

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



In the Matter of: :
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:
SPS Technologies, LLC : **U.S. EPA Docket No. RCRA-03-2023-0141**
301 Highland Avenue :
Jenkintown, PA 19046 : **Proceeding under Section 3008(a) and (g) of the**
: **Resource Conservation and Recovery Act, 42**
Respondent. : **U.S.C. Section 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 SPS Technologies, LLC (“Respondent”) (collectively the “Parties”), 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 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)(1) of RCRA, 42 U.S.C. Section 6928(a)(1), 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 agreements concerning administrative penalties to the Complainant. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the “Consent Agreement and Final Order”) resolve Complainant’s civil penalty claims against Respondent under RCRA 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 (“EPA”) 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. EPA has given the Commonwealth of Pennsylvania, through the Pennsylvania Department of Environmental Protection (“PADEP”), prior notice of the initiation of this action in accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

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), implemented through the Pennsylvania Hazardous Waste Management Regulations ("PAHWMR"), in lieu of the federal hazardous waste management program authorized under RCRA Subtitle C, 42 U.S.C. §§6921 – 6939 (g). Effective January 30, 1986, the Pennsylvania Hazardous Waste Management Program was authorized by the EPA pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, Subpart A, and the PAHWMR thereby became requirements of RCRA Subtitle C and enforceable by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a). *See* 51 *Fed. Reg.* 1791 (January 15, 1986), 65 *Fed. Reg.* 57734 (September 26, 2000), 69 *Fed. Reg.* 2674 (January 20, 2004) and 74 *Fed. Reg.* 19453 (April 29, 2009). EPA authorized the PAHWMR that incorporate, with certain exceptions, specific provisions of Title 40 of Code of Federal Regulations by reference that were in effect as of October 12, 2005.
14. Respondent is, and at all times relevant to the violations alleged herein was, a corporation organized under the laws of the Commonwealth of Pennsylvania.

15. Respondent is, and at all times relevant to the violations alleged herein was, a “person” as that term is defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and 25 Pa. Code § 260a.10.
16. Respondent’s facility is located at 301 Highland Avenue, Jenkintown, PA 19046 (the “Facility”). The Facility is primarily a manufacturer of specialty fasteners made for airplanes of private and government entities.
17. Respondent is, and at all times relevant to the violations alleged herein was, the “owner” and “operator” of the Facility as the terms are defined in 40 C.F.R. § 260.10 and 25 Pa. Code § 260a.1.
18. At all times relevant to the violations alleged herein, Respondent’s Facility is, and has been, a hazardous waste storage “facility” as that term is defined in 40 C.F.R. § 260.10 and 25 Pa. Code § 260a.1.
19. PADEP assigned Respondent RCRA Generator ID No. PAD000000554.
20. Respondent is, and was at all times relevant to the violations alleged in this Consent Agreement and the attached Final Order, a “generator” of “solid wastes” and “hazardous wastes,” and has engaged in the “storage” in “containers” at the Facility of hazardous wastes as those terms are defined in 25 Pa. Code § 260a.10 and 40 C.F.R. § 260.10, as incorporated by reference by 25 Pa. Code § 260a.1 .
21. At all times relevant to the allegations set forth in this Consent Agreement and the attached Final Order, the Facility identified as a Large Quantity Generator (“LQG”) of hazardous waste, as the term is defined in 40 C.F.R. § 260.10, as incorporated by reference by 25 Pa. Code § 260a.1.
22. On June 8, 2022, EPA conducted a compliance evaluation inspection of the Facility (the “Inspection”) to determine Respondent’s compliance with RCRA Subtitle C and the PAHWMR.

Count I
Operating Without a Permit or Interim Status

23. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
24. Pursuant to 40 C.F.R. § 270.1(b), which 25 Pa. Code § 270a.1 incorporates by reference, and Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), 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. SPS did not have a hazardous waste permit or interim status at any time during the period when violations are alleged.

25. At all times relevant to the violations alleged herein, Respondent did not possess, nor did Respondent ever possess, a permit for the Facility, pursuant to 40 C.F.R. § 270.1(b), which 25 Pa. Code § 270a.1 incorporates by reference, nor interim status for the Facility, pursuant to 40 C.F.R. § 265.1(b) which incorporates by reference 25 Pa. Code § 265a.1, and, therefore, Respondent was not authorized to store hazardous waste at the Facility in accordance with the regulations set forth at 40 C.F.R. Parts 264, 265, or 270.

Storage of Hazardous Waste for Greater than 90 Days

26. Pursuant to 40 C.F.R. § 262.34(b)¹, which 25 Pa. Code 262a.10 incorporates by reference, “[a] generator who accumulates hazardous waste for more than 90 days is an operator of a storage facility and is subject to the requirements of 40 C.F.R. parts 264 and 265 and the permit requirements of 40 C.F.R. Part 270.”
27. At the time of the Inspection, EPA inspectors observed a five-gallon container wrapped in plastic and labeled with the words “Hazardous Waste” and “Plating Unknown” in the Gate Four hazardous waste accumulation area (“HWAA”). The container was dated July 13, 2021. During the Inspection, Facility personnel indicated that they were unsure of both the contents of the container and how such content was generated.
28. On June 23, 2022, Respondent provided EPA documentation that indicated the contents of the container were used plating personnel protective equipment. This material was sent off-site as hazardous waste on June 17, 2022.
29. From October 11, 2021 to June 17, 2022, Respondent accumulated hazardous waste over 90 days without following the requirements of 40 C.F.R. Parts 264 or 265 and Part 270.
30. At the time of the Inspection, EPA inspectors observed a closed 55-gallon container labeled with the words “Hazardous Waste,” “Toxic,” and “Corrosive” on a pallet in the Gate Four HWAA. The container was dated May 12, 2021. During the Inspection, Facility personnel indicated that they were unsure of both the content of the container and how such content was generated.
31. On June 23, 2022, Respondent provided EPA documentation that the content of the container was cyanide solution waste generated in the Facility’s plating area. This material was sent off-site as hazardous waste with hazardous waste codes D003, F007, and F009 according to a hazardous waste manifest dated June 20, 2022.
32. From August 10, 2021 to June 20, 2022, Respondent accumulated hazardous waste over 90 days without following the requirements of 40 C.F.R. Parts 264 or 265 and Part 270.

¹ 40 C.F.R. § 262.34 (2005) is the currently federally enforceable version of the 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.

Failure to Mark Containers of Hazardous Waste with a Clearly Marked and Visible Accumulation Start Date

33. Pursuant to 40 C.F.R. § 262.34(a)(2), which 25 Pa. Code § 262a.10 incorporates by reference, “a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that...[t]he date upon which each period of accumulation begins is clearly marked and visible for inspection on each container.”
34. At the time of the Inspection, EPA inspectors observed the following containers of hazardous waste without clearly marked and visible dates upon which accumulation began for each container:
 - a. A 55-gallon container of mineral spirits in the Flammable Storage Area labeled with the word “Trash” and marked with a “Shellsol 15” product label, which a Safety Data Sheet provided by SPS indicates a flash point of 109°F;
 - b. Three containers of used aerosol cans; and
 - c. A cubic-yard container full of solid paint-related waste and labeled with the words “Hazardous Waste.”

Failure to Label or Clearly Mark Containers of Hazardous Waste with the Words “Hazardous Waste”

35. Pursuant to 40 C.F.R. § 262.34(a)(3), which 25 Pa. Code § 262a.10 incorporates by reference, “a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that...each container and tank are labeled or marked clearly with the words, ‘Hazardous Waste,’” while being accumulated onsite.
36. At the time of the Inspection, EPA inspectors observed the following containers not labeled or marked clearly with the words “Hazardous Waste”:
 - a. A 55-gallon container of mineral spirits in the Flammable Storage Area labeled with the word “Trash” and marked with a “Shellsol 15” product label, which a Safety Data Sheet provided by SPS indicates a flash point of 109°F; and
 - b. Three containers of used aerosol cans.

Failure to Keep Containers of Hazardous Waste Closed

37. Pursuant to 40 C.F.R. § 262.34(a)(1)(i), which 25 Pa. Code § 262a.10 incorporates by reference, “a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that...the generator complies with the applicable requirements” of Subpart I of 40 C.F.R. Part 265.

38. Pursuant to 40 C.F.R § 265.173, “[a] container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.”
39. At the time of the Inspection, EPA inspector observed eight open containers of hazardous waste. *See* Count III, below.

Failure to Maintain an Adequate Contingency Plan

40. Pursuant to 40 C.F.R. § 262.34(a)(4), which 25 Pa. Code § 262a.10 incorporates by reference, a generator must comply with Subpart D of 40 C.F.R. Part 265.
41. Pursuant to 40 C.F.R § 265.52(f), a generator must maintain a contingency plan that includes “an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary.” The evacuation plan must “describe signal(s) to be used to begin evacuation, evacuation routes, and alternate evacuation routes (in cases where the primary routes could be blocked by releases of hazardous waste or fires).”
42. At the time of the Inspection, EPA inspectors noted that the Facility’s contingency plan did not specify evacuation routes. *See* Count IV, below.
43. From at least August 10, 2021 to June 20, 2022, and at the time of the Inspection, Respondent failed to comply with the above permit exemption conditions by (a) storing hazardous waste greater than 90 days, (b) failing to mark containers of hazardous waste with a clearly marked and visible accumulation start date, (c) failing to label or clearly mark containers of hazardous waste with the words “hazardous waste,” (d) failing to keep containers of hazardous waste closed, and (e) and failing to maintain an adequate contingency plan.
44. From at least August 10, 2021 to June 20, 2022, and at the time of the Inspection, Respondent violated 40 C.F.R. § 270.1(b), which 25 Pa. Code § 270a.1 incorporates by reference, by failing to comply with the above permit exemption conditions by storing hazardous waste greater than 90 days and failing to mark containers of hazardous waste with a clearly marked and visible accumulation start date, label or clearly mark containers of hazardous waste with the words “hazardous waste,” keep containers of hazardous waste closed, and maintain an adequate contingency plan.
45. In failing to comply with 40 C.F.R. § 270.1(b), which 25 Pa. Code § 270a.1 incorporates by reference, Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

Count II
Failure to Make Hazardous Waste Determinations

46. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.

47. Pursuant to 40 C.F.R. § 262.11, which 25 Pa. Code § 262a.10 incorporates by reference, a “person who generates a solid waste, as defined in 40 C.F.R. § 261.2, must determine if that waste is a hazardous waste” in accordance with method specified in § 262.11. Pursuant to 40 C.F.R. § 261.11, the generator must (a) make a hazardous waste determination for each solid waste at the point of waste generation, (b) determine if the waste is excluded from regulation under 40 C.F.R. § 261.4; (c) determine if the waste is listed as a hazardous waste in Subpart D of 40 C.F.R. part 261; (d) determine whether the waste is identified in subpart C of 40 C.F.R. Part 261 by either testing the waste with specified methods or by applying knowledge of the hazard characteristic of the waste in light of the materials or the processes used; and (e) refer to Parts 261, 264-266, 268, and 273 if the waste is determined to be hazardous.
48. At the time of the Inspection, EPA inspectors observed at least forty-two unidentified and unlabeled containers of various volumes in the Gate Four HWAA. Facility personnel were unable to identify the contents of these containers but indicated that the materials accumulated in this area were generated from an inventory cleanout that occurred between May 17, 2022 and May 28, 2022.
49. On June 23, 2022, via email, the Facility stated that all unmarked drums had been identified, all non-hazardous materials compatible with the wastewater treatment process were disposed of, and any hazardous materials and/or materials not compatible with the wastewater treatment process were removed. The Facility provided a manifest, dated June 17, 2022, that showed seven containers of hazardous waste were sent offsite from the Gate Four HWAA cleanout. Included in this list of seven containers were 980 pounds of ignitables (EPA waste code D001), 60 pounds of corrosives (EPA waste code D002), and 40 pounds of Trichloroethylene (EPA waste code D040).
50. From at least May 17, 2022 to June 17, 2022, Respondent failed to make hazardous waste determinations for around forty unidentified and unlabeled containers of various volumes in the Gate Four HWAA.
51. From at least May 17, 2022 to June 17, 2022, Respondent violated 40 C.F.R. § 262.11, which 25 Pa. Code § 262a.10 incorporates by reference, by failing to make hazardous waste determinations for around forty unidentified and unlabeled containers of various volumes in the Gate Four HWAA.
52. In failing to comply with 40 C.F.R. § 262.11, which 25 Pa. Code § 262a.10 incorporates by reference, Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

Count III

Failure to Keep Containers of Hazardous Waste Closed

53. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.

54. Pursuant to 40 C.F.R. § 264.173(a), which 25 Pa. Code § 264a.1 incorporates by reference, “[a] container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.”
55. At the time of the Inspection, EPA’s inspector observed the following open containers of hazardous waste at the Facility:
- a. A roll-off container of filter cake sludge from the wastewater treatment unit;
 - b. A 55-gallon drum with a lid that was not secured to the top of the drum and labeled with the words “Acid Bath Filters,” “Waste Corrosive Solids, Acidic,” and “D002”;
 - c. A 55-gallon drum with a lid that was not secured to the top of the drum and labeled with the words “Waste Toxic Solids,” “Cyanide Bath Filters,” and “D003”;
 - d. A 55-gallon drum with an open bung and labeled with the words “Cadmium Fluoroborate” and “Toxic”;
 - e. A 55-gallon container fitted with an open funnel and labeled with the words “Toxic” and “Waste Cyanide Solutions”; and
 - f. Three containers of used aerosol cans.
56. At the time of the Inspection, Respondent violated 40 C.F.R. § 264.173(a), which 25 Pa. Code § 264a.1 incorporates by reference, by failing to keep containers holding hazardous waste closed (*see* Paragraph 55, above) during storage, except when it is necessary to add or remove waste.
57. In failing to comply with 40 C.F.R. § 264.173(a), which 25 Pa. Code § 264a.1 incorporates by reference, Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

Count IV
Failure to Maintain an Adequate Contingency Plan

58. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
59. Pursuant to 40 C.F.R. § 264.52(f), which 25 Pa. Code § 264a.1 incorporates by reference, a generator must maintain a contingency plan that includes “an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary.” The evacuation plan must “describe signal(s) to be used to begin evacuation, evacuation

routes, and alternate evacuation routes (in cases where the primary routes could be blocked by releases of hazardous waste or fires).”

60. At the time of the Inspection, Respondent provided EPA inspectors a copy of the Facility’s contingency plan. The contingency plan included a description of an evacuation procedure and listed assembly points to be used during an evacuation, but the evacuation procedure did not specify evacuation routes.
61. On September 8, 2022, Respondent provided EPA inspectors an updated contingency plan that included a description of an evacuation procedure and listed assembly points to be used during an evacuation as well as the evacuation routes.
62. From at least the time of the Inspection to September 8, 2022, Respondent failed to maintain a contingency plan that includes an evacuation plan with evacuation routes and alternative evacuation routes.
63. From at least the time of the Inspection to September 8, 2022, Respondent violated 40 C.F.R. § 264.52(f), which 25 Pa. Code § 264a.1 incorporates by reference, by failing to maintain a contingency plan that includes an evacuation plan with evacuation routes and alternative evacuation routes.
64. In failing to comply with 40 C.F.R. § 264.52(f), which 25 Pa. Code § 264a.1 incorporates by reference, Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

CIVIL PENALTY

65. 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 ONE HUNDRED NINE THOUSAND, EIGHT HUNDRED FIVE dollars (\$109,805.00), which Respondent shall be liable to pay in accordance with the terms set forth below.
66. 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 1990 RCRA Civil Penalty Policy, as revised on June 2003 and May 6, 2020 (“RCRA Penalty Policy”) which reflects 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.

67. 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.*, RCRA-03-2023-0141;
- 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 979078
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 simultaneously **by email** to:

Promy Tabassum
Assistant Regional Counsel
tabassum.promy@epa.gov

and

U.S. EPA Region III Regional Hearing Clerk
R3_Hearing_Clerk@epa.gov.

68. 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.

69. 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).

70. **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 Respondent is notified of its debt to the United States as established upon the ratification and filing of the fully executed Consent Agreement and Final Order with the Regional Hearing Clerk. 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).
71. **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). If payment is not received within 30 calendar days of the effective date of this Consent Agreement, EPA will also 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.
72. **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).
73. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.
74. **The Parties consent to service of the Final Order by e-mail at the following valid e-mail addresses: tabassum.promy@epa.gov (for Complainant), and geoffrey.tichenor@stoel.com and pserrurier@precastcorp.com (for Respondent).**

GENERAL SETTLEMENT CONDITIONS

75. 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.
76. 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

77. 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

78. 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 RCRA, or any regulations promulgated thereunder.

RESERVATION OF RIGHTS

79. This Consent Agreement and Final Order resolves only EPA's claims for civil penalties for the specific violations 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

80. 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

81. 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 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


82. 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.

In the Matter of: SPS Technologies, LLC

EPA Docket No. RCRA-03-2023-0141

For Respondent: SPS TECHNOLOGIES, LLC

Date: 9-11-2023

By: 
Dan Gear, General Manager
SPS Technologies, LLC

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement & 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 designee, the Regional Judicial Officer, issue the attached Final Order.

By: _____
[*Digital Signature and Date*]
Karen Melvin, Director
Enforcement & Compliance Assurance Division
U.S. EPA – Region III
Complainant

Attorney for Complainant:

By: _____
[*Digital Signature and Date*]
Promy Tabassum
Assistant Regional Counsel
U.S. EPA – Region III

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
Philadelphia, Pennsylvania 19103

FILED

Sep 27, 2023

9:01 am

U.S. EPA REGION III
HEARING CLERK

In the Matter of: :
: :
SPS Technologies, LLC : U.S. EPA Docket No. RCRA-03-2023-0141
301 Highland Avenue : :
Jenkintown, PA 19046 : Proceeding under Section 3008(a) and (g) of the
: Resource Conservation and Recovery Act, 42
Respondent. : U.S.C. Section 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, SPS Technologies, LLC 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 on June 2003 and May 6, 2020 ("RCRA Penalty Policy"), the statutory factors set forth in 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.

NOW, THEREFORE, PURSUANT TO Section 3008(a) and (g) of the Resource Conservation and Recovery Act ("RCRA" or the "Act"), 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 **ONE HUNDRED NINE THOUSAND, EIGHT HUNDRED FIVE DOLLARS (\$109,805.00)**, in accordance with the payment provisions set forth in the Consent Agreement and in 40 C.F.R. § 22.31(c), 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.

By: _____
[*Digital Signature and Date*]
Joseph J. Lisa
Regional Judicial and Presiding Officer
U.S. EPA – Region III

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

In the Matter of:	:
	:
SPS Technologies, LLC	: U.S. EPA Docket No. RCRA-03-2023-0141
301 Highland Avenue	:
Jenkintown, PA 19046	: Proceeding under Section 3008(a) and (g) of the
	: Resource Conservation and Recovery Act, 42
Respondent.	: U.S.C. Section 6928(a) and (g)
	:

CERTIFICATE OF SERVICE

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

Copies served via email to:

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By: _____
[Digital Signature and Date]
Regional Hearing Clerk
U.S. EPA – Region III