retain Treatment Storage and Disposal (“TSD”) signed Copies of Manifests or File Exception Reports

52. The information in the preceding Paragraphs is incorporated herein by reference, as

though fully set forth at length.

53. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. §§ 262.40(a), 262.42(a)(2) requires, among other things, maintaining copies of TSD hazardous waste manifests or submit exception reports, as applicable.
54. Based on the information provided during and after the Inspection, the Respondent failed to retain a TSD-signed copy of hazardous waste manifest #006089034SKS dated 5/30/18 or submit an exception report in accordance with 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.42(a)(2).
55. Failure to retain a TSD-signed copy of a hazardous waste manifest or submit an exception report is a violation of 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. §§ 262.40(a), 262.42(a)(2).

Count VI
Failure to Make Hazardous Waste Determination

56. The information in the preceding Paragraphs is incorporated herein by reference, as though fully set forth at length.
57. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.11, requires hazardous waste determinations by a generator.
58. During the Inspection, Respondent stated that personal protective equipment (“PPE”), paint booth filters, and rags generated from paint booth operations are discarded in the regular trash. Additionally, EPA inspectors observed that used paint containers that contained paint residues are discarded in the regular trash, and the paint waste is determined by the Respondent to be a characteristic D001 flammable waste, and a listed F003 (I) and F005 (I,T) hazardous waste.
59. Based on the observations made during the Inspection and from follow-up information gathering, Respondent failed to make a hazardous waste determination for its PPE, paint booth filters, rags, and used paint containers that are discarded in the regular trash in accordance with 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.11.

CIVIL PENALTY

60. In settlement of EPA’s claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of **FORTY-ONE THOUSAND DOLLARS (\$41,000)**, which Respondent shall be liable to pay in accordance with the terms set forth below.
61. The civil penalty is based upon EPA’s consideration of a number of factors, including the penalty criteria (“statutory factors”) set forth in Section 3008(a)(3) of RCRA, 42 U.S.C.

§ 6928(a)(3), including, the following: the seriousness of the violation and any good faith efforts to comply with the applicable requirements. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's October, 1990 RCRA Civil Penalty Policy, as revised in June 2003 ("RCRA Penalty Policy"), which reflect the statutory penalty criteria and factors set forth at Section 3008(a)(3) and (g) of RCRA, 42 U.S.C. §§ 6928(a)(3) and (g), the appropriate Adjustment of Civil Monetary Penalties for Inflation, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA's civil penalty policies to account for inflation.

62. Payment of the civil penalty amount, and any associated interest, administrative fees, and late payment penalties owed, shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:

- a. All payments by Respondent shall include reference to Respondent's name and address, and the Docket Number of this action, *i.e.*, EPA Docket No. RCRA-03-2022-0034;
- b. All checks shall be made payable to the "United States Treasury";
- c. All payments made by check and sent by regular mail shall be addressed and mailed to:

U.S. Environmental Protection Agency
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

- d. For additional information concerning other acceptable methods of payment of the civil penalty amount see:

<https://www.epa.gov/financial/makepayment>

- e. A copy of Respondent's check or other documentation of payment of the penalty using the method selected by Respondent for payment shall be sent by electronic mail, simultaneously to:

Regional Hearing Clerk
R3_Hearing_Clerk@epa.gov

and

Douglas Frankenthaler
Assistant Regional Counsel
U.S. EPA, Region III (3RC40)
frankenthaler.douglas@epa.gov

63. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment of the penalty as specified herein shall result in the assessment of late payment charges including interest, penalties and/or administrative costs of handling delinquent debts.
64. Payment of the civil penalty is due and payable immediately upon receipt by Respondent of a true and correct copy of the fully executed and filed Consent Agreement and Final Order. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed EPA by Respondent in accordance with 40 C.F.R. § 13.9(a).
65. INTEREST: In accordance with 40 C.F.R § 13.11(a)(1), interest on the civil penalty assessed in this Consent Agreement and Final Order will begin to accrue on the date that a copy of the fully executed and filed Consent Agreement and Final Order is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalties that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R § 13.11(a).
66. ADMINISTRATIVE COSTS: The costs of the EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives – Case Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
67. LATE PAYMENT PENALTY: A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
68. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.

GENERAL SETTLEMENT CONDITIONS

69. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement and Final Order will be available to the public and represents that, to the best

of Respondent's knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.

70. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Consent Agreement and Final Order, including information about respondent's ability to pay a penalty, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

CERTIFICATION OF COMPLIANCE

71. Respondent certifies to EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is in compliance with regard to the violations alleged in this Consent Agreement.

OTHER APPLICABLE LAWS

72. Nothing in this Consent Agreement and Final Order shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This Consent Agreement and Final Order does not constitute a waiver, suspension or modification of the requirements of the RCRA, or any regulations promulgated thereunder.

RESERVATION OF RIGHTS

73. This Consent Agreement and Final Order resolves only EPA's claims for civil penalties for the specific violation[s] alleged against Respondent in this Consent Agreement and Final Order. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. This settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice, 40 C.F.R. § 22.18(c). EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this Consent Agreement and Final Order after its

effective date.

EXECUTION /PARTIES BOUND

74. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and Final Order.

EFFECTIVE DATE


75. The effective date of this Consent Agreement and Final Order is the date on which the Final Order, signed by the Regional Administrator of EPA, Region III, or his/her designee, the Regional Judicial Officer, is filed along with the Consent Agreement with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

ENTIRE AGREEMENT

76. This Consent Agreement and Final Order constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this Consent Agreement and Final Order.

For Respondent: **Voith Hydro, Inc., 760 E. Berlin Road, York, PA 17408**

Date: October 30, 2021

By: 

John Seifarth
Senior Vice President &
Chief Operating Officer

For the Complainant: **U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION III**

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

Date: _____ By: _____

Karen Melvin
Director, Enforcement and Compliance Division
U.S. EPA – Region III
Complainant

Attorney for Complainant:

Date: _____ By: _____

Douglas Frankenthaler
Assistant Regional Counsel
U.S. EPA – Region III

In the Matter of Voith Hydro, Inc., Docket No. RCRA-03-2022-0034

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103**

In the Matter of:	:	
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Voith Hydro, Inc.	:	U.S. EPA Docket No. RCRA-03-2022-0034
760 E. Berlin Road	:	
York, PA 17408	:	Proceeding under Section 3008(a) and (g)
	:	of the Resource Conservation and Recovery
Respondent and Facility.	:	Act, as amended, 42 U.S.C. § 6928(a) and (g)
	:	

FINAL ORDER

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III, and Respondent, Voith Hydro, Inc., have executed a document entitled “Consent Agreement,” which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. Part 22 (with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA’s 1990 RCRA Civil Penalty Policy, as revised in June, 2003 (“RCRA Penalty Policy”), and the statutory factors set forth at Section 3008(a)(3) and (g) of RCRA, 42 U.S.C. §§ 6928(a)(3) and (g).

NOW, THEREFORE, PURSUANT TO Section 3008(a) and (g) of the Resource Conservation and Recovery Act (“RCRA” or the “Act”), as amended, 42 U.S.C. § 6928(a) and (g), and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of FORTY-ONE THOUSAND DOLLARS (\$41,000.00), in accordance with the payment provisions set forth in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Consent Agreement and does not waive, extinguish or otherwise affect Respondent’s obligation to comply with all applicable provisions

of RCRA and the regulations promulgated thereunder.

The effective date of the attached Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

Date: _____

By: _____

Joseph J. Lisa
Regional Judicial and Presiding Officer
U.S. EPA Region III