

FILED

May 7, 2025

6:16AM

**U.S. EPA REGION 7
HEARING CLERK**

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD
LENEXA, KANSAS**

IN THE MATTER OF:

CRYSTAL DISTRIBUTION SERVICES,
INC.,

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Docket No. CAA-07-2025-0048

Respondent.

ADMINISTRATIVE ORDER FOR COMPLIANCE ON CONSENT

Preliminary Statement

1. This Administrative Order for Compliance on Consent ("Order") is entered into voluntarily by the United States Environmental Protection Agency ("EPA") and by Crystal Distribution Services, Inc. dba Crystal Cold ("Respondent"), pursuant to Section 113(a)(3)(B) of the Clean Air Act ("CAA"), 42 U.S.C. § 7413(a)(3)(B), as amended.

2. This Order requires Respondent to comply with the requirements of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and the regulations promulgated thereunder and codified at 40 C.F.R. Part 68. Specifically, EPA orders Respondent to conduct a hazard assessment and implement Program 3 prevention and Emergency Response requirements if the facility will have present more than the threshold quantity of anhydrous ammonia. All activities specified below shall be initiated and completed as soon as possible even though maximum time periods for their completion may be specified herein. The terms of this Order shall not be modified except by a subsequent written agreement between the parties.

3. By entering into this Order, Respondent (1) consents to and agrees not to contest EPA's authority or jurisdiction to issue or enforce this Order, (2) agrees to undertake all actions required by the terms and conditions of this Order, (3) consents to personal service by electronic mail at *BZeets@crystaldist.com*, and (4) consents to be bound by the requirements set forth herein. Respondent also 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, but not limited to, any right of judicial review of this Order under Section 307(b)(1) of the CAA, 42 U.S.C. § 7607(b)(1), or under the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

Statutory and Regulatory Background

4. On November 15, 1990, the President signed into law the CAA Amendments of 1990. The Amendments added Section 112(r) to Title I of the CAA, 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 regulated substances. Section 112(r)(3), 42 U.S.C. § 7412(r)(3), mandates that the Administrator 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), 42 U.S.C. § 7412(r)(7). Specifically, Section 112(r)(7), 42 U.S.C. § 7412(r)(7), requires the Administrator to promulgate regulations that address release prevention, detection, and correction requirements for these listed regulated substances.

5. On June 20, 1996, EPA promulgated a final rule known as the Risk Management Program, 40 C.F.R. Part 68, which implements Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7). These 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.

6. The regulations at 40 C.F.R. Part 68 set forth the requirements of a Risk Management Program that must be established at each stationary source. The Risk Management Program is described in a Risk Management Plan ("RMP") that must be submitted to EPA.

7. Pursuant to Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 C.F.R. § 68.150, an RMP must be submitted for all covered processes by the owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process 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.

8. The regulations at 40 C.F.R. § 68.10 set forth how the chemical accident prevention provisions apply to covered processes. Pursuant to 40 C.F.R. § 68.10(l), a covered process is subject to Program 3 requirements if the process does not meet the requirements of Program 1, as described in 40 C.F.R. § 68.10(g), and if it is in a specified North American Industrial Classification System code or is subject to the OSHA process safety management standard, 29 C.F.R. 1910.119.

9. Section 113(a)(3)(B) of the CAA, 42 U.S.C. § 7413(a)(3)(B), grants the Administrator the authority to make a finding of violation of a requirement or prohibition of Title I of the CAA (Subchapter I of 42 U.S.C. Chapter 85), and upon such a finding, to issue an order requiring a person to comply with such requirement or prohibition.

Definitions

10. Section 112(a)(9) of the CAA, 42 U.S.C. § 7412(a)(9), defines "owner or operator" as any person who owns, leases, operates, controls, or supervises a stationary source.

11. Section 302(e) of the CAA, 42 U.S.C. § 7602(e), defines "person" to include any 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.

12. The regulations at 40 C.F.R. § 68.3 define “stationary source” as any buildings, structures, equipment, installations or substance emitting stationary activities which belong to the same industrial group, which are located on one or more contiguous properties, which are under the control of the same person (or persons under common control) and from which an accidental release may occur.

13. The 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, as amended, listed in 40 C.F.R. § 68.130, Tables 1, 2, 3, and 4, and determined to be present at a stationary source as specified in 40 C.F.R. § 68.115.

14. The regulations at 40 C.F.R. § 68.3 define “regulated substance” as any substance listed pursuant to Section 112(r)(3) of the CAA, as amended, in 40 C.F.R. § 68.130, Tables 1, 2, 3, and 4.

15. The 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 the 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.

16. Section 112(r)(2)(A) of the CAA, 42 U.S.C. § 7412(r)(2)(A), and 40 C.F.R. § 68.3 define “accidental release” as an unanticipated emission of a regulated substance or other extremely hazardous substance into the ambient air from a stationary source.

Findings of Fact and Law

17. Respondent is, and at all times referred to herein was, a “person” as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

18. Respondent’s facility, located at 1656 Sycamore Street in Waterloo, Iowa (“Facility”), is a “stationary source” pursuant to 40 C.F.R. § 68.3.

19. Respondent is the owner or operator of the Facility.

20. EPA inspected Respondent’s Facility on September 13, 2023, to determine compliance with Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and 40 C.F.R. Part 68. Information collected as a result of this inspection revealed that Respondent had failed to properly implement the risk management program at the Facility.

21. At the time of the EPA inspection, Respondent had greater than 10,000 pounds of anhydrous ammonia in a process at the Facility.

22. Anhydrous ammonia is a "regulated substance" pursuant to 40 C.F.R. § 68.3. The threshold quantity for anhydrous ammonia, as listed in 40 C.F.R. § 68.130, Table 1, is 10,000 pounds.

23. From the time Respondent first had onsite greater than 10,000 pounds of anhydrous ammonia in a process, Respondent was subject to the requirements of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and 40 C.F.R. Part 68 because it was an owner and operator of a stationary source that had more than a threshold quantity of a regulated substance in a process.

24. From the time Respondent first had onsite greater than 10,000 pounds of anhydrous ammonia in a process, Respondent was subject to Program 3 prevention program requirements because, pursuant to 40 C.F.R. § 68.10(l), the covered process at its facility did not meet the eligibility requirements of Program 1 and was subject to the OSHA process safety management standard, 29 C.F.R. § 1910.119.

25. From the time Respondent first had onsite greater than 10,000 pounds of anhydrous ammonia in a process, Respondent was required under Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), to submit an RMP pursuant to 40 C.F.R. § 68.12(a) and comply with the Program 3 requirements provided at 40 C.F.R. § 68.12(d).

Findings of Violation

26. The facts stated in Paragraphs 17 through 25, above, are herein incorporated.

Hazard Assessment

27. 40 C.F.R. § 68.12(d)(2) requires the owner or operator of a stationary source subject to the Chemical Accident Prevention Provisions, 40 C.F.R. Part 68, with a process subject to Program 3, to conduct a hazard assessment as provided in 40 C.F.R. §§ 68.20 through 68.42.

28. The EPA inspection revealed that Respondent failed to conduct the Program 3 hazard assessment requirements of 40 C.F.R. §§ 60.20 through 68.42. When Respondent was asked during the inspection if it had undertaken a process hazard analysis, facility representatives were unable to recall conducting one.

29. Respondent's failures to comply with the hazard assessment requirements of 40 C.F.R. §§ 68.20 through 68.42, as required by 40 C.F.R. § 68.12(d)(2), violate Section 112(r) of the CAA, 42 U.S.C. § 7412(r).

Program 3 Prevention Requirements

30. 40 C.F.R. § 68.12(d)(3) requires the owner or operator of a stationary source with a process subject to Program 3 to implement the Program 3 prevention requirements of 40 C.F.R. §§ 68.65 through 68.87.

31. The EPA inspection revealed that Respondent failed to implement the Program 3 prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. Specifically:

- (a) Respondent failed to evaluate consequences of deviation in its written process safety information, as required by 40 C.F.R. § 68.65(c)(1)(v). Respondent could not locate consequences of deviation documentation.
- (b) Respondent failed to include material and energy balances for processes built after June 21, 1999, in its written process safety information, as required by 40 C.F.R. § 68.65(d)(1)(vii). Respondent could not locate the material and energy balance calculation documentation.
- (c) Respondent failed to ensure and document that the process is designed and maintained in compliance with recognized and generally accepted good engineering practices, as required by 40 C.F.R. § 68.65(d)(2), as evidenced by:
 - i. Numerous examples of excessive ice buildup on piping and equipment and/or frozen equipment (see Photographs 1 and 11 through 15 of the EPA's inspection report).
 - ii. Numerous examples of deterioration and/or corrosion of piping and equipment, including rust formation (see Photographs 5, 12 through 13, 19, and 34 of the EPA's inspection report).
 - iii. Numerous examples of deteriorating equipment labels (see Photographs 4 and 9 of the EPA's inspection report).
 - iv. Numerous examples of compromised insulation, some of which is held in place with tape (see Photographs 5 through 8, 11 through 12, and 19 of the EPA's inspection report).
 - v. Missing National Fire Protection Association hazard (704) diamonds, which identify and rank the hazards of a material, on a machine room door (see Photograph 16 of the EPA's inspection report).
- (d) Respondent failed to perform an initial process hazard analysis (hazard evaluation) on processes, as required by 40 C.F.R. § 68.67(a). Facility representatives could not recall conducting a process hazard analysis.
- (e) Respondent failed to address consequences of deviation and steps required to correct or avoid deviation in the development and implementation of written

operating procedures, as required by 40 C.F.R. § 68.69(a)(2). Respondent could not locate documentation conveying the consequences of deviating from safe upper and lower operating limits.

(f) Respondent failed to perform a pre-startup safety review (PSSR) for new stationary sources and for modified stationary sources when the modification is significant enough to require a change in the process safety information, as required by 40 C.F.R. § 68.77(a). Respondent could not produce an initial PSSR for its 1999 system or a PSSR for the 2017/2018 additions to its 1999 refrigeration system.

(g) Respondent failed to certify that it evaluated compliance with the provisions of 40 C.F.R. Part 68, Subpart D, at least every three years to verify that the procedures and practices developed under Subpart D are adequate and are being followed, as required by 40 C.F.R. § 68.79(a). Respondent stated no compliance audit had occurred.

32. Respondent's failures to comply with the Program 3 prevention requirements of 40 C.F.R. 68.65 through 68.87, as required by 40 C.F.R. § 68.12(d)(3), violate Section 112(r) of the CAA, 42 U.S.C. § 7412(r).

Emergency Response

33. 40 C.F.R. § 68.12(d)(5) requires the owner or operator of a stationary source with a process subject to Program 3 to implement the emergency response requirements of 40 C.F.R. §§ 68.90 through 68.96.

34. The EPA inspection revealed that Respondent failed to implement the emergency response requirements of 40 C.F.R. §§ 68.90 through 68.96. Specifically, Respondent failed to document coordination with local authorities as required by 40 C.F.R. § 68.93(c). Respondent indicated that it conducted an emergency notification exercise, but could not produce any documentation for the exercise, such as a sign-in sheet or email inviting the local fire department.

35. Respondent's failures to comply with the emergency response requirement of 40 C.F.R. §§ 68.20 through 68.42, as required by 40 C.F.R. § 68.12(d)(5), violate Section 112(r) of the CAA, 42 U.S.C. § 7412(r).

Order for Compliance

36. Based upon the Findings of Fact and Law, and Findings of Violation set forth above, and pursuant to the authority of Section 113(a)(3)(B) of the CAA, 42 U.S.C. § 7413(a)(3)(B), it is hereby ordered and agreed that Respondent shall comply with the requirements of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and the regulations promulgated thereunder and codified at 40 C.F.R. Part 68. Specifically, EPA and Respondent

agree that Respondent shall, as expeditiously as possible, but in no event later than 180 days after the effective date of this Order, complete the following compliance actions:

- (a) prepare and document a hazard assessment in accordance with 40 C.F.R. Subpart B;
- (b) evaluate the consequences of deviation and prepare material energy balance calculations, and then add each to the written process safety information in accordance with 40 C.F.R. § 68.65;
- (c) conduct a process hazard analysis in accordance with 40 C.F.R. § 68.67;
- (d) prepare and document consequences of deviation from its standard operating procedures in accordance with 40 C.F.R. § 68.69.
- (e) document that equipment complies with recognized and generally accepted engineering practices in accordance with 40 C.F.R. § 68.65(d)(2). The American National Standards Institute (“ANSI”) and the International Institute of All-Natural Refrigeration (“IIAR”) provide recognized and generally accepted engineering practices. Respondent must provide a certification documenting that Respondent has inspected the equipment to confirm that it complies and, if the equipment does not comply with the applicable standards, that Respondent has taken corrective actions necessary to bring the equipment into compliance, with these or similar industry standards, including, but not limited to, the following standards:
 - a. ANSI/IIAR 6-2019, Section 5.6.8, requires that all equipment and piping shall be kept free from excessive ice buildup, which can mask leaks and stress process piping. ANSI/IIAR 6-2019, Section 5.6.8.2 states, “Ice accumulation shall not be permitted to deflect or bend pipes, displace components, or negatively impact the system’s structural integrity.” Develop and incorporate defrost operational procedures, ice removal procedures using mechanical tools, or both, with determined frequencies to safely remove ice often enough to avoid excess accumulation.
 - b. ANSI/IIAR 6-2019, Section 11.1.1, requires that where pitting, surface damage, general corrosion, or a combination thereof, is visually observed on metal surface of piping, deficient areas shall be further evaluated per Section 11.1.1.1 – 11.1.1.3. Section 11.1.1.2 requires that where pitting, surface damage, general corrosion, or a combination thereof, has not materially reduced the remaining pipe wall thickness, the piping metal surface shall be cleaned and recoated to arrest further deterioration.
 - c. ANSI/IIAR 2-2021, Section 5.14.6, requires ammonia piping mains, headers, and branches shall be identified with the following information:
 - 1. “AMMONIA”; 2. Physical state of the ammonia; 3. Relative pressure

level of ammonia, being low or high as applicable; 4. Pip service, which shall be permitted to be abbreviated; and 5. Direction of flow. The marking system shall either be one established by a recognized model code or standard or one described and documented by the facility owner or the owner's agent.

- d. ANSI/IIAR 6-2019, Section 11.1.2, requires that for insulated piping, where insulation is removed, partly or completely, for visual inspection or remaining wall thickness measurement(s), a protective coating shall be applied to the exposed metal surface and insulation shall be replaced in accordance with the manufacturer's installation instructions after arresting any identified exposed piping metal surface corrosion. ANSI/IIAR 2-2021, Section 5.10.1, requires that piping and equipment surfaces not intended for heat exchange to be insulated, treated, or otherwise protected to mitigate the effects of condensation and excessive frost buildup to a level that interferes with valve operation or creates damage to piping, equipment or supports.
- e. IIAR 9-2020, Section 7.2.9.1.1, requires that buildings and facilities with refrigeration systems shall be provided with placards in accordance with NFPA 704. IIAR 9-2020, Appendix D.7.1 requires "warning for indoor ammonia refrigeration equipment: 3-3-0 This is for equipment located indoors and includes all entrances to the machinery room." Add NFPA diamonds on the doors to the machine room.
- (f) generate and document pre-startup safety review procedures in accordance with 40 C.F.R. § 68.77.
- (g) conduct and document a compliance audit in accordance with 40 C.F.R. § 68.79.
- (h) document emergency planning activities in accordance with 40 C.F.R. § 68.93.

Submissions

37. Respondent must provide EPA a schedule detailing when the Facility plans to complete each of the above-listed compliance actions within 30 days of the effective date of this Order.

38. Respondent must provide documentation of completion of these tasks to EPA within 180 days of the effective date of this Order.

39. All submissions to EPA required by this Order shall contain the following certification signed by an authorized representative of Respondent:

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, 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.

40. All submissions to EPA required by this Order shall be sent to:

Diana Chaney
chaney.diana@epa.gov
Air Branch, Chemical Accident Prevention Section
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219.

41. All documents submitted by Respondent to EPA in the course of implementing this Order shall be available to the public unless identified as confidential by Respondent pursuant to 40 C.F.R. Part 2, Subpart B, and determined by EPA to merit treatment as confidential business information in accordance with applicable law.

General Provisions

Potential Liability

42. Failure to comply with any of the provisions of this Order may result in an enforcement action under Section 113 of the CAA, 42 U.S.C. § 7413. Under Section 113(a)(3) of the CAA, 42 U.S.C. § 7413(a)(3), the Administrator may:

- (a) issue an administrative penalty order assessing a civil penalty not to exceed \$59,114 per day of violation, pursuant to Section 113(d)(1)(B) of the CAA, 42 U.S.C. § 7413(d)(1)(B);
- (b) bring a civil action for permanent or temporary injunction, or to assess and recover a civil penalty not to exceed \$124,426 per day of violation, or both, pursuant to Section 113(b)(2) of the CAA, 42 U.S.C. § 7413(b)(2); or
- (c) request the Attorney General to commence a criminal action pursuant to Section 113(c) of the CAA, 42 U.S.C. § 7413(c).

43. In accordance with Section 113(a)(4) of the CAA, 42 U.S.C. § 7413(a)(4), issuance of this Order does not preclude EPA from assessing penalties or taking any other action authorized under the CAA. This Order does not affect the obligation of Respondent to comply with all federal, state, and local statutes, regulations, and permits.

Taxpayer Identification Number

44. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service (“IRS”) annually, a completed IRS Form 1098-F (“Fines, Penalties, and Other Amounts”) with respect to any court order or settlement agreement (including administrative settlements) that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor’s violation of any law or the investigation or inquiry into the payor’s potential violation of any law, including amounts paid for “restitution or remediation of property” or to come “into compliance with a law.” EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number (“TIN”), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. To provide EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires, and Respondent herein agrees, that:

- (a) Respondent shall complete an IRS Form W-9 (“Request for Taxpayer Identification Number and Certification”), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
- (b) Respondent shall certify that its completed IRS Form W-9 includes Respondent’s correct TIN or that Respondent has applied and is waiting for issuance of a TIN;
- (c) Respondent shall email its completed Form W-9 to EPA’s Cincinnati Finance Center at weidner.lori@epa.gov within 30 days after the Effective Date of this Order, and EPA recommends encrypting IRS Form W-9 email correspondence; and
- (d) In the event that Respondent has certified in its completed IRS Form W-9 that it has applied for a TIN and that TIN has not been issued to Respondent within 30 days after the Effective Date, then Respondent, using the same email address identified in the preceding sub-paragraph, shall notify EPA of this fact within 30 days after the Effective Date of this Order, and email EPA with Respondent’s TIN within 5 days of Respondent’s issuance and receipt of the TIN.

Amendment of Order

45. EPA may subsequently amend this Order, in writing, in accordance with the authority of the CAA. Any amendment will be transmitted to Respondent. In the event of any such subsequent amendment to this Order, all requirements for performance of this Order not affected by the amendment shall remain as specified by the original Order.

46. If any provision or authority of the Order or the application of the Order to Respondent is held by federal judicial authority to be invalid, the application to Respondent of

the remainder of the Order shall remain in full force and effect and shall not be affected by such a holding.

Access and Requests for Information

47. Nothing in this Order shall limit EPA's right to obtain access to, and/or inspect Respondent's facility, and/or to request additional information from Respondent pursuant to the authority of Section 114 of the CAA, 42 U.S.C. § 7414.

Effective Date

48. This Order shall become effective on the date that it is signed by the authorized EPA representative.

49. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

Termination

50. This Order shall terminate one year after the Effective Date of this Order, or at the time that EPA determines that Respondent has achieved compliance with all the terms of this Order, whichever is earlier.

Notice to the State

51. Pursuant to Section 113(a)(4), 42 U.S.C. § 7413(a)(4), the State of Iowa has been provided notice of this action.

For the U.S. ENVIRONMENTAL PROTECTION AGENCY:

DAVID
COZAD

Digitally signed by DAVID
COZAD
Date: 2025.05.06
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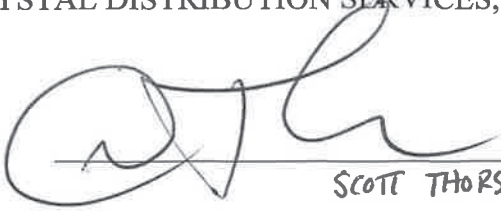
Date

David Cozad
Director
Enforcement and Compliance Assurance Division

For RESPONDENT:

CRYSTAL DISTRIBUTION SERVICES, INC.

By:


SCOTT THORSON

Title: DIRECTOR OF OPERATIONS

Date: 04.02.25

CERTIFICATE OF SERVICE

(to be completed by EPA)

I certify that a true and correct copy of the foregoing Order was sent this day in the following manner to the addressees:

Copy via E-mail to Regional Hearing Clerk:
U.S. Environmental Protection Agency
R7_Hearing_Clerk_Filings@epa.gov,

Copy via E-mail to Complainant:

Kate Vetterick, *vetterick.kate@epa.gov*,

Diana Chaney, *chaney.diana@epa.gov*,

Dave Hensley, *hensley.dave@epa.gov*,

Venerable.Carrie, *venerable.carrie@epa.gov*.

Copy via E-mail to Respondent:

Brian Zeets
Operations Manager, Crystal Distribution Services, Inc.
1656 Sycamore St.
Waterloo, IA 50703
bzeets@crystaldist.com

Dated this _____ day of _____, _____.

Signed

**FOR RESPONDENT TO COMPLETE & SIGN
(not for filing)**

Cost of corrective actions:

The approximate cost to correct the violations alleged in the Administrative Order for
Compliance on Consent: \$ _____

Compliance staff name: _____

Signed: _____ Date: _____