

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No. CAA-05-2023-0014
)	
Saint Paul Regional Water Services Maplewood, Minnesota,)	Proceeding to Assess a Civil Penalty Under Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d)
Respondent.)	

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the CAA), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 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. Complainant is the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency (EPA), Region 5.

3. Respondent is Saint Paul Regional Water Services, a component unit of the City of Saint Paul, doing business in Minnesota.

4. 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).

5. 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.

6. 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

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

8. 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.

Statutory and Regulatory Background

9. Under Section 112(r) of the CAA, 42 U.S.C. § 7412(r), EPA promulgated the Chemical Accident Prevention Provisions (CAPP) at 40 C.F.R. Part 68.

10. The CAPP applies to an owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process, as defined in 40 C.F.R. § 68.3.

11. The owner or operator of a stationary source subject to the CAPP is required to develop and implement a risk management program at the stationary source for all covered processes. The owner or operator must also submit to EPA a Risk Management Plan (RMP) describing the source's risk management program. *See* 40 C.F.R. § 68.150.

12. The RMP must include, among other things, the name, title, telephone number, 24-hour telephone number, and, as of June 21, 2004, the e-mail address (if an e-mail address exists) of the emergency contact. 40 C.F.R. § 68.160(b)(6).

13. Beginning June 21, 2004, the CAPP, at 40 C.F.R. § 68.195(b), requires the owner or operator to correct the RMP within one month of any change in the emergency contact information required under § 68.160(b)(6).

14. The CAAP, at 40 C.F.R. § 68.93, requires the owner or operator of a stationary source to coordinate response needs with local emergency planning and response organizations to determine how the stationary source is addressed in the community emergency response plan

and to ensure that local response organizations are aware of the regulated substances at the stationary source, their quantities, the risks presented by covered processes, and the resources and capabilities at the stationary source to respond to an accidental release of a regulated substance. Coordination must occur annually, or more frequently if necessary, to address changes at the stationary source, or changes in the stationary source's emergency response and/or emergency action plan. 40 C.F.R. § 68.93(a).

15. The Administrator of EPA (the Administrator) may assess a civil penalty of up to \$55,808 per day of violation up to a total of \$446,456 for violations that occurred after November 2, 2015, under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

Factual Allegations and Alleged Violations

16. Saint Paul Regional Water Services (SPRWS) owns and operates a water treatment plant at 1900 Rice Street, Maplewood, Minnesota.

17. SPRWS's water treatment plant is a "stationary source" as that term is defined in 42 U.S.C. § 7602 and 40 C.F.R. § 68.3.

18. SPRWS's water treatment process meets the definition of a covered "process" under 40 C.F.R. § 68.3, because SPRWS uses chlorine and ammonia—which are both regulated substances (Table 1 to 40 C.F.R. § 68.130)—as disinfectants in its water treatment process.

19. SPRWS's RMP registration states that the maximum inventory of chlorine gas at the water treatment plant is 360,000 pounds. The threshold quantity of chlorine is 2,500 pounds. *See* Table 1 to 40 C.F.R. § 68.130.

20. SPRWS's RMP registration states that the maximum inventory of anhydrous ammonia at the water treatment plant is 87,583 pounds. The threshold quantity of anhydrous ammonia is 10,000 pounds. *See* Table 1 to 40 C.F.R. § 68.130.

21. Because SPRWS is an owner and operator of a stationary source that uses more than a threshold quantity of a regulated substance in a process, SPRWS is subject to the CAPP, 40 C.F.R. Part 68.

22. On June 19, 2019, SPRWS submitted an RMP registration for its water treatment plant.

23. SPRWS's RMP registration identified the emergency contact name and title as Chad Wrightson, Production Supervisor, and it included Chad Wrightson's telephone and e-mail contact information.

24. On December 5, 2022, EPA conducted an announced inspection of SPRWS's water treatment plant.

25. During the inspection, the SPRWS representatives informed the EPA inspector that Chad Wrightson had not worked at the water treatment plant for over one month.

26. In response to an email from the EPA inspector, on December 13, 2022, SPRWS's Water Quality Supervisor stated, "Chad Wrightson voluntarily left employment with SPRWS in March or April 2020."

27. During the inspection, a SPRWS representative informed the EPA inspector that SPRWS had not engaged in annual emergency response coordination activities with local emergency planning and response organizations in 2022.

28. SPRWS violated the CAPP at 40 C.F.R. § 68.93(a) by failing to engage in annual coordination with local emergency planning and response organizations in 2022.

29. SPRWS violated the CAPP at 40 C.F.R. § 68.195(b) by failing to correct the RMP for the water treatment plant within one month after Chad Wrightson, the emergency contact listed in the RMP, had ceased employment with SPRWS.

30. SPRWS’s violations of the CAAP at 40 C.F.R. §§ 68.93(a) and 68.195(b) are violations of Section 112(r) of the CAA, 42 U.S.C. § 7412(r).

Civil Penalty

31. Based on analysis of the factors specified in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), the facts of this case, and SPRWS’s cooperation, Complainant has determined that an appropriate civil penalty to settle this action is \$7,298.

32. Penalty Payment. Respondent agrees to:

- a. pay the civil penalty of \$7,298 within 60 days after the effective date of this CAFO.
- b. Pay the civil penalty using any method provided in the table below.

Payment Method	Payment Instructions
Automated Clearinghouse (ACH) payments made through the US Treasury	US Treasury REX/Cashlink ACH Receiver ABA: 051036706 Account Number: 310006, Environmental Protection Agency CTX Format Transaction Code 22 – checking In the comment area of the electronic funds transfer, state Respondent’s name and the CAFO docket number.
Wire transfers made through Fedwire	Federal Reserve Bank of New York ABA: 021030004 Account Number: 68010727 SWIFT address: FRNYUS33 33 Liberty Street New York, NY 10045 Beneficiary: US Environmental Protection Agency In the comment area of the electronic funds transfer, state Respondent’s name and the docket number of this CAFO.
Payments made through Pay.gov	<ul style="list-style-type: none"> • Go to Pay.gov and enter “SFO 1.1” in the form search box on the top left side of the screen.

Payment Method	Payment Instructions
<p>Payers can use their credit or debit cards (Visa, MasterCard, American Express & Discover) as well as checking account information to make payments.</p>	<ul style="list-style-type: none"> • Open the form and follow the on-screen instructions. • Select your type of payment from the "Type of Payment" drop down menu. • Based on your selection, the corresponding line will open and no longer be shaded gray. Enter the CAFO docket number into the field
<p>Cashier's or certified check payable to "Treasurer, United States of America."</p> <p>Please notate the CAFO docket number on the check</p>	<p>For standard delivery:</p> <p>U.S. Environmental Protection Agency Fines and Penalties Cincinnati Finance Center P.O. Box 979077 St. Louis, Missouri 63197-9000</p> <p>For signed receipt confirmation (FedEx, UPS, Certified Mail, etc):</p> <p>U.S. Environmental Protection Agency Government Lockbox 979077 U.S. EPA Fines and Penalties 1005 Convention Plaza SL-MO-C2-GL St. Louis, Missouri 63101</p>

33. Within 24 hours of the payment of the civil penalty respondent must send a notice of payment that states Respondent's name and the docket number of this CAFO to EPA at the following addresses:

Air Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency, Region 5
R5airenforcement@epa.gov

Jolie McLaughlin
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
McLaughlin.Jolie@epa.gov

Regional Hearing Clerk (E-19J)
U.S. Environmental Protection Agency, Region 5
r5hearingclerk@epa.gov

34. This civil penalty is not deductible for federal tax purposes.

35. If Respondent does not pay timely the civil penalty, EPA may request the Attorney General of the United States to bring an action to collect any unpaid portion of the penalty with interest, nonpayment penalties and the United States enforcement expenses for the collection action under Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

36. Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621(a)(2). Respondent must pay the United States enforcement expenses, including but not limited to attorney's fees and costs incurred by the United States for collection proceedings. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue. This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter. 42 U.S.C. § 7413(d)(5).

Supplemental Environment Project

37. In response to the alleged violations of the CAA, 42 U.S.C. § 7412(r), and in settlement of this matter, although not required by the CAA or any other federal, state, or local law, Respondent agrees to complete a supplemental environmental project (SEP), as described in Appendix A.

38. This SEP is consistent with applicable U.S. EPA policy, specifically the "[2015 Update to the 1998 U.S. Environmental Protection Agency Supplemental Environmental Projects Policy](#)," dated March 10, 2015. The SEP advances at least one of the objectives of the CAA, 42 U.S.C. § 7412, by detecting potential leaks of ammonia and chlorine from the facility and by minimizing the impacts of potential uncontrollable leaks. The SEP is not inconsistent with any

provision of the CAA. The SEP relates to the alleged violation(s), and is designed to reduce the likelihood that similar CAA violations will occur in the future by reducing the risks of potential ammonia and chlorine leaks.

39. Respondent shall complete an upgrade to its ammonia and chlorine leak detection system, consisting of seven sensors to be installed at various locations at the facility, each of which will be programmed to such that the HVAC units in the buildings at/near where the sensors are located will automatically shut off whenever a chlorine or ammonia leak is being detected. In addition to the sensors, three new electronic BACnet controllers and BACnet routers for monitoring the ammonia and chlorine gas sensors will be installed. The SEP is more specifically described in Appendix A and is incorporated herein by reference.

40. Respondent agrees to spend at least \$55,000 on implementing the SEP. Respondent shall include documentation of the expenditures made in connection with the SEP as part of the SEP Completion Report.

41. Respondent shall complete the SEP by March 1, 2024.

42. Respondent must continuously use or operate the seven sensors installed as part of the SEP for no less than three years following their installation.

43. Respondent certifies the truth and accuracy of each of the following:

- a. That all cost information it provided to U.S. EPA in connection with U.S. EPA's approval of the SEP is complete and accurate, that it in good faith estimates that the cost to implement the SEP is about \$59,211;
- b. That it will not include administrative costs or employee oversight of the implementation of the SEP in its project costs.
- c. That, as of the date it signs this CAFO, it is not required to perform or develop

the SEP by any law, regulation, grant, order, or agreement, or as injunctive relief awarded in any other action in any forum;

- d. That it has not received, and will not have received credit for the SEP in any other enforcement action;
- e. That it will not receive reimbursement for any portion of the SEP from another person or entity;
- f. That the SEP is not a project that it was planning or intending to construct, perform, or implement other than in settlement of the claims resolved in this CAFO;
- g. That, for Federal Income Tax purposes, it will neither capitalize into inventory or basis, nor deduct any costs or expenditures incurred in performing the SEP.
- h. That it is not a party to any open federal financial assistance transaction that is funding or could fund the same activity as the SEP described in Paragraph 39.

44. U.S. EPA may inspect the facility at any time to monitor Respondent's compliance with this CAFO's SEP requirements.

45. SEP Completion Report

- a. Respondent must submit a SEP Completion Report to U.S. EPA by March 1, 2024. This SEP Completion Report must contain the following information, with supporting documentation:
 - i. Detailed description of the SEP as implemented;
 - ii. Description of any operating problems and the actions taken to correct the problems;
 - iii. Itemized costs;

1. In itemizing its costs in the SEP Completion Report, Respondent shall clearly identify and provide acceptable documentation for all eligible SEP costs. Where the SEP completion report includes costs not eligible for SEP credit, those costs must be clearly identified as such. For purposes of this Paragraph, “acceptable documentation” includes invoices, purchase orders, or other documentation that specifically identifies and itemizes the individual costs of the goods and/or services for which payment is being made. Canceled drafts do not constitute acceptable documentation unless such drafts specifically identify and itemize the individual costs of the goods and/or services for which payment is being made.

- iv. Certification that Respondent has fully implemented the SEP pursuant the provisions of this CAFO; and
- v. Description of the environmental and public-health benefits resulting from the SEP (with a quantification of the benefits and pollution reductions, if feasible).

b. Respondent agrees that failure to submit the SEP Completion Report shall be deemed a violation of this CAFO and Respondent shall become liable for stipulated penalties pursuant to Paragraph 48 below.

46. Respondent must submit all notices and reports required by this CAFO via email to the Air Enforcement and Compliance Assurance Branch at r5airenforcement@epa.gov.

47. U.S. EPA acceptance of SEP Report

- a. Following receipt of the SEP Completion Report described in Paragraph 45, above, U.S. EPA will notify Respondent, in writing, indicating:
 - i. Any deficiencies in the SEP as completed or in the SEP Completion Report; U.S. EPA will give Respondent 30 days (or more, if appropriate) to correct the deficiencies; or
 - ii. That Respondent has achieved satisfactory completion of the SEP and the SEP Completion Report;
 - iii. That Respondent has not achieved satisfactory completion of the SEP or the SEP Completion Report; U.S. EPA may seek stipulated penalties under Paragraph 48.

- b. If U.S. EPA elects to exercise option (i) above, i.e., if the SEP Report is determined to be deficient but U.S. EPA has not yet made a final determination about the adequacy of SEP completion itself, Respondent may object in writing to the notification of deficiency given pursuant to this paragraph within ten (10) days of receipt of such notification. U.S. EPA and Respondent shall have an additional thirty (30) days from the receipt by U.S. EPA of the notification of objection to reach agreement on changes necessary to the SEP Report. If agreement cannot be reached on any such issue within this thirty (30) day period, U.S. EPA shall provide a written statement of its decision on adequacy of the completion of the SEP to Respondent, which decision shall be final and binding upon Respondent. Respondent agrees to comply with any requirements imposed by U.S. EPA as a result of any failure to comply with the terms of this CAFO.

48. Stipulated Penalties: If Respondent violates any requirement of this CAFO relating to the SEP, upon demand by U.S. EPA, Respondent must pay stipulated penalties to the United States as follows:

- a. Late SEP completion: Except as provided in subparagraphs (b) and (c), below, if Respondent did not achieve satisfactory completion of the SEP specified in Appendix A by the agreed-upon deadline according to the requirements of this CAFO including the schedule in Paragraph 41, Respondent agrees to pay, in addition to the assessed civil penalty in Paragraph 31, the following per day per violation stipulated penalty for each day the Respondent is late meeting the applicable SEP requirement, not to exceed the amount specified in Paragraph 48(c):
 - i. \$100 per day for days 1–30
 - ii. \$150 per day for days 31–60
 - iii. \$300 per day for days 61 and later.
- b. Late SEP reports: If Respondent did not timely submit the SEP Completion Report in accordance with the deadline in Paragraph 45, Respondent agrees to pay the following per day stipulated penalty for each day after the report was due until Respondent submits the report in its entirety, not to exceed the amount specified in Paragraph 48(c):
 - i. \$100 per day for days 1–30
 - ii. \$150 per day for days 31–60
 - iii. \$300 per day for days 61 and later.

U.S. EPA, at its sole discretion, will determine whether Respondent timely

submitted any SEP report.

- c. Failure to achieve satisfactory completion of the SEP: If Respondent does not achieve satisfactory completion of the SEP, including spending the minimum amount on the SEP set forth in Paragraph 40 above, Respondent shall pay a stipulated penalty to the United States in the amount of \$60,500. “Satisfactory completion” of the SEP means Respondent (i) spent no less than \$55,000 to install seven chlorine and ammonia sensors by March 1, 2024. U.S. EPA, at its sole discretion, will determine whether Respondent has achieved satisfactory completion of the SEP.
- d. U.S. EPA, at its sole discretion, may waive or reduce a stipulated penalty under Paragraph 48.
- e. Respondent shall pay stipulated penalties not more than sixty (60) days after receipt of written demand by U.S. EPA for such penalties. The method of payment shall be in accordance with the provisions of Paragraph 32 above. Interest and late charges shall be paid as stated in Paragraph 36.

49. Any public statement, oral or written, in print, film, or other media, that Respondent or a representative of Respondent makes in reference to the SEP under this CAFO from the date of its execution of this CAFO shall include the following language, “Saint Paul Regional Water Services undertook this project under the settlement of the United States Environmental Protection Agency’s enforcement action against Saint Paul Regional Water Services for alleged violations of the Clean Air Act, 42 U.S.C. § 7412(r).”

50. Nothing in this CAFO is intended to, nor will be construed to, constitute U.S. EPA approval of the equipment or technology installed by the Respondent in connection

with the SEP under this CAFO. Respondent shall be responsible for obtaining any necessary permits associated with the SEP.

General Provisions

51. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: McLaughlin.Jolie@epa.gov (for Complainant), and Patrick.Shea@ci.stpaul.mn.us (for Respondent). Respondent understands that the CAFO will become publicly available upon filing.

52. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in this CAFO.

53. The effect of the settlement described in Paragraph 37, above, is conditioned upon the accuracy of Respondent's representations to EPA, as memorialized in Paragraph 43 of this CAFO.

54. The 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 violation of law.

55. This CAFO does not affect Respondent's responsibility to comply with the CAA and other applicable federal, state, and local laws. Except as provided in Paragraph 52, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

56. Respondent certifies that it is complying fully with 40 C.F.R. Part 68.

57. This CAFO constitutes an "enforcement response" as that term is used in EPA's Clean Air Act Stationary Civil Penalty Policy to determine Respondent's "full compliance history" under Section 113(e) of the CAA, 42 U.S.C. § 7413(e).

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

59. Each person signing this consent 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.
60. Each party agrees to bear its own costs and attorney's fees in this action.
61. This CAFO constitutes the entire agreement between the parties.

Saint Paul Regional Water Services, Respondent

Patrick Shea, General Manager

Date

Tax Identification Number

United States Environmental Protection Agency, Complainant

Michael D. Harris
Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 5

**Consent Agreement and Final Order
In the Matter of: Saint Paul Regional Water Services
Docket No. CAA-05-2023-0014**

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.

Ann L. Coyle
Regional Judicial Officer
U.S. Environmental Protection Agency Region 5