

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Laura J. Berry
Name of Case Attorney

4/11/19
Date

in the ORC (RAA) at 918-1113
Office & Mail Code Phone number

Case Docket Number CAA-01-2019-0005

Site-specific Superfund (SF) Acct. Number _____

This is an original debt This is a modification

Name and address of Person and/or Company/Municipality making the payment:

City Line Distributors, Inc.
20 Industry Drive
West Haven, CT 06516

Total Dollar Amount of Receivable \$ 40,600 Due Date: 5/11/19

SEP due? Yes _____ No Date Due _____

Installment Method (if applicable)

INSTALLMENTS OF:

1st \$ _____ on _____
2nd \$ _____ on _____
3rd \$ _____ on _____
4th \$ _____ on _____
5th \$ _____ on _____

For RHC Tracking Purposes:

Copy of Check Received by RHC _____ Notice Sent to Finance _____

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

IFMS Accounts Receivable Control Number _____

If you have any questions call: _____
in the Financial Management Office

Phone Number _____



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
FIVE POST OFFICE SQUARE SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

BY HAND

April 11, 2019

Wanda Santiago
Regional Hearing Clerk
U.S. EPA, Region 1 (ORA 04-6)
5 Post Office Square, Suite 100
Boston, MA 02109-3912

RECEIVED

APR 11 2019

EPA ORC WS
Office of Regional Hearing Clerk

Re: *In the matter of City Line Distributors, Inc.*, Docket No. CAA 01-2019-0005

Dear Ms. Santiago:

Enclosed for filing are the following original documents, and one copy of each, relating to the above-referenced matter:

1. Consent Agreement and Final Order; and
2. Certificate of Service.

Kindly file the documents in the usual manner. Thanks very much for your help.

Very truly yours,

A handwritten signature in blue ink that reads "Laura J. Berry".

Laura J. Berry
Enforcement Counsel

Enclosures

cc: Nancy K. Mendel, Esq. (Respondent's counsel) (via first class mail)

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1**

RECEIVED

APR 31 2019

EPA ORC WS
Office of Regional Hearing Clerk

IN THE MATTER OF:)

CITY LINE DISTRIBUTORS, INC.,)

20 Industry Drive)
West Haven, CT 06516)

Respondent.)

Proceeding under Section 113(d) of)
the Clean Air Act, 42 U.S.C. § 7413(d))
_____)

Docket No.:
CAA-01-2019-0005

CONSENT AGREEMENT AND FINAL ORDER

1. The United States Environmental Protection Agency Region 1 (“EPA” or “Complainant”) and City Line Distributors, Inc. (“Respondent”) consent to the entry of this Consent Agreement and Final Order (“CAFO”) pursuant to 40 C.F.R. § 22.13(b) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Suspension of Permits, 40 C.F.R. Part 22 (“Consolidated Rules of Practice”). This CAFO resolves Respondent’s liability for alleged violations of Section 112(r)(1) of the Clean Air Act (“CAA”), 42 U.S.C. § 7412(r)(1).

2. On the EPA’s behalf, the Director of the Office of Environmental Stewardship, EPA Region 1, is delegated the authority to settle civil administrative penalty proceedings under CAA Section 113(d).

3. EPA and Respondent hereby agree to settle this matter through this CAFO without the filing of an administrative complaint, as authorized under 40 C.F.R. §§ 22.13(b) and 22.18(b).

4. EPA and Respondent agree that settlement of this matter is in the public interest, and that entry of this CAFO without further litigation is the most appropriate means of resolving this matter.

5. Therefore, before taking any testimony, upon the pleadings, without adjudication or admission of any issue of fact or law, it is hereby ordered as follows:

I. PRELIMINARY STATEMENT

6. This Consent Agreement is entered into under Section 113(d) of the CAA, as amended, 42 U.S.C. § 7413(d), and the Consolidated Rules of Practice, 40 C.F.R. Part 22.

7. The EPA and the United States Department of Justice jointly determined that this matter is appropriate for administrative penalty assessment. 42 U.S.C. § 7413(d); 40 C.F.R. § 19.4.

8. The Regional Judicial Officer is authorized to ratify this Consent Agreement which memorializes a settlement between Complainant and Respondent. 40 C.F.R. §§ 22.4(b) and 22.18(b).

9. This CAFO both initiates and resolves an administrative action for the assessment of monetary penalties, pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d). As discussed below, the CAFO resolves the following CAA violations that Complainant alleges occurred in connection with Respondent's storage and handling of anhydrous ammonia at its cold storage and distribution facility in West Haven, Connecticut:

a. failure to design and maintain a safe facility, taking such steps as are necessary to prevent such releases, in violation of the General Duty Clause, Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1); and

b. failure to minimize the consequences of accidental releases, should they occur, in violation of the General Duty Clause, Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1).

II. STATUTORY AND REGULATORY AUTHORITY

10. Pursuant to Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), 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 (a) identify hazards which may result from accidental releases of such substances using appropriate hazard assessment techniques; (b) design and maintain a safe facility taking such steps as are necessary to prevent releases; and (c) minimize the consequences of accidental releases which do occur. This section of the CAA is referred to as the “General Duty Clause.”

11. The extremely hazardous substances listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), include, among others, anhydrous ammonia.

12. The term “accidental release” is defined by Section 112(r)(2)(A) of the CAA, 42 U.S.C. § 7412(r)(2)(A), as an unanticipated emission of a regulated substance or other extremely hazardous substance into the ambient air from a stationary source.

13. The term “stationary source” is defined by Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), in pertinent part, as any buildings, structures, equipment, installations or substance-emitting stationary activities, located on one or more contiguous properties under the control of the same person, from which an accidental release may occur.

14. The term “have a general duty in the same manner and to the same extent as section 654, title 29 of the United States code” means owners and operators must comply with the General Duty Clause in the same manner and to the same extent as employers must comply with the Occupational Safety Health Act administered by OSHA.¹

15. Sections 113(a) and (d) of the CAA, 42 U.S.C. § 7413(a) and (d), as amended by EPA’s Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19, promulgated in accordance with the Debt Collection Improvement Act of 1996 (“DCIA”), 31 U.S.C. § 3701, and the Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101-410, 28 U.S.C. § 2461 note, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, section 701 of Public Law 114-74, 129 Stat. 599 (Nov. 2, 2015), provide for the assessment of civil penalties for violations of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), in amounts of up to \$37,500 per day per violation for violations occurring from January 12, 2009 through November 2, 2015, and up to \$47,357 per day per violation for violations that occurred after November 2, 2015 and are assessed on or after January 15, 2019.

¹ Section 654 of OSHA provides, in pertinent part, that “[e]ach employer shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees” and “shall comply with occupational safety and health standards promulgated under [OSHA].” 29 U.S.C. § 654. See Duriron Co., Inc. v. Secretary of Labor, 750 F.2d 28 (6th Cir. 1984). According to the legislative history of the CAA General Duty Clause, Duriron is cited as a guide for EPA’s application of the General Duty Clause. Duriron criteria are those established earlier in National Realty & Construction Co. v. OSHRC, 489 F.2d 1257 (D.C. Cir. 1973), namely, that OSHA must prove (1) the employer failed to render the workplace free of a hazard; (2) the hazard was recognized either by the cited employer or generally within the employers’ industry; (3) the hazard was causing or was likely to cause death or serious physical harm; and (4) there was a feasible means by which the employer could have eliminated or materially reduced the hazard.

For purposes of complying with the CAA General Duty Clause, owners and operators must maintain a facility that is free of a hazard, the hazard must be recognized by the owner/operator or recognized by the owner/operator’s industry, the hazard from an accidental release must be likely to cause harm, and the owner/operator must be able to eliminate or reduce the hazard. U.S. EPA, *Guidance for Implementation of the General Duty Clause Clean Air Act Section 112(r)(1)* (May 2000) at 11, footnote 4.

16. Section 113(d) of the CAA, 42 U.S.C. § 7413(d), as adjusted for inflation by the DCIA and 40 C.F.R. Part 19, prescribes a \$378,852 penalty limitation and a twelve-month duration limitation on EPA's authority to initiate an Administrative Penalty Order. However, these limitations may be waived where the Administrator and the Attorney General jointly determine that a matter involving a larger penalty or a longer period of violation is appropriate for an administrative penalty action. EPA and the Department of Justice jointly have determined that an administrative penalty action is appropriate in this case.

III. GENERAL ALLEGATIONS

17. Respondent is a corporation organized under the laws of the State of Connecticut with its principal office located in West Haven, Connecticut.

18. Respondent operates a cold storage and distribution facility located at 20 Industry Drive in West Haven, Connecticut (the "Facility").

19. The Facility is located less than 1,000 feet from a residential neighborhood, a church, and a post office, and less than three quarters of a mile from other residential neighborhoods, restaurants, and businesses.

20. Respondent is a "person" within the meaning of Section 302(e) of the CAA, 42 U.S.C. § 7602(e), against whom a civil penalty may be assessed.

21. Respondent is the operator of a "stationary source," as that term is defined by Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C).

22. Respondent is the "operator" of the Facility, as that term is defined by Section 112(a)(9) of the CAA, 42 U.S.C. § 7412(a)(9).

23. At the time of the violations alleged herein, the Facility had a refrigeration system, which cycled approximately 6,600 pounds of anhydrous ammonia through various

physical states to cool Respondent's products (the "System"). Accordingly, Respondent "stored" and "handled" anhydrous ammonia.

24. Anhydrous ammonia is a regulated "extremely hazardous substance" subject to the General Duty Clause.

25. As the operator of a stationary source that processes, handles or stores extremely hazardous substances, Respondent was, at all times relevant to the allegations herein, subject to the General Duty Clause found in Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1).

26. Anhydrous ammonia is a clear, colorless gas at atmospheric pressure and temperature with a strong odor. It is often stored and shipped under pressure as a liquid. It presents a significant health hazard because it is corrosive to the skin, eyes, and lungs. Inhalation of ammonia may cause irritation and burns of the respiratory tract, laryngitis, shortness of breath, high-pitched respirations, chest pain, pulmonary edema, and pneumonia. A pink frothy sputum, convulsions, and coma are often seen following exposure to high concentrations. Ammonia vapors may be fatal if inhaled. Ingestion of ammonia may cause nausea, vomiting, and oral, esophageal, and stomach burns. If ammonia has contacted the eyes, irritation, pain, conjunctivitis, tearing, and corneal erosion may occur, and loss of vision is possible. Dermal exposure may result in severe burns and pain. Exposure to 300 parts per million of ammonia by volume is immediately dangerous to life and health.

27. Ammonia gas is generally regarded as nonflammable but burns at concentrations of approximately 15.5% to 27% by volume in air with strong ignition. It can explode if released in an enclosed space with a source of ignition present or if a vessel containing anhydrous ammonia is exposed to fire. The fire hazard increases in the presence of oil or other combustible materials.

28. Due to the dangers associated with anhydrous ammonia, the ammonia refrigeration industry has developed industry standards to control the risks associated with the use of ammonia. In collaboration with the American National Standards Institute (“ANSI”), the International Institute of Ammonia Refrigeration (“IIAR”) has issued (and updates) Standard 2: *American National Standard for Safe Design of Closed-Circuit Ammonia Mechanical Refrigeration Systems* (“ANSI/IIAR 2”), Standard 4: *Installation of Closed-Circuit Ammonia Mechanical Refrigeration Systems* (“ANSI/IIAR 4”), and Standard 7: *Developing Operating Procedures for Closed-Circuit Ammonia Mechanical Refrigerating Systems* (“ANSI/IIAR 7”), *inter alia*, along with other applicable standards and guidance. Bulletins and guidance include, without limitation, IIAR Bulletin No. 109, *Guidelines for IIAR Minimum Safety Criteria for a Safe Ammonia Refrigeration System* (1997) (“IIAR Bull. 109”); IIAR Bulletin No. 110, *Guidelines for Start-Up, Inspection, and Maintenance of Ammonia Mechanical Refrigerating Systems* (1993, most recently updated in 2007) (“IIAR Bull. 110”); IIAR Bulletin No. 114, *Guidelines for Identification of Ammonia Refrigeration Piping and Components* (1991, most recently updated in 2018) (“IIAR Bull. 114”); IIAR Bulletin No. 116, *Guidelines for Avoiding Component Failure in Industrial Refrigeration Systems Caused by Abnormal Pressure or Shock* (1992) (“IIAR Bull. 116”); and the Ammonia Refrigeration Management Program (2005, most recently updated in 2019) (“IIAR ARM Program”), which is intended to provide streamlined guidance to facilities like Respondent’s that have less than 10,000 pounds of ammonia. Also in collaboration with ANSI, the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (“ASHRAE”) has issued (and updates) Standard 15: *Safety Standard for Refrigeration Systems* (“ANSI/ASHRAE 15”). These standards are consistently relied upon by

refrigeration experts and are sometimes incorporated by reference into state building and mechanical codes, including Connecticut's codes.²

29. On August 9, 2017, a duly authorized EPA inspector and an Eastern Research Group, Inc. ("ERG") contract inspector (collectively, the "EPA Inspectors") visited the Facility to determine whether Respondent was complying with Section 112(r) of the CAA and Section 312 of EPCRA (the "Inspection"). The EPA inspectors toured the Facility's perimeter, ammonia machinery room ("AMR"), roof, refrigerated loading dock, and medium-temperature rooms and freezers.

30. During the Inspection, the EPA inspector observed several potentially dangerous conditions relating to the System, including the following:

- a. **Problems with the AMR door.** The exit door in the AMR did not have panic hardware installed to allow for quick egress in the event of an emergency. In addition, the AMR door was not tight-fitting at the bottom and would not prevent ammonia from escaping should a release occur;
- b. **Failure to have a legible, permanent sign** securely attached and easily accessible in any location on the ammonia refrigeration system displaying the following information: i) name and address of the installer; ii) the refrigerant number and the amount of refrigerant in the system; iii) the lubricant identity and amount; and iv) the field test pressure(s) applied. This type of sign provides critical information to those maintaining the System (thereby

² For example, the Connecticut Building Code is based on the 2012 International Building Code ("IBC"). Both the IBC and the Connecticut Building Code that is based on state that "installations of mechanical appliances, equipment and systems . . . shall comply with the applicable provisions of the International Mechanical Code." The International Mechanical Code ("IMC"), in turn, specifies that refrigeration systems shall comply with the requirements of ASHRAE 15 and IAR 2. International Mechanical Code § 1101.6 (2012).

helping to prevent releases) and to those responding to an emergency (thereby minimizing the consequences of releases that do occur);

c. ***Fire hazards in the AMR.*** For example, a propane torch, gasoline, oil drums, and an organic peroxide solution were being stored in the AMR. In addition, EPA Inspectors observed exposed electrical wiring and an open electrical box in the AMR, and the water treatment system in the room was powered by linked electrical extension cords rather than a fixed electrical receptacle;

d. ***King valve not accessible.*** The main shut-off valve (“king valve”) for the high pressure receiver was not accessible from the floor level, nor was it accessible via a chain or permanent work surface, and there was no hand-wheel on the valve stem for easy operation in the event of an emergency.

e. ***Unlabeled piping and equipment.*** Several sections of ammonia piping in the AMR, on the roof, and in the loading dock areas either had worn, difficult-to-read labels or lacked labels indicating the contents and direction of flow. In addition, the high pressure receiver was not labeled with a National Fire Protection Association (“NFPA”) diamond signifying the presence and hazards of ammonia. The failure to label ammonia-containing piping and equipment makes it more difficult to properly maintain the System, operate correct valves, warn workers and emergency responders about hazards posed by System, reduce the risk of human error in operating the System, and respond quickly in the event of a release.

f. ***Deadman valves on oil pots were compromised.*** Wire wrapped around the self-closing “deadman” valves on oil pots in the AMR indicated that service technicians were using the wire to hold the valves in an open position during oil removal, overriding the valves’ protective function in the event of an emergency.

- g. ***Corroded piping and equipment.*** Signs of corrosion were observed on the low pressure accumulator and piping and valves on the roof, including the purge valve assembly.
- h. ***Missing/compromised insulation and vapor barriers on piping and equipment.*** Compromised insulation was observed on the low-pressure accumulator, various sections of piping on the roof, and the evaporator in the freezer. In addition, EPA Inspectors observed areas of ammonia piping and equipment frosted over with ice in the AMR, indicating a breach in the vapor barrier/insulation.
- i. ***Piping and equipment not adequately protected.*** Piping and valves extending from near the base of the high pressure receiver were not adequately protected from accidental damage or rupture by external forces.
- j. ***Inadequate ventilation.*** The emergency exhaust fan in the AMR was undersized to properly ventilate the space. In addition, the air intake point was installed in the ceiling (as was the exhaust fan), potentially leading to short-circuiting of the make-up air directly to the exhaust, rather than a location that would bring incoming fresh air down to ground level.
- k. ***Small ammonia leak.*** EPA Inspectors discovered a small ammonia leak in a valve assembly pipe fitting on the roof.
- l. ***Failure to adequately support ammonia piping.*** EPA Inspectors observed two spots where piping supports were either missing or improperly placed, causing ammonia piping to sag.
- m. ***The pressure relief vent header does not discharge upward.*** The pressure relief vent header discharges in a downward direction toward the evaporative condenser. This orientation could result in ammonia being sprayed onto people working on the roof, and/or

ammonia absorbing into cooling water in the condenser, which is recycled to an open tank inside the machinery room.

31. On January 26, 2018, EPA issued a Notice of Potential Violation and inspection report to Respondent, providing notice of potential General Duty Clause violations.

32. Respondent was responsive to the letter and began taking steps to address deficiencies at the Facility. According to Respondent, Respondent has completed the following actions:

- a. Installed a new exhaust fan to supplement the existing ventilation system;
- b. Damaged insulation was repaired and relabeled;
- c. A chain was added to the king valve on the high pressure receiver that allows an operator to close the valve from ground level;
- d. A wire holding open a self-closing “deadman” valves on an oil pot was removed, and Respondent has started doing spot checks to ensure this practice does not continue;
- e. Duct work was installed on the air intake to allow adequate circulation of fresh air in the event the ventilation system is activated;
- f. Supports were added to support sagging ammonia pipes, and electrical conduit suspended from ammonia piping was repositioned;
- g. Corroded piping was replaced, treated with moisture-proof grease, and reinsulated;
- h. Respondent hosted its service contractors and the local fire chief for a tour of the Facility and review of its emergency response plan;
- i. Panic hardware and a door sweep were installed on the AMR door;

- j. A sign identifying the installer of the System and the type and amount of refrigerant was installed at the Facility;
- k. Flammable chemicals were removed from the AMR, and a flammable storage cabinet placed outside of the AMR was purchased to store these materials;
- l. Labeling was added to piping and equipment;
- m. A refrigeration contractor evaluated corrosion on the low temperature intercooler, cleaned the equipment, applied a moisture-resistant grease, and repaired the breached insulation on it;
- n. Guarding was installed to protect piping near the base of the high pressure receiver from accidental rupture;
- o. Waste oil and unused chemicals were shipped off site;
- p. Abandoned electrical conduit and exposed electrical wiring were removed, and open electrical junction boxes were covered;
- q. The ammonia leak discovered on the roof during the Inspection was repaired the same day; and
- r. The pressure relief vent header has been repaired so that discharge sprays upward rather than downward.

33. As a result of EPA's inspections and review of information provided by Respondent, EPA alleges the following violations:

IV. VIOLATIONS

COUNT I: FAILURE TO DESIGN AND MAINTAIN A SAFE FACILITY IN VIOLATION OF THE CAA'S GENERAL DUTY CLAUSE

34. The allegations in paragraphs 1 through 33 are hereby realleged and incorporated by reference herein by reference.

35. Pursuant to the General Duty Clause, Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), owners and operators of stationary sources producing, processing, handling, or storing extremely hazardous substances have a general duty, in the same manner and to the same extent as Section 654 of Title 29, to, among other things, design and maintain a safe facility, taking such steps as are necessary to prevent releases.

36. As alleged in paragraphs 21 through 25 above, Respondent operates a stationary source that handled and stored anhydrous ammonia, an extremely hazardous substance. Accordingly, at the time of the violations alleged herein, Respondent was subject to the General Duty Clause.

37. The recommended industry practice and standard of care for designing and maintaining a safe facility with an ammonia refrigeration system of the same size and type as Respondent's System is to base design considerations upon applicable design codes, federal and state regulations, and industry guidelines to prevent releases or minimize their impacts as well as to develop and implement standard operating procedures, maintenance programs, personnel training programs, management of change practices, incident investigation procedures, self-audits, and preventative maintenance programs. IIAR, ASHRAE, and others have developed standards and guidelines for this purpose, such as the IIAR Bulletins, ANSI/IIAR Standard 2, the IIAR ARM Program, and ANSI/ASHRAE Standard 15. *See also* EPA's GDC Guidance, Section 2.3.2, and NFPA 1: *Fire Code*, Section 53.

38. As described in paragraph 30.b above, Respondent failed to install a permanent sign showing key information about the System at the Facility. The recommended industry practice and standard of care for ammonia refrigeration systems of this size is to install a legible, permanent sign displaying the following information: i) name and address of the installer; ii) the

refrigerant number and the amount of refrigerant in the system; iii) the lubricant identity and amount; and iv) the field test pressure(s) applied. *See, e.g.*, IIAR Bull. 109, Section 4.10.4 and Section 7, General Safety Inspection Checklist item (i); ANSI/IIAR 2-2014, Section 5.15 (among other emergency shutdown schematic drawings or signage, must have information on quantity of ammonia in system, type and quantity of refrigerant oil in the system, and field test pressures applied).

39. As described in paragraph 30.c above, there were several fire hazards in the AMR. The recommended industry practice and standard of care for ammonia refrigeration systems of this size is to refrain from storing combustible materials and address electrical hazards in the AMR. *See, e.g.*, ANSI/IIAR 2-2014, Section 6.4 (combustible materials shall not be stored in machinery rooms outside of approved fire-rated storage containers); NFPA 1 (2012 ed.), Sections 53.3.1.3.1 (flammable and combustible materials shall not be stored in the refrigeration machinery rooms except for incidental materials necessary for the safe and proper operation and maintenance of the system.), 53.2.3.4 and 11.1 (electrical equipment and electrical installations in refrigeration machinery room shall comply with Section 11.1); IIAR Bull. 109, Section 7, General Safety Inspection Checklist item (x) (covers should be fastened to all electrical panels and junction boxes.).

40. As described in paragraph 30.e above, Respondent failed to adequately label all ammonia piping and equipment. The recommended industry practice and standard of care for ammonia refrigeration systems of this size is to identify all refrigeration machinery with labels and provide key equipment-specific information on nameplates, and to label all piping with the identity, physical state, and relative pressure of the contents, as well as direction of flow. *See, e.g.*, ANSI/IIAR 2-2014, Sections 5.14.2 (refrigeration machinery shall be labeled), 5.14.4

(requiring nameplates on all equipment that includes certain information regarding the manufacturer, design limits, and purpose, as specified by type of equipment in Chapters 8 through 16 of the Standard), and 5.14.5 (piping shall be labeled with the identify, physical state, and relative pressure of the contents, along with the pipe service and direction of flow); IIAR Bull. 109, Section 4.7.6 (All ammonia piping should have appropriate pipe markers attached to indicate the use of the pipe and arrows to indicate the direction of flow, such as in IIAR Bull. 114...); IIAR Bull. 114, Sections 4.1 (Piping Markers: Piping markers shall be designed to identify the refrigerant, the physical state of the refrigerant, the relative pressure level of the refrigerant and the direction of flow) and 4.2 (Component Markers: Component markers will bear the name of the equipment they identify, *e.g.*, RECEIVER, ACCUMULATOR, RECIRCULATOR and provide a pressure level designation.); IIAR ARM Program, Section 4.2 (Recommends labeling in accordance with Bulletin 114 as part of the facility's Standard Operating Procedure program); and ASME 13.1-2007 (specifying conventions for labeling piping).

41. As described in paragraph 30.f above, wire had been wrapped around the self-closing "deadman" valves on oil pots in the AMR, thereby overriding the valves' protective function in the event of an emergency. The recommended industry practice and standard of care for ammonia refrigeration systems of this size is to have a shut-off valve in series with a working self-closing valve at all oil removal points in the System. *See, e.g.*, ANSI/IIAR 2-2014, Section 5.9.3 (at minimum, a shut-off valve in series with a self-closing valve is required); IIAR Bull. 109, Section 7, General Safety Inspection Checklist item (g).

42. As described in paragraph 30.g above, several pieces of equipment and sections of piping were corroded. The recommended industry practice and standard of care for ammonia

refrigeration systems of this size is to implement a *preventative* maintenance program, under which piping and equipment are regularly evaluated for signs of corrosion, and corroded piping and equipment is cleaned down to bare metal and painted to prevent future corrosion. *See, e.g.*, IIAR Bull. 109, Sections 4.2.4, 4.3.5, 4.4.5 (calling for regular inspection of condensers, heat exchangers, pressure vessels, and evaporators for signs of corrosion), 4.7.4 (Uninsulated refrigerant piping should be examined for signs of corrosion. If corrosion exists, the pipe should be cleaned down to bare metal and painted with a rust prevention paint. Badly corroded pipe should be replaced.), and inspection checklists (calling for regular evaluation of piping, valves, and equipment for signs of corrosion); NFPA 1 (2012 ed.), Section 53.3.1.1 (Refrigeration systems shall be operated and maintained in a safe and operable condition, free from accumulations of oil, dirt, waste, excessive corrosion, other debris or leaks.); and IMC 2012, Section 1101.7 (Mechanical refrigeration systems shall be maintained in proper operating condition, free from accumulations of oil, dirt, waste, excessive corrosion, other debris and leaks.).

43. As described in paragraph 30.h above, there were several sections of compromised and/or missing insulation on ammonia piping and equipment. The recommended industry practice and standard of care for ammonia refrigeration systems of this size is to regularly inspect the condition of insulation and vapor barrier, and to remove and replace any sections that are in poor condition. *See, e.g.*, IIAR Bull. 110, Sections 6.7.2 (Any mechanical damage to insulation on piping should be repaired immediately and the vapor seal reinstated to prevent access of water or water vapor which will lead to breakdown of insulation and corrosion of the pipework. At least as part of the annual piping inspection, but preferably more frequently, the external condition of the insulation and supports shall be inspected. Condensation and

frosting on the surface of insulated finishes indicates a deterioration or breakdown of the insulation or vapor barrier. Sections of insulation which are obviously in poor condition shall be removed and the integrity of the exposed piping determined with the aid of non-destructive testing techniques, as appropriate. Piping shall be replaced as necessary, and protective coatings, insulation, and vapor seal reapplied.), 6.4.2.1 (insulation applied to pressure vessels and head exchangers should be regularly checked by operators for deterioration, and any deterioration found should be recorded and repairs arranged), 6.4.3.1 (Where a section of insulation is materially damaged, it should be repaired or replaced. Underlying areas affected by surface corrosion should be cleaned off, inspected, and appropriate treated before reinstatement of the protective finish, insulation, and vapor barrier.); ANSI/IIAR 2-2014, Section 5.10.1 (piping and equipment surfaces not intended for heat exchange shall be insulated, treated, or otherwise protected to mitigate condensation and excessive frost buildup); ANSI/IIAR 4-2015, Section 12.1 (Refrigeration piping or components, whose surface temperature is expected to be at or below the dew point temperature at any time, shall be insulated and conditioned to prevent or mitigate condensation.).

44. As described in paragraph 30.i above, ammonia piping and equipment was not adequately protected from potential damage by external sources of physical impact. The recommended industry practice and standard of care for ammonia refrigeration systems of this size is to install guarding or barricading to prevent ammonia piping and equipment from being subject to physical impact. *See, e.g.*, ANSI/IIAR 2-2014, Sections 5.17.1 (Guarding or barricading shall be provided for ammonia-containing equipment installed in a location subject to physical damage.), 7.2.4 (Equipment shall be protected where a risk of physical damage exists. Where equipment containing ammonia is located in an area with heavy vehicular traffic

during normal operations and a risk of impact exists, vehicle barriers or alternative protection shall be provided in accordance with the Fire Code.), and 13.4.2 (Refrigerant piping shall be isolated and supported to prevent damage from vibration, stress, corrosion, and physical impact.); IIAR Bull. 109, Section 4.7.3 (ammonia piping should be inspected throughout a facility to determine that no refrigerant piping is exposed to possible physical damage through traffic hazards, for example: forklifts) and Section 7 Evaporators Inspection Checklist item (g) (adequate protection against traffic hazards?), item (b) (piping); IIAR ARM Program, Appendix 10.1, item 8.10 (“Is all piping protected from traffic hazards such as fork lifts?”).

45. As described in paragraph 30.j above, the ventilation system in the AMR was not adequate in size or installation to properly ventilate the space. The recommended industry practice and standard of care for ammonia refrigeration systems of this size is for emergency ventilation systems to provide not less than 30 air changes per hour based on the gross machinery room volume, and make-up air supply locations should be positioned to prevent short-circuiting of the make-up air directly to the exhaust. *See, e.g.*, ANSI/IIAR 2-2014, Sections 6.14.5.2 (requiring proper positioning or air intakes to avoid short-circuiting make-up air to the exhaust) and 6.14.7.1 (emergency ventilation systems shall provide not less than 30 air changes per hour); IIAR Bull. 109, Section 7 Ventilation Inspection Checklist item (b) (actual emergency ventilation exhaust or greater than or equal to the minimum required?) and item (k) (intake louvers and exhaust fans are positioned to promote mixing and to avoid short circuiting of machinery room air?).

46. As described in paragraph 30.k above, EPA Inspectors discovered a small ammonia leak in a valve assembly pipe fitting on the roof. The recommended industry practice and standard of care for ammonia refrigeration systems of this size is to immediately investigate

and repair any ammonia leaks discovered. *See, e.g.*, IIAR Bull. 109, Section 4.10.8 (If an ammonia leak is observed, the source of the leak should be investigated and the leak repaired.); IMC 2012, Section 1101.7 (Mechanical refrigeration systems shall be maintained in proper operating condition, free from accumulations of oil, dirt, waste, excessive corrosion, other debris and leaks.); NFPA 1 (2012 ed.), Section 53.3.1.1 (Refrigeration systems shall be operated and maintained in a safe and operable condition, free from accumulations of oil, dirt, waste, excessive corrosion, other debris or leaks.).

47. As described in paragraph 30.l above, ammonia piping was not adequately supported and was sagging in multiple locations. The recommended industry practice and standard of care for ammonia refrigeration systems of this size is to provide sufficient support for piping to prevent damage from stress or movement. *See, e.g.*, ANSI/IIAR 2-2014, Sections 5.11.5 (supports and foundations shall be designed to prevent excessive vibration or movement of piping, tubing, and equipment), 13.4.1 (piping hangers and supports shall carry the weight of the piping and any additional expected loads), and 13.4.2 (piping shall be isolated and supported to prevent damage from vibration, stress, corrosion, and physical impact); IIAR Bull. 109, Section 7 Piping Inspection Checklist item (a) (piping system adequately supported and anchored?).

48. As described in paragraph 30.m above, the termination of the discharge from the pressure relief vent header was not directed upward, and any discharge absorbed into the nearby condenser was not via a proper water diffusion system. The recommended industry practice and standard of care for ammonia refrigeration systems of this size is to direct discharge from pressure relief devices upward to avoid spraying people, or into the bottom of a water diffusion tank that has been appropriately sized to handle the amount of ammonia that might be released

from the pressure relief devices. *See, e.g.*, ANSI/IIAR 2-2014, Sections 15.5.1 (pressure relief devices shall discharge vapor directly to the atmosphere outdoors, except discharge through a water diffusion system in accordance with Section 15.5.3, among other methods, is permitted where approved by the authority having jurisdiction), 15.5.1.5 (the termination of atmospheric discharges from pressure relief devices shall be directed upward and arranged to avoid spraying ammonia on persons in the vicinity), 15.5.3 (where pressure relief devices discharge to a water tank, the discharge pipe shall distribute the ammonia to the bottom of the tank, the tank shall be sized to contain 1 gallon of water for each pound of ammonia that would be released in 1 hour from the largest device connected to the discharge pipe and large enough to contain both water and ammonia without overflowing, and the effect of back pressure shall be considered in the relief vent piping design).

49. Accordingly, by failing to install a permanent sign showing key information about the System at the Facility, remove fire hazards in the AMR, adequately label all ammonia piping and equipment, ensure the self-closing “deadman” valves on oil pots in the AMR were capable of working as designed, address corrosion and compromised and/or missing insulation on several pieces on ammonia piping and equipment, adequately protect ammonia piping and equipment from potential damage by external sources of physical impact, provide adequate ventilation in the AMR, promptly correct a small ammonia leak on the roof, provide adequate supports for ammonia piping, and ensure a safe point and means of discharge from the pressure relief vent header, Respondent failed to design and maintain a safe facility, in violation of the General Duty Clause, Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1).

**COUNT II: FAILURE TO MINIMIZE THE
CONSEQUENCES OF ACCIDENTAL RELEASES THAT MIGHT
OCCUR IN VIOLATION OF THE CAA’S GENERAL DUTY CLAUSE**

50. The allegations in paragraphs 1 through 49 are hereby realleged and incorporated by reference herein by reference.

51. Pursuant to the General Duty Clause, Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), owners and operators of stationary sources producing, processing, handling, or storing extremely hazardous substances (including anhydrous ammonia) have a general duty, in the same manner and to the same extent as Section 654 of Title 29, to, among other things, minimize the consequences of any accidental releases that do occur.

52. As described in paragraph 30.a above, the exit door in the AMR did not have panic hardware, nor was it tight-fitting at the bottom. The recommended industry practice and standard of care for ammonia refrigeration systems of this size is to install panic hardware onto AMR exit doors and ensure that the AMR is provided with tight-fitting, self-closing doors. *See, e.g., ANSI/IIAR 2-2014, Section 6.10.2 (Machinery doors shall be self-closing and tight fitting. Doors that are part of the means of egress shall be equipped with panic hardware and shall be side hinged to swing in the direction of egress for occupants leaving the machinery room.); IIAR ARM Program, Appendix 10, item 11.14 at A10-42 (Asks whether machinery room doors are tight-fitting, open outward, and are fitted with panic-type hardware).*

53. As described in paragraph 30.b and in Count I (paragraph 38) above, Respondent failed to install a permanent sign showing key information about the System at the Facility. The recommended industry practice and standard of care for ammonia refrigeration systems of this size is to install a legible, permanent sign displaying the following information: i) name and address of the installer; ii) the refrigerant number and the amount of refrigerant in the system; iii) the lubricant identity and amount; and iv) the field test pressure(s) applied. *See, e.g., IIAR Bull. 109, Section 4.10.4 and Section 7 Gen); ANSI/IIAR 2-2014, Section 5.15 (among other*

emergency shutdown schematic drawings or signage, must have information on quantity of ammonia in system, type and quantity of refrigerant oil in the system, and field test pressures applied).

54. As described in paragraph 30.c and in Count I (paragraph 39) above, there were many fire hazards in the AMR. The recommended industry practice and standard of care for ammonia refrigeration systems of this size is to refrain from storing combustible materials and to address electrical hazards in the AMR. *See, e.g.*, ANSI/IIAR 2-2014, Section 6.4 (combustible materials shall not be stored in machinery rooms outside of approved fire-rated storage containers); NFPA 1 (2012 ed.), Sections 53.3.1.3.1 (flammable and combustible materials shall not be stored in the refrigeration machinery rooms except for incidental materials necessary for the safe and proper operation and maintenance of the system.), 53.2.3.4 and 11.1 (electrical equipment and electrical installations in refrigeration machinery room shall comply with Section 11.1); IIAR Bull. 109, Section 7 General Safety Inspection Checklist item (x) (covers should be fastened to all electrical panels and junction boxes.).

55. As described in paragraph 30.d above, Respondent failed to ensure that the high pressure receiver king valve was accessible for easy use in the event of an emergency shutdown. The recommended industry practice and standard of care for ammonia refrigeration systems of this size is to ensure that main shut-off valves are directly operable from the floor level or chain-operated. *See, e.g.*, ANSI/IIAR 2-2014, Sections 6.3.3.1 (manually operated valves inaccessible from floor level shall be operable from portable platforms, ladders, or shall be chain operated) and 6.3.3.2 (manually operated isolation valves that are part of system emergency shutdown procedure shall be directly operable from floor or chain operated from a permanent work surface); IIAR Bull. 109, Section 4.10.3 (main shut-off valve(s) should be readily accessible) and

Section 7, General Safety Inspection Checklist item (e); IIAR ARM Program, Appendix 10.1, items 7.6 (accessibility of main valves), 11.5 (availability of platforms, ladders or chains for inaccessible valves).

56. As described in paragraph 30.e and in Count I (paragraph 40) above, Respondent failed to adequately label all ammonia piping and equipment. The recommended industry practice and standard of care for ammonia refrigeration systems of this size is to identify all refrigeration machinery with labels and provide key equipment-specific information on nameplates, and to label all piping with the identity, physical state, and relative pressure of the contents, as well as direction of flow. *See, e.g.*, ANSI/IIAR 2-2014, Sections 5.14.2 (refrigeration machinery shall be labeled), 5.14.4 (requiring nameplates on all equipment that includes certain information regarding the manufacturer, design limits, and purpose, as specified by type of equipment in Chapters 8 through 16 of the Standard), and 5.14.5 (piping shall be labeled with the identify, physical state, and relative pressure of the contents, along with the pipe service and direction of flow); IIAR Bull. 109, Section 4.7.6 (All ammonia piping should have appropriate pipe markers attached to indicate the use of the pipe and arrows to indicate the direction of flow, such as in IIAR Bull. 114...); IIAR Bull. 114, Sections 4.1 (Piping Markers: Piping markers shall be designed to identify the refrigerant, the physical state of the refrigerant, the relative pressure level of the refrigerant and the direction of flow) and 4.2 (Component Markers: Component markers will bear the name of the equipment they identify, *e.g.*, RECEIVER, ACCUMULATOR, RECIRCULATOR and provide a pressure level designation.); IIAR ARM Program, Section 4.2 (Recommends labeling in accordance with Bulletin 114 as part of the facility's Standard Operating Procedure program); and ASME 13.1-2007 (specifying conventions for labeling piping).

57. As described in paragraph 30.f and in Count I (paragraph 41) above, wire had been wrapped around the self-closing “deadman” valves on oil pots in the AMR, thereby overriding the valves’ protective function in the event of an emergency. The recommended industry practice and standard of care for ammonia refrigeration systems of this size is to have a shut-off valve in series with a working self-closing valve at all oil removal points in the System. *See, e.g.*, ANSI/IIAR 2-2014, Section 5.9.3 (at minimum, a shut-off valve in series with a self-closing valve is required); IIAR Bull. 109, Section 7 General Safety Inspection Checklist item (g).

58. As described in paragraph 30.j and in Count I (paragraph 45) above, the ventilation system in the AMR was not adequate in size or installation to properly ventilate the space. The recommended industry practice and standard of care for ammonia refrigeration systems of this size is for emergency ventilation systems to provide not less than 30 air changes per hour based on the gross machinery room value, and make-up air supply locations should be positioned to prevent short-circuiting of the make-up air directly to the exhaust. *See, e.g.*, ANSI/IIAR 2-2014, Sections 6.14.5.2 (requiring proper positioning of air intakes to avoid short-circuiting make-up air to the exhaust) and 6.14.7.1 (emergency ventilation systems shall provide not less than 30 air changes per hour); IIAR Bull. 109, Section 7 Ventilation Inspection Checklist item (b) (actual emergency ventilation exhaust or greater than or equal to the minimum required?) and item (k) (intake louvers and exhaust fans are positioned to promote mixing and to avoid short circuiting of machinery room air?).

59. As described in paragraph 30.k and in Count I (paragraph 46) above, EPA Inspectors discovered a small ammonia leak in a valve assembly pipe fitting on the roof. The recommended industry practice and standard of care for ammonia refrigeration systems of this

size is to immediately investigate and repair any ammonia leaks discovered. *See, e.g.*, IIAR Bull. 109, Section 4.10.8 (If an ammonia leak is observed, the source of the leak should be investigated and the leak repaired.); IMC 2012, Section 1101.7 (Mechanical refrigeration systems shall be maintained in proper operating condition, free from accumulations of oil, dirt, waste, excessive corrosion, other debris and leaks.); NFPA 1 (2012 ed.), Section 53.3.1.1 (Refrigeration systems shall be operated and maintained in a safe and operable condition, free from accumulations of oil, dirt, waste, excessive corrosion, other debris or leaks.).

60. As described in paragraph 30.m and in Count I (paragraph 48) above, the termination of the discharge from the pressure relief vent header was not directed upward, and any discharge absorbed into the nearby condenser was not via a proper water diffusion system. The recommended industry practice and standard of care for ammonia refrigeration systems of this size is to direct discharge from pressure relief devices upward to avoid spraying people, or into the bottom of a water diffusion tank that has been appropriately sized to handle the amount of ammonia that might be released from the pressure relief devices. *See, e.g.*, ANSI/IIAR 2-2014, Sections 15.5.1 (pressure relief devices shall discharge vapor directly to the atmosphere outdoors, except discharge through a water diffusion system in accordance with Section 15.5.3, among other methods, is permitted where approved by the authority having jurisdiction), 15.5.1.5 (the termination of atmospheric discharges from pressure relief devices shall be directed upward and arranged to avoid spraying ammonia on persons in the vicinity), 15.5.3 (where pressure relief devices discharge to a water tank, the discharge pipe shall distribute the ammonia to the bottom of the tank, the tank shall be sized to contain 1 gallon of water for each pound of ammonia that would be released in 1 hour from the largest device connected to the discharge

pipe and large enough to contain both water and ammonia without overflowing, and the effect of back pressure shall be considered in the relief vent piping design).

61. Accordingly, by failing to provide a tight-fitting exit door from the AMR with panic hardware installed, install a permanent sign showing key information about the System at the Facility, remove fire hazards in the AMR, ensure that the high pressure receiver king valve was easily accessible, adequately label all ammonia piping and equipment, ensure the self-closing “deadman” valves on oil pots in the AMR were capable of working as designed, provide adequate ventilation in the AMR, promptly correct a small ammonia leak on the roof, and ensure a safe point and means of discharge from the pressure relief vent header, Respondent failed to minimize the consequences of an accidental release should one occur, in violation of the General Duty Clause, Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1).

V. TERMS OF SETTLEMENT

62. The provisions of this CAFO shall apply to and be binding on EPA and on Respondent, its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns.

63. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in this CAFO and that the CAFO states a claim upon which relief can be granted against Respondent. Respondent waives any defenses it might have as to jurisdiction and venue and, without admitting or denying the factual and legal allegations contained herein, consents to the terms of this CAFO.

64. Respondent hereby waives its right to a judicial or administrative hearing on any issue of law or fact set forth in this CAFO and waives its right to appeal the Final Order.

65. Respondent certifies that it has corrected the violations alleged in this CAFO and, upon completion of the process hazard review update described in paragraph 70, will continue to operate the Facility in compliance with Section 112(r) of the CAA, 42 U.S.C. § 7412(r).

66. Pursuant to Section 113(d)(2)(B) and (e) of the CAA, 42 U.S.C. § 7413(d)(2)(B) and (e), and taking into account the relevant statutory penalty criteria, the applicable penalty policy, the facts alleged in this CAFO, Respondent's cooperation in agreeing to perform the non-penalty obligations in this CAFO, and such other circumstances as justice may require, EPA has determined that it is fair and proper to assess a civil penalty of forty thousand six hundred dollars (\$40,600) for the violations alleged in this matter.

67. Respondent consents to the issuance of this CAFO and consents for purposes of settlement to the payment of the civil penalty cited in paragraph 66 and to come into compliance with the General Duty Clause, as described in paragraph 70 below.

68. Within thirty (30) days of the effective date of this CAFO, Respondent shall submit a company, bank, cashier's, or certified check in the amount of \$40,600 payable to the order of the "Treasurer, United States of America." The check should be sent as follows:

If remitted by regular U.S. mail:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

If remitted by any overnight commercial carrier:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, Missouri 63101

If remitted by wire transfer: Any wire transfer must be sent directly to the Federal Reserve Bank in New York City using the following information:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read:
“D 68010727 Environmental Protection Agency

Respondent shall include the case name and docket number (“*In re City Line Distributors, Inc.*, Docket No. CAA-01-2019-0005”) on the face of the check or wire transfer confirmation. In addition, at the time of payment, Respondent shall simultaneously send notice of the payment and a copy of the check or electronic wire transfer confirmation to:

Wanda I. Santiago
Regional Hearing Clerk (Mail Code ORA 04-6)
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

and

Laura J. Berry
Enforcement Counsel (Mail Code OES 04-2)
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

69. In the event that any portion of the civil penalty amount described in paragraph 66 is not paid when due without demand, pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), Respondent will be subject to an action to compel payment, plus interest, enforcement expenses, and a nonpayment penalty. Interest will be assessed on the civil penalty if it is not paid when due. In that event, interest will accrue from the effective date of this CAFO at the “underpayment rate” established pursuant to 26 U.S.C § 6621(a)(2). In the event that the penalty is not paid when due, an additional charge will be assessed to cover the United States’ enforcement expenses, including attorneys’ fees and collection costs. In addition, a quarterly

nonpayment penalty will be assessed for each quarter during which the failure to pay the penalty persists. Such nonpayment penalty shall be 10 percent of the aggregate amount of Respondent's outstanding civil penalties and nonpayment penalties hereunder accrued as of the beginning of such quarter. In any such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

70. As a condition of settlement, Respondent agrees to take the following action to ensure it is operating in compliance with the General Duty Clause. By six (6) months after the effective date of this CAFO, Respondent shall submit to EPA written confirmation that Respondent has completed an updated Process Hazard Review using the checklists contained in the IIAR ARM Program (2019 version), or, as appropriate, written notice of noncompliance with this requirement. Such notice of compliance or noncompliance shall be accompanied by a copy of the updated Process Hazard Review, including documentation of costs. Any notice of noncompliance shall state the reasons for the noncompliance and when compliance is expected.

71. Submissions required by this CAFO shall be in writing shall be mailed to the following addresses with a copy also sent by electronic mail:

a. To EPA:

Chris Rascher
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code OES 05-4
Boston, MA 02109
Rascher.Chris@epa.gov

b. To Respondent:

Robert Berkowitz
City Line Distributors, Inc.
20 Industry Drive
West Haven, CT 06516
RBerkowitz@citylinefoods.com

72. The civil penalty under this CAFO and any interest, nonpayment penalties, and other charges described herein shall represent penalties assessed by EPA within the meaning of 26 U.S.C. § 162(f) and shall not be deductible for purposes of federal, state, or local taxes. Accordingly, Respondent agrees to treat all payments made pursuant to this CAFO as penalties within the meaning of 26 C.F.R. § 1.162-21, and further agrees not to use these payments in any way as, or in furtherance of, a tax deduction under federal, state, or local law.

73. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state, or local law.

74. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 113(d) of the CAA for the specific violations alleged in this CAFO. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with said laws and regulations.

75. By signing this Agreement, Respondent certifies that the information it has supplied concerning this matter was at the time of submission true, accurate, and complete for each such submission, response, and statement. Respondent acknowledges that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.

76. Nothing in this CAFO shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondent's violation of this CAFO or of the statute upon which this CAFO is based, or for Respondent's violation of any applicable provision of law.

77. This CAFO in no way relieves Respondent or its employees of any criminal liability, and EPA reserves all its other criminal and civil enforcement authorities, including the authority to seek injunctive relief and the authority to undertake any action against Respondent in response to conditions which may present an imminent and substantial endangerment to the public health, welfare, or the environment.


78. Each party shall bear its own costs and fees in this proceeding including attorney's fees, and specifically waive any right to recover such costs from the other party pursuant to the Equal Access to Justice Act, 5 U.S.C § 504, or other applicable laws.

79. The terms, conditions, and requirements of this CAFO may not be modified without the written agreement of all Parties and the approval of the Regional Judicial Officer, except that the Regional Judicial Officer need not approve a written agreement between the parties modifying schedules for the compliance conditions in paragraph 70.

80. In accordance with 40 C.F.R. § 22.31(b), the effective date of this CAFO is the date on which it is filed with the Regional Hearing Clerk.

81. Each undersigned representative of the parties certifies that he is fully authorized by the party responsible to enter into the terms and conditions of this CAFO and to execute and legally bind that party to it.

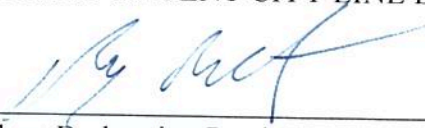
FOR U.S. ENVIRONMENTAL PROTECTION AGENCY:



Karen McGuire, Director
Office of Environmental Stewardship
U.S. Environmental Protection Agency, Region 1

Date: 4-8-19

FOR RESPONDENT CITY LINE DISTRIBUTORS, INC.:



Robert Berkowitz, President
City Line Distributors, Inc.

Date: 3/28/2019

FINAL ORDER

Pursuant to 40 C.F.R. §§ 22.18(b) and (c) of EPA's Consolidated Rules of Practice and Sections 113(d)(1) and (d)(2)(B) of the Clean Air Act, 42 U.S.C. §§ 7413(d)(1) and (d)(2)(B), the foregoing Consent Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified. Respondent is ordered to pay the civil penalty amount specified in the Consent Agreement, in the manner indicated.

The terms of the Consent Agreement will become effective on the date it is filed with the Regional Hearing Clerk.

Date: April 11, 2019



LeAnn Jensen
Regional Judicial Officer
U.S. Environmental Protection Agency, Region 1

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1 – NEW ENGLAND**

IN THE MATTER OF:)
)
)

CITY LINE DISTRIBUTORS, INC.,)
)
)

Proceeding under Section 113(d) of)
the Clean Air Act, 42 U.S.C. § 7413(d))
_____)

Docket No.:
CAA-01-2019-0005

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Consent Agreement and Final Order has been sent to the following persons on the date noted below:

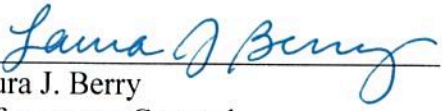
Original and one copy,
hand-delivered:

Ms. Wanda Santiago
Regional Hearing Clerk
U.S. EPA, Region 1 (ORA 04-6)
5 Post Office Square, Suite 100
Boston, MA 02109-3912

Copy, by Certified Mail,
Return Receipt Requested:

Nancy K. Mendel, Esq. (Respondent's counsel)
Winnick Ruben Hoffnung Peabody & Mendel, LLC
110 Whitney Avenue
New Haven, CT 06510

Dated: 4/11/19



Laura J. Berry
Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100 (OES04-2)
Boston, MA 02109-3912
Tel (617) 918-1148
Fax (617) 918-0148