CLEAN AIR ACT STATIONARY SOURCE EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER

DOCKET NO. CAA-01-2022-0058
Respondent: APS Technology, Inc., 7 Laser Lane, Wallingford, Connecticut 06492

1. The U.S. Environmental Protection Agency, Region 1 ("EPA"), and APS Technology, Inc. ("Respondent") enter into this Clean Air Act Stationary Source Expedited Settlement Agreement ("Agreement") to settle the civil violations set forth in the enclosed Clean Air Act Stationary Source Section 114 Inspection and Reporting Requirement Findings, Alleged Violations, and Proposed Penalty Form (the "Form"), pursuant to Section 113 of the Clean Air Act ("CAA"), 42 U.S.C. § 7413, and 40 C.F.R. § 22.13(b) for a penalty of $45,828 ("Assessed Penalty").

2. Respondent admits to being subject to the CAA and its associated regulations and that EPA has jurisdiction over Respondent and Respondent's conduct described in Table 2 of the Form.

3. Respondent neither admits nor denies the violations specified in the Form.

4. Respondent waives any objections to EPA's jurisdiction.

5. Respondent certifies that it has taken all necessary corrective actions to achieve compliance with the alleged violations described in Table 2 of the Form.

6. Respondent acknowledges that there are significant penalties for submitting false information to the United States government, including the possibility of a fine or imprisonment for knowing violations pursuant to CAA Section 113(c)(2), 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001 and 1341.

7. The Assessed Penalty is based upon EPA's consideration of the factors provided in CAA Section 113(e), 42 U.S.C. § 7413(e), and the Clean Air Act Stationary Source Civil Penalty Policy, dated October 25, 1991.[1]

8. The Assessed Penalty shall be due in six (6) monthly installments. Interest shall be at rates established pursuant to 26 U.S.C. § 6621(a)(2) from the date of the Final Order. 42 U.S.C. § 7413(d)(5). With the interest on the balance owed beyond thirty days of the effective date of this CAFO ($636.54) spread equally across all payments, each payment shall be in the amount of $7,744.09. The first payment shall be made within thirty (30) days of the effective date of this CAFO. Each subsequent payment shall be due in successive 1-month intervals, such that the sixth and final payment is submitted within six (6) months of the effective date of this CAFO.

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[1] Statutory penalty amounts are adjusted for inflation by the "Civil Monetary Penalty Inflation Adjustment Rule," published at 87 Fed. Reg. 1676 (Jan. 12, 2022). *See also* 40 C.F.R. § 19.4.

9. The installment payment plan is based upon Respondent's inability to pay the entire penalty amount within 30 days without experiencing an undue financial hardship, as substantiated in accordance with EPA's *Guidance on Evaluating a Violator's Ability to Pay a Civil Penalty in an Administrative Enforcement Action* (2015), and was determined by EPA to be in the best interest of the United States.

10. The penalty installments shall be made in accordance with the directions within the attached "CAA Stationary Source Expedited Settlement Agreement Instructions," which are incorporated into this Agreement by reference. If Respondent fails to make any installment of the Assessed Penalty when due, EPA may, without notice or demand, declare the entire unpaid balance due and any accrued interest then unpaid immediately due and payable. Respondent may be subject to a civil action pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), to collect the Assessed Penalty. In any collection action, the validity, amount, and appropriateness of the Assessed Penalty shall not be subject to review.

11. The payments made by Respondent pursuant to this Agreement constitute a penalty within the meaning of Section 162(f) of the Internal Revenue Code, 26 U.S.C. § 162(f), and, therefore, Respondent shall not claim the payments as a tax-deductible expenditure for purposes of federal, state, or local law.

12. By its first signature below, EPA confirms the alleged violations set forth in Table 2 in the Form. Upon signing and returning this Agreement to EPA, Respondent consents to the terms of this Agreement without further notice.

13. Respondent acknowledges that this Agreement is binding on the parties signing below and becomes effective on the date of filing with the Regional Hearing Clerk, after ratification of the Agreement and Final Order by the Regional Judicial Officer.

14. This Agreement, upon approval and incorporation in the Final Order, concludes this action under Sections 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice").

15. This Agreement and Final Order resolves Respondent's liability for federal civil penalties for the violations alleged in the Form, up to and including the effective date.

16. 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.

17. Nothing in this Agreement and Final Order should be construed to limit the authority of the United States to pursue criminal sanctions.

18. This settlement is subject to all limitations on the scope of resolution and the reservation of rights set forth in 40 C.F.R. § 22.18(c).

19. EPA reserves any rights and remedies available to it under the CAA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this Agreement and accompanying Final Order following its filing with the Regional Hearing Clerk.

20. Nothing in this Agreement relieves Respondent's obligation to comply with all applicable provisions of the CAA, 42 U.S.C § 7401 *et seq.*, and the regulations promulgated under it.

21. EPA and the United States Department of Justice jointly determined, pursuant to 42 U.S.C. § 7413(d), that this matter is appropriate for an administrative penalty action although it involves alleged violations that commenced more than one year before the initiation of this proceeding.

22. Upon EPA's final approval of the Agreement, Respondent expressly waives its right to contest the allegations and its right to appeal the proposed Final Order accompanying the Agreement. Moreover, in entering into this Agreement, Respondent agrees to bear its own costs and attorney's fees related to this Agreement.

23. Respondent agrees to acceptance of the Complainant's: (a) digital or original signature on this Agreement; and (b) service of the fully executed Agreement on the Respondent by mail or electronically by e-mail. Respondent understands that its mailing or e-mail address may be made public when the Agreement and Certificate of Service are filed and uploaded to a searchable database. Complainant agrees to acceptance of the Respondent's digital or original signature on this Agreement.

ACCEPT THE PROPOSED PENALTY

☒ I/we (Respondent) consent to the proposed penalty.

DECLINE THE PROPOSED PENALTY

☐ I/we (Respondent) decline the proposed penalty. If you choose to decline this proposed penalty, you may be subject to formal enforcement action and, in that event, will have an opportunity to seek a hearing.

COST OF COMPLIANCE

Respondent certifies that it has expended $ 31,657 to correct the alleged violations and to come into compliance.

APPROVED BY EPA:

for

Date: 8/31/22

Karen McGuire, Director
Enforcement and Compliance Assurance Division
EPA Region 1

APPROVED BY RESPONDENT:

Date: 8/22/22

Name and Title (print): Lawrence S. Weiner EVP

FINAL ORDER

Pursuant to 40 C.F.R. § 22.18(b) and (c) of the Consolidated Rules of Practice, the foregoing Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified. Respondent APS Technology, Inc. is ordered to pay the civil penalty amount specified in the Agreement. The terms of the Agreement will become effective on the date it is filed with the Regional Hearing Clerk.

LEANN JENSEN

Digitally signed by LEANN JENSEN
Date: 2022.09.09 15:17:27 -04'00'

Date: _____

LeAnn Jensen
Regional Judicial Officer
EPA Region 1