

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III****Four Penn Center  
1600 John F. Kennedy Boulevard  
Philadelphia, Pennsylvania 19103-2852**

In the Matter of:

Spray Products Corporation  
1323 Conshohocken Road  
Plymouth Meeting, Pennsylvania 19462,

Respondent.

1323 Conshohocken Road  
Plymouth Meeting, Pennsylvania 19462,

Facility.

Administrative  
Compliance Order on Consent  
EPA Docket No. CAA-03-2023-0059DA

**ADMINISTRATIVE COMPLIANCE ORDER ON CONSENT****A. PRELIMINARY STATEMENT**

1. This Administrative Compliance Order on Consent (“Order”) is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Section 113(a)(3)(B) of the Clean Air Act, as amended (“CAA” or “the Act”), 42 U.S.C. § 7413(a)(3)(B). Under Section 113(a)(3)(B) of the Act, the Administrator of EPA has the authority to issue orders requiring any person who is in violation of certain sections of the CAA, including Section 112(r)(1) and (7), 42 U.S.C. § 7412(r)(1) and (7), to comply with such requirements of the CAA.
2. On EPA’s behalf, the Director of the Enforcement & Compliance Assurance Division is delegated the authority to issue this Order under Section 113(a) of the Act.
3. Respondent is Spray Products Corporation (“Respondent”), incorporated in Pennsylvania, and a “person” as defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e).
4. Respondent signs this Order on consent.

5. Respondent neither admits nor denies the allegations set forth in Section C (Findings), stated below, and will not contest EPA's authority or jurisdiction to issue or enforce the provisions of this Order.

## **B. STATUTORY AND REGULATORY BACKGROUND**

6. On November 15, 1990, the President signed into law the Clean Air Act Amendments of 1990. The Clean Air Act Amendments added Section 112(r) to the Act, 42 U.S.C. § 7412(r), which requires the Administrator of EPA to, among other things, promulgate regulations in order to prevent accidental releases of certain substances listed pursuant to Section 112(r)(3) of the Act, 42 U.S.C. § 7412(r)(3).
7. Section 112(r)(3) of the Act, 42 U.S.C. § 7412(r)(3), mandates the Administrator to promulgate a list of regulated substances, with threshold quantities, and defines the stationary sources that will be subject to the accident prevention regulations mandated by Section 112(r)(7) of the Act, 42 U.S.C. § 7412(r)(7). The list of regulated substances and threshold levels are codified at 40 C.F.R. § 68.130.
8. On June 20, 1996, EPA promulgated a final rule known as the Chemical Accident Prevention Provisions, 40 C.F.R. Part 68 (the "Risk Management Program Regulations" or "RMP Regulations"), which implements Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7). The RMP Regulations require owners and operators of stationary sources to develop and implement a risk management program that includes a hazard assessment, a prevention program, and an emergency response program. The risk management program is described in a risk management plan that must be submitted to EPA. The risk management plan must include a hazard assessment to assess the potential effects of an accidental release of any regulated substance, a program for preventing accidental releases of hazardous substances, and a

response program providing for specific actions to be taken in response to an accidental release of a regulated substance, so as to protect human health and the environment.

9. Pursuant to Section 112(r)(7)(B)(iii) of the CAA, 42 U.S.C. § 7412(r)(7)(B)(iii), and its RMP Regulations at 40 C.F.R. § 68.10(a) and 68.150(a), the owner or operator of a stationary source at which a regulated substance is present in more than a threshold quantity must submit a risk management plan to EPA no later than the latter of June 21, 1999, or the date on which a regulated substance is first present above the threshold quantity in a process.
10. Pursuant to Section 112(r)(1) of the Act, 42 U.S.C. § 7412(r)(1), also known as the “General Duty Clause,” the owners and operators of stationary sources producing, processing, handling or storing substances listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance have a general duty, in the same manner and to the same extent as 29 U.S.C. § 654, to identify hazards which may result from accidental releases of such substances using appropriate hazard assessment techniques, to design and maintain a safe facility taking such steps as are necessary to prevent releases, and to minimize the consequences of accidental releases which do occur.
11. The General Duty Clause applies to any stationary source producing, processing, handling, or storing regulated substances, as defined above, or other extremely hazardous substance (“EHS”). An EHS is any chemical which may, as a result of short-term exposures because of releases to the air, cause death, injury or property damage due to its toxicity, reactivity, flammability, volatility or corrosivity. EHSs include regulated substances listed pursuant to Section 112(r)(3) of the Act, 42 U.S.C. § 7412(r)(3), at 40 C.F.R. § 68.130, and chemicals on the list of extremely hazardous substances published under the Emergency Planning and

Community Right-to-Know Act of 1986, 42 U.S.C. §§ 11001 et seq., at 40 C.F.R. Part 355, and may include a facility's proprietary chemicals as well.

12. Section 112(r)(2)(C) of the Act, 42 U.S.C. § 7412(r)(2)(C), defines “stationary source,” as “any buildings, structures, equipment, installations, or substance emitting stationary activities (i) which belong to the same industrial group, (ii) which are located on one or more contiguous properties, (iii) which are under the control of the same person (or persons under common control), and (iv) from which an accidental release may occur.”
13. Section 302(e) of the Act, 42 U.S.C. § 7602(e), defines “person” as including an individual, corporation, partnership, association, State, municipality, political subdivision of a State and any agency, department, or instrumentality of the United States and any officer, agent, or employee thereof.
14. The RMP Regulations at 40 C.F.R. § 68.3 define “process” as any activity involving a regulated substance including any use, storage, manufacturing, handling, or on-site movement of such substances, or combination of these activities. For purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release, shall be considered a single process.
15. The RMP Regulations at 40 C.F.R. § 68.3 define “threshold quantity” as the quantity specified for regulated substances pursuant to Section 112(r)(5) of the CAA, listed in 40 C.F.R. § 68.130, Tables 1-4, and determined to be present at a stationary source as specified in 40 C.F.R. § 68.115.
16. The RMP Regulations at 40 C.F.R. § 68.3 define “regulated substance” as any substance listed pursuant to Section 112(r)(3) of the CAA in 40 C.F.R. § 68.130.

17. As used herein, the term “day” shall mean calendar day.
18. All terms not defined herein shall have the meanings set forth in the CAA.

### **C. FINDINGS**

19. Respondent owns and operates a facility located at 1323 Conshohocken State Road in Plymouth Meeting, Pennsylvania (“Facility”), at which Respondent manufactures consumer and industrial products in liquid form and for pressurized containers that use aerosol propellants. Respondent’s manufacturing process uses and stores flammable gases and liquids.
20. On February 9, 2019 and November 19, 2021, EPA conducted inspections at the Facility to determine whether Respondent was in compliance with Section 112(r)(1) and (7) of the Clean Air Act (“CAA”), 42 U.S.C. § 7412(r)(1) and (7), and the RMP Regulations, the Chemical Accident Prevention Provisions, at 40 C.F.R. Part 68 (“Inspections”).
21. Based on its observations during the Inspections and its review of documents received from Respondent during the investigation, EPA determined that Respondent had the following chemicals present at its Facility, among other chemicals, in amounts exceeding 10,000 pounds each, from 2019 through the effective date of this Order: methyl ether, propane, difluoroethane, a mixture of propane/isobutane, and diethyl ether.
22. Methyl ether, Chemical Abstract Service (“CAS”) No. 115-10-6; propane, CAS No. 74-98-6; and difluoroethane, CAS No. 75-37-6; are regulated substances listed in accordance with CAA Section 112(r)(3), 42 U.S.C. § 7412(r)(3), pursuant to 42 U.S.C. § 7412(r)(2), in the list of regulated substances compiled at 40 C.F.R. § 68.130, each with a threshold quantity of 10,000 pounds.
23. According to its safety data sheet, the mixture of propane and isobutane, CAS No. 75-28-5, contains at least 15.2 percent (%) of propane, CAS No. 74-98-6, and 84.8 percent of isobutane,

- CAS No. 78-28-5, with a fire rating of 4 under the National Fire Protection Association 704, Standard System for the Identification of the Hazards of Materials for Emergency Response. As such, the flammable mixture constitutes a regulated substance listed at 40 C.F.R. § 68.130, with a threshold quantity of 10,000 pounds. 40 C.F.R. § 68.115(b)(2).
24. Diethyl ether has the same CAS number as ethyl ether, CAS No. 60-29-7, which is a regulated substance listed in accordance with CAA Section 112(r)(3), 42 U.S.C. § 7412(r)(3), pursuant to 42 U.S.C. § 7412(r)(2), in the list of regulated substances compiled at 40 C.F.R. § 68.130, with a threshold quantity of 10,000 pounds.
  25. Section 112(r)(7)(B)(iii) of the CAA, 42 U.S.C. § 7412(r)(7)(B)(iii), and Section 68.150(a) of the RMP Regulations, 40 C.F.R. § 68.150(a), require the owner and operator of a stationary source to submit a risk management plan that includes the information required by 40 C.F.R. §§ 68.155-68.185 for all covered processes. 40 C.F.R. § 68.150(a)-(b).
  26. Respondent submitted a risk management plan for the Facility at an undetermined date, and resubmitted its risk management plan on June 8, 2005, June 2, 2010, May 12, 2015, and February 11, 2020.
  27. According to its risk management plan, Respondent's manufacturing process is subject to the Process Safety Management regulations promulgated by the Occupational Safety and Health Administration, at 29 C.F.R. 1910.119, and is subject to regulation under the Program 3 Prevention Program of the RMP Regulations, 40 C.F.R. Part 68, Subpart D. See 40 C.F.R. § 68.10(i).
  28. As a corporation, Respondent is, and at all times referred to herein, a "person" as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e), and the owner and operator of the Facility.

29. The Facility is a “stationary source” pursuant to Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C).
30. Respondent has been the owner and operator of a “stationary source” at all times relevant to this Order.
31. EPA has determined that more than a threshold quantity of regulated substances methyl ether, propane, difluoroethane, propane/isobutane mixture, and diethyl ether are present in a process at the Facility.
32. Respondent is subject to the requirements of Section 112(r)(7) of the CAA, 40 C.F.R. § 7412(r)(7), and the RMP Regulations, 40 C.F.R. Part 68, at the Facility because Respondent is an owner or operator of a stationary source with more than a threshold quantity of a regulated substance present in a process at the Facility.
33. Based on information collected by EPA, EPA has determined that Respondent did not comply with Section 112(r)(7) of the CAA and the RMP Regulations by failing to comply with hazard assessment, process safety information, mechanical integrity, and compliance audit requirements, as set forth in more detail below.

#### ***Hazard Assessment***

34. Section 68.30 of the RMP Regulations requires the owner or operator to define off-site impacts of a worst-case release and an alternative release scenario by estimating the population within a circle with its center at the point of the release and a radius determined by the distance to the endpoint. 40 C.F.R. § 68.30.
35. EPA inspectors reviewed the Facility’s hazard assessment in the February 11, 2020 risk management plan. Based on its review, EPA has determined that Respondent incorrectly estimated the affected population of a worst-case release as zero. According to MARPLOT,

the mapping software for the CAMEO software suite, developed by EPA and the National Oceanic and Atmospheric Administration and used to plan for and respond to the chemical emergencies, the affected population is 5,762 people and 2,748 housing units.

36. Respondent's failure to accurately calculate the affected population of a worst-case release is a violation of the hazard assessment requirements of the RMP Regulations. See 40 C.F.R. § 68.30.

***Process Safety Information***

37. Under the RMP Regulations, owners and operators of stationary sources must compile and maintain up-to-date safety information related to the regulated substances, processes, and equipment, including codes and standards used to design, build, and operate the process. See 40 C.F.R. § 68.48(a). Further, owners and operators must ensure that the process is designed in compliance with recognized and generally accepted good engineering practices. See 40 C.F.R. § 68.48(b).
38. The relevant recognized and generally accepted good engineering practices for purposes of the manufacturing process at the Facility includes the following three industry standards:
- National Fire Protection Administration ("NFPA") 58, *Liquefied Petroleum Gas Code*, dated May 1961 ("NFPA 58-1961"); and
  - NFPA 58, *Liquefied Petroleum Gas Code*, dated 2017 ("NFPA 58-2017").
39. NFPA 58-1961 requires five feet of distance for tanks greater than 2,000 pounds. See NFPA 58-1961, § B.6. The 2017 version of NFPA 58 requires a five-foot distance between containers sized between 2,001 and 30,000 gallons. See NFPA 58-2017, Table 4.1.1.
40. EPA inspectors observed that two liquefied petroleum gas pressure vessels at the Facility, Tank A108 and Tank 152A, were not adequately separated in accordance with codes and/or



standards at the time of their original installation. EPA inspectors observed that the tanks were located with only three feet of distance between the shells.

41. EPA inspectors reviewed the fire safety analysis performed by Respondent pursuant to Section 6.5.1.1 of NFPA 58-2017. According to the fire safety analysis, the Facility's tanks sized between 2,001 and 30,000 gallons must be separated by five feet, and the spacing of the tanks at the Facility does not meet this requirement. *See* fire safety analysis, Form 6.5. The fire safety analysis provides that if this measure is not met, the Facility "is not in compliance with the 2008 NFPA 58 Code requirements" for safety measures, including special fire protection. *See* fire safety analysis, Form 9.1.
42. EPA inspectors observed that Tanks A108, 152A and NP70 lacked special fire protection.
43. Respondent's failure to comply with the process safety information standards set forth in industry standard NFPA 58-2017 violates the requirements in the RMP Regulations to "ensure that the process is designed in compliance with recognized and generally accepted good engineering practices." *See* 40 C.F.R. § 68.48(b).

### ***Mechanical Integrity***

44. Section 68.73(d) of the RMP Regulations provides that inspections and tests shall be performed on process equipment. 40 C.F.R. § 68.73(d). Process equipment includes pressure vessels, piping, valves and other equipment. 40 C.F.R. § 68.73(a)(1). Section 68.73(d)(4) requires that owners or operators document each test or inspection that has been performed on process equipment. 40 C.F.R. § 68.73(d)(4).
45. Section 68.73(a)(2) of the RMP Regulations provides that inspections and testing procedures shall follow recognized and generally accepted good engineering practices. 40 C.F.R. §

68.73(a)(2). Some of the recognized and generally accepted good engineering practices for pressure vessels, storage tanks and piping equipment include the following:

- American Petroleum Institute (“API”) 510, *Pressure Vessel Inspection Code: In-service Inspection, Rating, Repair, and Alteration* (2014) (“API 510”);
- API 570, *Piping Inspection Code: In-service Inspection, Rating, Repair, and Alteration of Piping Systems* (2009) (“API 570”);
- API 574, *Inspection Practices for Piping System Components* (2009) (“API 574”);
- API 653, *Tank Inspection, Repair, Alteration and Construction* (2009) (“API 653”);
- NFPA 58-2017;
- NFPA 30, *Flammable and Combustible Liquid Code* (2015) (“NFPA 30”); and
- NFPA 70, *National Electrical Code* (2014) (“NFPA 70”).

46. Respondent provided tank inspection records to EPA after the second EPA Inspection.

According to Respondent, these tank inspections were performed pursuant to Pennsylvania’s aboveground storage tank regulations, not the industry standards listed above.

47. Respondent also provided to EPA some records of pressure relief valve testing and replacement. The records indicate that the equipment inspections were completed by inspectors certified by the Pennsylvania Department of Environmental Protection, but it is not clear if the inspectors were certified under recognized and generally accepted good engineering practices for their industry, including API 510, 570 or 653, and NFPA 30.

48. Respondent provided monthly inspection documents for tanks only for the year 2018, but not for 2017 or 2019-2021.

49. Respondent also provided to EPA a mechanical integrity program document, dated February 15, 2018, during the first Inspection. The document does not list any applicable codes or standards for the Facility’s process equipment, including tanks, piping, valves, conservation vents, and pressure relief valves.

50. EPA requested records for inspections of piping and valves, and maintenance records for conservation vents on atmospheric tanks containing flammable liquids. Respondent did not provide EPA with any such records.
51. EPA has determined that Respondent did not perform inspections or tests to maintain the on-going integrity of process equipment in accordance with recognized and generally accepted good engineering practices for the industry, as required by Section 68.73(a), or maintain records of such inspections or tests, as required by Section 68.73(d) of the RMP Regulations.
52. Respondent's failure to perform inspections or tests to maintain the on-going integrity of process equipment in accordance with recognized and generally accepted good engineering practices for their industry, is a violation of Section 68.73(a)(2) of the RMP Regulations.
53. Respondent's failure to comply with the written documentation obligations of the RMP Regulations is a violation of Section 68.73(d)(4) of the RMP Regulations.

#### ***Compliance Audits***

54. The RMP Regulations require owners or operators to certify that they have evaluated compliance with the provisions of Subpart D, the Program 3 Prevention program, at least every three years to verify that procedures and practices are adequate and are being followed. 40 C.F.R. § 68.79(a).
55. EPA inspectors determined that the 2016, 2018 and 2020 compliance audits were not certified as required.
56. Respondent's failure to comply with the certification requirements is a violation of Section 68.79(a) of the RMP Regulations.

***General Duty Clause***

57. Respondent also manufactures and/or stores flammable and combustible chemicals at the Facility. These flammables and combustible chemicals are stored outside and to the south of the warehouse at the Facility and, at the time of the second Inspection, included the following:
- One tanker-trailer of NP-46, a flammable mixture of propane and n-butane;
  - Sixty-two (62) 275-gallon totes and (739) 55-gallon drums of various flammable and combustible chemicals; and
  - Twenty-one (21) various size aboveground storage tanks containing flammable liquids located in a tank farm on the south end of the Facility west of the flammable gas tank farm (containing Tanks A108, NP-70 and 152A).
58. Based on its observations of Respondent's storage of flammable and combustible chemicals at the Facility, EPA has determined that Spray Products is the operator of a stationary source and is required to comply with Section 112(r)(1) of the CAA.
59. As an operator of a stationary source under the General Duty Clause, Respondent must identify hazards which may result from releases of extremely hazardous substances ("EHSs"), design and maintain a safe facility to prevent the accidental release of these EHSs to the air and minimize the consequences of accidental releases which do occur. 42 U.S.C. § 7412(r)(1).
60. The measure for whether an owner or operator has safely designed and maintained its facility is whether the facility provides the same level of protection as that provided by industry codes and standards.
61. The applicable industry codes include the following, among others: the *International Fire Code* (2018 edition) ("IFC"), NFPA 30, API 653, API 570, API 574, and NFPA 70.

62. EPA inspectors noted several instances in which Respondent's storage practices at the Facility for flammable liquids are not consistent with the protection provided by industry codes and standards.
63. Section 5704.2.9.2.3 of the IFC requires that "supports or pilings for above-ground tanks storing Class I, II or IIIA liquids elevated more than 12 inches (305 mm) above grade shall have a fire-resistance rating of not less than 2 hours in accordance with the fire exposure criteria specified in ASTM E1529" with certain exceptions, including tanks located outside buildings protected by an approved water-spray system.
64. EPA inspectors observed that the vertical tank legs of Tank #28, containing a blend of flammable chemicals, were not protected from fire.
65. The maximum allowable quantity ("MAQ") of flammable liquids is 1,100 gallons for Class IA chemicals stored greater than five feet apart and less than seven feet high in drums, according to Section 5704.4 of the IFC.
66. EPA inspectors observed that the quantity of flammable liquids stored in drums and totes far exceeded the 1,100-gallon threshold.
67. Section 5704.4.3 of the IFC requires spill control and secondary containment for flammable liquids stored in excess of the MAQ.
68. EPA inspectors observed that Respondent did not have spill control and secondary containment for the flammable and combustible chemicals stored in totes and drums located outside the Facility.
69. Industry standard NFPA 70 provides that specified equipment must be included in the electrical classification drawing.

70. EPA inspectors observed that the NP-46 trailer unloading location was not identified on the electrical classification drawing.
71. The electrical classification drawing provided by Respondent did not include all required areas in accordance with NFPA 70.
72. The General Duty Clause requires that owners and operators of stationary sources maintain a safe facility taking such steps as are necessary to prevent releases. Industry standards and manufacturers' recommendations provide guidance as to how to maintain conservation vents on atmospheric tanks.
73. Industry standard NFPA 30 requires that owners and operators of atmospheric tanks containing flammable and combustible liquid tanks maintain conservation vents according to an inspection and operation manual. Such tanks are supposed to be inspected at least every other year, according to typical manufacturers' recommendations.
74. EPA inspectors requested inspection records for conservation vents on the atmospheric tanks containing flammable and combustible liquids. Respondent did not provide any inspection records for the conservation vents. Respondent was unable to provide the make and model of the conservation vents.
75. Industry standard Section 5303.7.5 of the IFC states that "Compressed gas containers, cylinders, tanks and systems shall not be placed in areas where they are capable of being damaged by falling objects." IFC, § 5303.7.5.
76. EPA inspectors observed compressed gas tanks and their piping installed within the range of several large trees on the adjacent property that could damage the process equipment.

77. The IFC also states that “Combustible waste, vegetation and similar materials shall be kept not less than 10 feet (3048 mm) from compressed gas containers, cylinders, tanks and systems.” IFC, § 5303.7.2 (Combustible waste, vegetation and similar materials).
78. EPA inspectors observed vegetation less than 10 feet from the trailer containing NP-46.
79. Respondent’s multiple failures -- to protect tank legs from fire, to store flammable liquids in amounts exceeding the MAQ while not providing fire protection, to not provide spill control and secondary containment for flammable liquids, to not list all necessary equipment on electrical classification drawings, to not maintain conservation vents, and to maintain vegetation near tanks -- violate the requirements of the General Duty Clause to design and maintain a safe facility, at 42 U.S.C. § 7412(r)(1).

#### **D. ORDER**

80. Respondent agrees to undertake the action and provide the information specified below (the “Work”).
  - a. Within thirty (30) days of the effective date of this Order, identify a person(s), subject to acceptance by EPA, competent to undertake the Work specified herein;
  - b. Within thirty (30) days of receipt of EPA’s written acceptance of the person(s) competent to undertake the Work, Respondent shall submit to EPA for approval a workplan and schedule (“Work Plan and Schedule”) for the implementation of improvements to the Facility to address the conditions described in Paragraphs 34 through 79, above. The Work shall be consistent with the safety protection provided by the industry standards.
  - c. EPA will review the Workplan and Schedule submitted pursuant to subparagraph 80.b, and will either accept it or direct Respondent to make changes and resubmit the document within twenty (20) days;

- d. Within seven (7) days of receipt of EPA's written acceptance of the Workplan and Schedule, submitted pursuant to subparagraph 80.b, Respondent shall initiate implementation of the EPA-accepted Workplan and complete the Workplan in accordance with the EPA-accepted Schedule;
- e. On the one-month anniversary of the Effective Date of this Order, and each thirty (30) days thereafter, Respondent shall submit electronically to EPA a written monthly progress report detailing steps taken during the preceding month to implement the EPA-accepted Workplan in accordance with the EPA-accepted Schedule;
- f. Within thirty (30) days after completing the Work in accordance with the EPA-accepted Workplan and Schedule at the Facility, Respondent shall submit to EPA, for EPA's approval, a written report verifying that Respondent has complied with the requirements of subparagraph 80.d, at the Facility ("Completion Report"). The Completion Report, with the following certification, shall be signed by a responsible official of Respondent, as such term is defined in paragraph 80, below:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

- g. EPA will review the Completion Report submitted pursuant to subparagraph 80.f, above, and will either approve it in writing or identify deficiencies in writing ("Notice of Work Deficiencies") and direct Respondent to correct and/or re-perform any or all Work disapproved by EPA and resubmit the report for EPA approval within thirty (30) days of receiving the Notice of Work Deficiencies associated with the Completion Report.



81. Any notice, report, plan, certification, data presentation or other document submitted by Respondent under or pursuant to this Order which discusses, describes, demonstrates or supports any finding or makes any representation concerning Respondent's compliance or noncompliance with any requirement(s) of this Order shall be certified by a responsible official of said Respondent. The term "responsible official" means: (i) the president, secretary or vice-president of the corporation in charge of principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures. The responsible official of a partnership or sole proprietorship means the general partners or the proprietor, respectively.
82. Respondent shall provide EPA and its representatives, including contractors and grantees, with access to the Facility for the purpose of assessing Respondent's compliance with this Order and with the Act. Respondent shall also provide EPA and its representatives, including contractors and grantees, with access to all records relating to Respondent's implementation of this Order, and shall comply with all requests for information pertaining to this Order.
83. Respondent shall preserve all documents and information relating to the activities carried out pursuant to this Order for five (5) years after completion of the Work required by this Order. Upon request, Respondent shall provide EPA with copies of such documents and information.
84. All documents submitted by Respondent to EPA in the course of implementing the Order shall be available to the public unless identified as confidential by the Respondent pursuant to 40

C.F.R. Part 2, Subpart B, and determined by EPA to require treatment as confidential business information in accordance with applicable law.

#### **E. GENERAL PROVISIONS**

85. Any violation of this Order may result in a civil administrative or judicial action for an injunction or civil penalties of up to \$55,808 per day per violation, or both, as provided in Sections 113(b)(2) and 113(d)(1) of the Act, 42 U.S.C. §§ 7413(b)(2) and 7413(d)(1), as amended by the Debt Collection Improvement Act, as well as criminal sanctions as provided in Section 113(c) of the Act, 42 U.S.C. § 7413(c). EPA may use any information submitted under this Order in an administrative, civil judicial, or criminal action.
86. Nothing in this Order shall relieve Respondent of the duty to comply with all applicable provisions of the Act or other federal, state or local laws or statutes, nor shall it restrict EPA's authority to seek compliance with any applicable law or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.
87. Nothing herein shall be construed to limit the power of EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.
88. Neither EPA nor the United States, by issuance of this Order, assumes any liability for any acts or omissions by Respondent or Respondent's employees, agents, contractors, or consultants engaged to carry out any action or activity pursuant to this Order, nor shall EPA or the United States be held as a party to any contract entered into by Respondent or by Respondent's employees, agents, contractors, or consultants engaged to carry out the requirements of this Order.

89. The provisions of this Order shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns. From the Effective Date of this Order until the Termination Date as set out in paragraph 102 below, Respondent must give written notice and a copy of this Order to any successors in interest prior to any transfer of ownership or control of any portion of or interest in the Facility. Simultaneously with such notice, Respondent shall provide written notice of such transfer, assignment, or delegation to EPA. In the event of any such transfer, assignment, or delegation, Respondent shall not be released from the obligations or liabilities of this Order unless EPA has provided written approval of the release of said obligations or liabilities.
90. Unless this Order states otherwise, whenever, under the terms of this Order, written notice or other document is required to be given, it shall be directed electronically to the individuals specified at the addresses below unless those individuals or their successors give notice of a change of address to the other party in writing:

For EPA:

Patrick Beckley, Risk Management Program Coordinator  
Enforcement & Compliance Assurance Division (3ED12)  
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For Respondent:

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Email: [JBolstein@foxrothschild.com](mailto:JBolstein@foxrothschild.com)

All notices and submissions shall be considered effective upon receipt.

91. To the extent this Order requires Respondent to submit any information to EPA, Respondent may assert a business confidentiality claim covering part or all of that information, but only to the extent and only in the manner described in 40 C.F.R. Part 2, Subpart B. EPA will disclose information submitted under a confidentiality claim only as provided in 40 C.F.R. part 2, Subpart B. If Respondent does not assert a confidentiality claim, EPA may make the submitted information available to the public without further notice to Respondent.
92. Each undersigned representative of the Parties certifies that he or she is authorized to enter into the terms and conditions of this Order to execute and bind legally the Parties to this document.
93. For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 1.162(f)(2)(A)(ii), and 26 C.F.R. § 1.162-21(b)(2), performance of the Work identified in Section D is restitution, remediation, or required to come into compliance with the law.

#### **F. EFFECTIVE DATE AND OPPORTUNITY FOR A CONFERENCE**

94. Pursuant to Section 113(a)(4) of the Act, an Order does not take effect until the person to whom it has been issued has had an opportunity to confer with EPA concerning the alleged

- violations. By signing this Order, Respondent acknowledges and agrees that it has been provided an opportunity to confer with EPA prior to issuance of this Order. Accordingly, this Order will take effect upon receipt by Respondent of a fully executed copy of the Order.
95. Any reports, plans, specifications, or other submissions required by this Order are, upon acceptance by EPA, incorporated into this Order. Any non-compliance with such EPA-accepted reports, plans, specifications, schedules, or other submissions shall be considered non-compliance with the requirements of this Order.
96. No informal advice, guidance, suggestions or comments by EPA regarding reports, plans, specifications, schedules, or other submissions by the Respondent or the requirements of this Order will be construed as relieving the Respondent of its obligations to obtain formal acceptance when required by this Order, and to comply with the requirements of this Order unless formally modified.
97. This Order may be modified or amended in a writing executed by the Director of the Enforcement & Compliance Assurance Division. Such modifications or amendments shall be effective on the date they are fully executed by Respondent and the Director of the Enforcement & Compliance Assurance Division or such other date as set by the Director of the Enforcement & Compliance Assurance Division. Minor modifications to the Order and/or schedule thereto may be approved by EPA's Risk Management Coordinator, Patrick Beckley.
98. In the event of an inability or anticipated inability on the part of the Respondent to perform any of the actions required by this Order in the time and manner required herein, the Respondent shall notify EPA orally within twenty-four (24) hours of such event (or, if the event occurs on a Friday or Saturday, Sunday, or legal holiday, no later than the following business day) and in writing as soon as possible, but in no event more than three (3) days after

such event. Such notice shall set forth the reason(s) for, and the expected duration of, the inability to perform; the actions taken and to be taken by Respondent to avoid and mitigate the impact of such inability to perform; and the proposed schedule for completing such actions. Such notification shall not relieve Respondent of any obligation of this Order. Respondent shall take all reasonable actions to prevent and minimize any delay.

99. Failure by Respondent to carry out any requirement of this Order in accordance with the terms and conditions specified herein may result in the initiation of an enforcement action against Respondent to require Respondent to perform such actions, in addition to any other relief that may be available to EPA pursuant to applicable law. Respondent reserves all rights, claims and defenses to respond to any enforcement by EPA pursuant to this paragraph or under any authority.
100. Nothing in this Section or any other provision of this Order shall be construed to limit any powers EPA may have under the Act or any other law or regulation, nor shall they be construed to limit any defenses that Respondent may have under the Act or otherwise.

#### **G. JUDICIAL REVIEW**

101. Respondent waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this Order, including any right of judicial review under Section 307(b)(1) of the Act, 42 U.S.C. § 7607(b)(1).

#### **H. TERMINATION**

102. This Order shall terminate on the earlier of the following (the “Termination Date”):
  - a. One year after the Effective Date of this Order;

- b. The effective date of any determination by EPA that Respondent has achieved compliance with all terms of this Order; or
  - c. Immediately upon receipt by Respondent of notice from EPA finding that an imminent and substantial endangerment to public health, welfare, or the environment has occurred.
103. Termination of this Order shall not, however, terminate Respondent's obligation to comply with any continuing obligations of any federal, state or local law, statute, ordinance, rule or regulations, and all continuing obligations shall continue as they did before the termination of the Order.

#### **I. COPIES OF ADMINISTRATIVE ORDER**

104. Copies of this Order will be provided to:

Michael Manley  
Planning Administrator  
Hazardous Materials Division  
Bureau of Technological Hazards  
PA Emergency Management Agency  
1310 Elmerton Avenue  
Harrisburg, PA 17110  
Email: michaelmanl@pa.gov

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
Four Penn Center  
1600 John F. Kennedy Boulevard  
Philadelphia, Pennsylvania 19103-2852

In the Matter of:

Spray Products Corporation  
1323 Conshohocken Road  
Plymouth Meeting, Pennsylvania 19462,

Respondent.

1323 Conshohocken Road  
Plymouth Meeting, Pennsylvania 19462,

Facility.

Administrative  
Compliance Order on Consent  
EPA Docket No. CAA-03-2023-0059DA

For United States Environmental Protection Agency Region 3

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*[Digital Signature and Date]*

Karen Melvin, Director  
Enforcement & Compliance Assurance Division



For Respondent, Spray Products Corporation

  
[Digital Signature and Date]

Andrew Bastian, President  
Spray Products Corporation  
1323 Conshohocken Road  
Plymouth Meeting, PA 19462

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
Philadelphia, Pennsylvania 19103-2029**

In the Matter of:

Spray Products Corporation  
1323 Conshohocken Road  
Plymouth Meeting, Pennsylvania 19462,

Respondent.

1323 Conshohocken Road  
Plymouth Meeting, Pennsylvania 19462,

Facility.

Administrative  
Compliance Order on Consent  
EPA Docket No. CAA-03-2023-0059DA

**CERTIFICATE OF SERVICE**

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

Copies served via email to:

M. Joel Bolstein, Esq.  
Email: [JBolstein@foxrothschild.com](mailto:JBolstein@foxrothschild.com)

Andrew Bastian  
Email: [bart@sprayproducts.com](mailto:bart@sprayproducts.com)

Cynthia T. Weiss, Sr. Assistant Regional  
Counsel  
Email: [weiss.cynthia@epa.gov](mailto:weiss.cynthia@epa.gov)

Patrick Beckley, RMP Coordinator  
Email: [beckley.patrick@epa.gov](mailto:beckley.patrick@epa.gov)

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[Digital Signature and Date]

Regional Hearing Clerk  
U.S. Environmental Protection Agency