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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 HAWTHORNE STREET
SAN FRANCISCO, CALIFORNIA 94105**

In the Matter of:

Union Pacific Railroad Co.

Omaha, Nebraska

Respondent.

Docket No. CAA-09-2026-0045

**CONSENT AGREEMENT AND FINAL ORDER
PURSUANT TO 40 C.F.R. §§ 22.13 AND 22.18**

CONSENT AGREEMENT

A. Preliminary Statement

1. This civil administrative penalty assessment proceeding was commenced pursuant to Section 205(c)(1) of the Clean Air Act ("CAA"), 42 U.S.C. § 7524(c)(1), and Sections 22.13 and 22.18 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, as codified at 40 C.F.R. Part 22. In accordance with 40 C.F.R. §§ 22.13 and 22.18, entry of this Consent Agreement and Final Order ("CAFO") simultaneously commences and concludes this matter.

2. Complainant is the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region IX (the "EPA"), who has been duly delegated the authority to commence and settle civil administrative penalty proceedings under Section 205(c)(1) of the CAA, 42 U.S.C. § 7524(c)(1).

3. Respondent is Union Pacific Railroad Co. ("UPRC" or "Respondent"), a Class I railroad company that owns locomotives operating in the United States and headquartered out of Omaha, Nebraska.

4. On September 17, 2024, Complainant and Respondent first entered into a Tolling Agreement, which has since been extended, tolling the time for statute of limitation purposes for any alleged violations of Section 213(a)(5) of the CAA.

5. Complainant and Respondent, having agreed that settlement of this action is in the public interest, has been negotiated by the Parties in good faith and will avoid litigation among the Parties, consent to the entry of this CAFO without adjudication of any issues of law or fact herein, and Respondent agrees to comply with the terms of this CAFO.

B. Governing Law

6. This proceeding arises under Part A of Title II of the CAA, 42 U.S.C. §§ 7521-7554, and the regulations promulgated thereunder relating to locomotives.

7. Section 213(a)(5) of the CAA, 42 U.S.C. § 7547(a)(5), requires the EPA to do the following:

[P]romulgate regulations containing standards applicable to emissions from new locomotives and new engines used in locomotives. Such standards shall achieve the greatest degree of emission reduction achievable through the application of technology

which the Administrator determines will be available for the locomotives or engines to which such standards apply, giving appropriate consideration to the cost of applying such technology within the period of time available to manufacturers and to noise, energy, and safety factors associated with the application of such technology.

8. Section 213(d) of the CAA, 42 U.S.C. § 7547(d), provides that the emission standards for locomotives and locomotive engines shall be enforced in the same manner as enforcement of emission standards for new motor vehicles or new motor vehicle engines. The Administrator of the EPA shall revise or promulgate regulations as may be necessary to determine compliance with, and enforce, the standards in effect under Section 213 of the CAA.

9. Pursuant to Section 213(a)(5) of the CAA, EPA promulgated, and from time to time revised, the emission standards and other requirements for locomotives at 40 C.F.R. Parts 92, 1033 and 1068.

10. On April 16, 1998, the EPA promulgated emission standards and associated regulatory requirements for the control of emissions from locomotives and locomotive engines. See 40 C.F.R. Part 92; 63 Fed. Reg. 18998.

11. On June 30, 2008, the EPA promulgated revised emission standards and regulatory requirements for locomotives and locomotive engines. See 40 C.F.R. Part 1033; 73 Fed. Reg. 37197.

12. On June 29, 2021, the EPA migrated the regulatory requirements from 40 C.F.R. Part 92 to 40 C.F.R. Part 1033, with additional testing and compliance provisions in 40 C.F.R. Parts 1065 and 1068. The Tier 0, Tier 1, and Tier 2 emission standards originally adopted in Part 92 are now identified in 40 C.F.R. Part 1033, Appendix I.

13. The provisions of Part 1068 apply to locomotives as specified in that Part, with certain exceptions not applicable here. *See also* 40 C.F.R. § 1033.15(b) (“the requirements and prohibitions of [Part 1068] apply to everyone, including anyone who manufactures, remanufactures, imports, maintains, owns, operates any of the locomotives subject to [Part 1033]”).

14. Section 302(e) of the CAA, 42 U.S.C. § 7602(e), defines “person” as “an individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency, department, or instrumentality of the United States and any officer, agent, or employee thereof.”

15. 40 C.F.R. § 1033.901 defines “locomotive” as “a self-propelled piece of on-track equipment designed for moving or propelling cars that are designed to carry freight, or other equipment, but which itself is not designed or intended to carry freight (other than those operating the locomotive) or other equipment.”

16. 40 C.F.R. § 1033.901 defines “locomotive engine” as “an engine that propels a locomotive.”

17. 40 C.F.R. § 1033.601 states that locomotive manufacturers/remanufacturers, as well as owners and operators of locomotives subject to the requirements of 40 C.F.R. Part 1033, and all other persons, must observe the provisions of Part 1033, the requirements and prohibitions of 40 C.F.R. Part 1068, and the provisions of the CAA.

18. 40 C.F.R. § 1033.1(a) states that specified emission standards begin to apply each time a locomotive or locomotive engine is originally manufactured or otherwise becomes new

(defined in 40 C.F.R. § 1033.901). Further, the requirements of Part 1033 continue to apply as specified after locomotives cease to be new.

19. 40 C.F.R. § 1033.801 states that the requirements of the Subpart I are applicable to “railroads and all other owners and operators of locomotives subject to the provisions of [Part 1033], except as otherwise specified. The prohibitions related to maintenance in § 1033.815 also applies to anyone performing maintenance on a locomotive subject to the provisions of [Part 1033].”

20. 40 C.F.R. § 1033.901 defines “Railroad” as “a commercial entity that operates locomotives to transport passengers or freight.”

21. 40 C.F.R. § 1033.125 states that the owner of each new locomotive shall be provided written instructions for properly maintaining and using the locomotive, including the emission-control system. Such instructions are required to contain a notification that owners and operators must comply with the requirements of Subpart I of Part 1033.

22. 40 C.F.R. § 1033.815(a) states the following:

All owners of locomotives subject to the provisions of this part must ensure that all emission-related maintenance is performed on the locomotives, as specified in the maintenance instructions provided by the certifying manufacturer/remanufacturer in compliance with § 1033.125 (or maintenance that is equivalent to the maintenance specified by the certifying manufacturer/remanufacturer in terms of maintaining emissions performance).

23. 40 C.F.R. § 1033.815(d) states that the owner of a locomotive must keep records of all maintenance and repairs that could reasonably affect the emission performance of any locomotive subject to Part 1033, and it must keep these records for eight years.

24. 40 C.F.R. § 1033.815(c) states that owners or operators must use good engineering judgment when performing maintenance of locomotives subject to the provisions of this part. They must perform all maintenance and repair such that there would be a reasonable technical basis for believing the locomotive would continue (after the maintenance or repair) to meet the applicable emission standards and family emission limits to which it was certified.

25. 40 C.F.R. § 1033.815(f) states that “[f]ailure to perform required maintenance is a violation of the tampering prohibition in 40 C.F.R. § 1068.101(b)(1).”

C. Factual Background

26. UPRC is a Class I railroad company that owns locomotives operating in the United States. UPRC’s headquarters is located in Omaha, Nebraska.

27. UPRC is a “person,” as that term is defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

28. UPRC is a “railroad,” as that term is defined at 40 C.F.R. § 1033.901.

29. On September 15, 2020, EPA issued an Information Request (“Information Request”) under Section 208 of the CAA, 42 U.S.C. § 7542, to UPRC. EPA supplemented its request on November 15, 2021; January 27, 2022; February 21, 2023; and June 26, 2023.

30. UPRC provided responses to EPA’s Information Request and supplemental requests on November 30, 2020; February 10, 2022; March 10, 2022; May 12, 2023; June 5, 2023; and July 31, 2023 (collectively “UPRC’s Responses”).

31. In UPRC’s Responses, UPRC provided maintenance instructions from the certifying manufacturer/remanufacturer of several types of locomotives owned and operated by UPRC

("Maintenance Instructions"). The Maintenance Instructions contained the following maintenance intervals for locomotives identified with violations:

- a. FDL Low Emissions Locomotive Special Maintenance Instructions GEK-115206, Rev. D, which covers UPRC's Locomotive Numbers 5558, 5565, 5598, and 6437.
 - i) 16 Cylinder TIER 1+ EFI (Electronic Fuel Injection) Legacy Series Locomotives Fuel Injector – 10,000 Motoring MWHrs or 3 years whichever comes first (Replace).
- b. GEVO Low Emissions Locomotives Special Maintenance Instructions GEK-115176, Rev. F, which covers UPRC's Locomotive Numbers 5308, 5343, 5390, 5259, 5543, and 5546.
 - i) 12 Cylinder TIER 2+ Locomotives Fuel Injector Nozzle – 15,000 motoring megawatt hours ("MWHrs") or 42 months whichever comes first. (Replace)
- c. ElectroMotive Maintenance Instruction 1791, Rev. D, which covers UPRC's Locomotive Numbers 3818, 3822, 3848, 3850, 3855, 3870, and 5220.
 - i) Every 184 days: Replace fiberglass engine air filters. Use elements equal to original equipment.
 - ii) Every 3 years or 10,000 MWHrs (whichever event occurs first) - renew injectors; replace with new or remanufactured. (EMM)

32. In UPRC's Responses, UPRC provided spreadsheets containing maintenance information on certain requested locomotives in its fleet.

33. For UPRC's Locomotive Numbers 5558, 5565, 5598, and 6437 (Tier 1 or 1+ model C44ACCTE), UPRC failed to replace the fuel injectors every 10,000 motoring MWHrs or three (3) years, whichever came first, as required by the applicable maintenance instructions referenced

in Paragraph 31.a.

- a. Locomotive 5558 was 26 days overdue on its maintenance per the maintenance instructions at the time it replaced its fuel injector(s) on July 22, 2020.
- b. Locomotive 5565 was 44 days overdue on its maintenance per the maintenance instructions at the time it replaced its fuel injector(s) on November 30, 2021.
- c. Locomotive 5598 was 57 days overdue on its maintenance per the maintenance instructions at the time it replaced its fuel injector(s) on October 2, 2020.
- d. Locomotive 6437 was 64 days overdue on its maintenance per the maintenance instructions at the time it replaced its fuel injector(s) on February 2, 2020; and 27 days overdue on its maintenance at the time it replaced its fuel injector(s) on March 21, 2023.

34. For UPRC's Locomotive Numbers 5308, 5343, 5390, 5259, 5543, and 5546 (Tier 2+ model C45ACCTE), UPRC failed to replace the fuel injectors every 15,000 motoring MWHrs or 42 months, whichever came first, as required by the applicable maintenance instructions referenced in Paragraph 31.b.

- a. Locomotive 5308 was 4 days overdue on its maintenance per the maintenance instructions at the time it replaced its fuel injector(s) on December 10, 2020.
- b. Locomotive 5343 was 100 days overdue on its maintenance per the maintenance instructions at the time it replaced its fuel injector(s) on September 7, 2020.
- c. Locomotive 5390 was 132 days overdue on its maintenance per the maintenance instructions at the time it replaced its fuel injector(s) on September 17, 2020.

- d. Locomotive 5259 was 86 days overdue on its maintenance per the maintenance instructions at the time it replaced its fuel injector(s) on June 12, 2023.
 - e. Locomotive 5543 was 112 days overdue on its maintenance per the maintenance instructions at the time it replaced its fuel injector(s) on March 2, 2020.
 - f. Locomotive 5546 was 179 days overdue on its maintenance per the maintenance instructions at the time it replaced its fuel injector(s) on May 30, 2023.
35. For UPRC's Locomotive Numbers 3818, 3822, 3848, 3850, 3855, 3870, and 5220 (Tier 1 or 1+ model SD70M), UPRC failed to replace the engine air filters within 184 days, as required by the applicable maintenance instructions referenced in Paragraph 31.c.i.
- a. Locomotive 3818 was overdue on five occasions on its maintenance of replacing the engine air filters per the maintenance instructions, beginning on November 25, 2019; October 10, 2020; August 30, 2021; September 6, 2022; and November 20, 2023.
 - b. Locomotive 3822 was overdue on three occasions on its maintenance of replacing the engine air filters per the maintenance instructions, beginning on December 28, 2019; January 4, 2022; and December 28, 2022.
 - c. Locomotive 3848 was overdue on three occasions on its maintenance of replacing the engine air filters per the maintenance instructions, beginning on March 13, 2020; November 30, 2021; and February 18, 2023.
 - d. Locomotive 3850 was overdue on three occasions on its maintenance of replacing the engine air filters per the maintenance instructions, beginning on March 2, 2020; November 22, 2021; and February 3, 2023.

- e. Locomotive 3855 was overdue on four occasions on its maintenance of replacing the engine air filters per the maintenance instructions, beginning on February 26, 2020; December 12, 2020; March 26, 2023; and November 25, 2023.
 - f. Locomotive 3870 was overdue on one occasion on its maintenance of replacing the engine air filters per the maintenance instructions, beginning on April 19, 2019.
 - g. Locomotive 5220 was overdue on four occasions on its maintenance of replacing the engine air filters per the maintenance instructions, beginning on October 22, 2019; July 1, 2020; November 9, 2021; and July 3, 2023.
36. For UPRC's Locomotive Numbers 3818, 3855, 3870, and 5220 (Tier 1 or 1+ model SD70M), UPRC failed to replace or renew the fuel injectors every 3 years or 10,000 MWHrs, whichever came first, as required by the applicable maintenance instructions referenced in Paragraph 31.c.ii.
- a. Locomotive 3818 was 147 days overdue on its maintenance per the maintenance instructions at the time it replaced its fuel injector(s) on April 9, 2020; and 41 days overdue on its maintenance at the time it replaced its fuel injector(s) on May 20, 2023.
 - b. Locomotive 3855 was 46 days overdue on its maintenance per the maintenance instructions at the time it replaced its fuel injector(s) on April 8, 2020; and 46 days overdue on its maintenance at the time it replaced its fuel injector(s) on May 24, 2023.
 - c. Locomotive 3870 was overdue on its maintenance as per the maintenance instructions, as it did not replace its fuel injector(s) by the April 28, 2019, deadline for such replacement.

- d. Locomotive 5220 was 91 days overdue on its maintenance per the maintenance instructions at the time it replaced its fuel injector(s) on March 16, 2020; and 128 days overdue on its maintenance at the time it replaced its fuel injector(s) on July 22, 2023.

D. Violations

37. Complainant re-alleges and incorporates by reference herein Paragraphs 1 through 36 of this CAFO.
38. UPRC's failure to replace the fuel injectors at the designated intervals as specified in the maintenance instructions provided by the certifying manufacturer/remanufacturer on each locomotive referenced in Paragraph 33 constitutes 5 violations of 40 C.F.R. §§ 1033.815(a) and 1068.101(b).
39. UPRC's failure to replace the fuel injectors at the designated intervals as specified in the maintenance instructions provided by the certifying manufacturer/remanufacturer on each locomotive referenced in Paragraph 34 constitutes 6 violations of 40 C.F.R. §§ 1033.815(a) and 1068.101(b).
40. UPRC's failure to replace the engine air filters at the designated intervals as specified in the maintenance instructions provided by the certifying manufacturer/remanufacturer on each locomotive referenced in Paragraph 35 constitutes 23 violations of 40 C.F.R. §§ 1033.815(a) and 1068.101(b).
41. UPRC's failure to replace or renew the fuel injectors at the designated intervals as specified in the maintenance instructions provided by the certifying manufacturer/remanufacturer on each locomotive referenced in Paragraph 36 constitutes 7

violations of 40 C.F.R. §§ 1033.815(a) and 1068.101(b).

E. Terms of Consent Agreement

42. In accordance with 40 C.F.R. § 22.18(b)(2) and for the purpose of this proceeding,

Respondent:

- a. admits the jurisdictional allegations alleged in this CAFO;
- b. neither admits nor denies the specific factual allegations contained within this Consent Agreement;
- c. consents to the assessment of the stated civil penalty below;
- d. consents to the conditions specified in this Consent Agreement; and
- e. waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying this Consent Agreement.

Civil Penalty

43. Respondent agrees to pay a civil penalty in the amount of TWO HUNDRED SEVENTY THOUSAND NINE HUNDRED AND SIXTY-EIGHT DOLLARS (\$270,968) ("Assessed Penalty") within thirty (30) days after the date the Final Order ratifying this Agreement is filed with the Regional Hearing Clerk ("Filing Date").

44. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website:

<https://www.epa.gov/financial/makepayment>. For additional instructions see:

<https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

45. When making a payment, Respondent shall:

- a. Identify every payment with Respondent's name and the docket number of this Agreement, Docket No. CAA-09-2026-0045;
- b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of such payment to the following person(s):

Regional Hearing Clerk
Office of Regional Counsel (ORC-1)
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105
R9HearingClerk@epa.gov

Andrew Chew (with a copy to Ethan Hessler at Hessler.Ethan@epa.gov)
Air Section
Enforcement and Compliance Assurance Division (ENF-2-1)
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105
Chew.Andrew@epa.gov

And

U.S. Environmental Protection Agency
Cincinnati Finance Center
Via electronic mail to:
CINWD_AcctsReceivable@epa.gov

"Proof of payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent's name.

46. Interest, Charges, and Penalties on Late Payments. Pursuant to 42 U.S.C. § 7524(c)(6), 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay any

portion of the Assessed Penalty per this Agreement, the entire unpaid balance of the Assessed Penalty and all accrued interest shall become immediately due and owing, and EPA is authorized to recover the following amounts.

- a. Interest. Interest begins to accrue from the Filing Date. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any accrued interest, penalties, and other charges are paid in full. Per 42 U.S.C. § 7524(c)(6), interest will be assessed pursuant to 26 U.S.C. § 6621(a)(2), that is the IRS standard underpayment rate, equal to the Federal short-term rate plus 3 percentage points.
- b. Handling Charges. The United States' enforcement expenses including, but not limited to, attorneys' fees and costs of collection proceedings.
- c. Late Payment Penalty. A ten percent (10%) quarterly non-payment penalty.

47. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Agreement, EPA may take additional actions. Such actions EPA may take include, but are not limited to, the following.

- a. Refer the debt to a credit reporting agency or a collection agency, per to 40 C.F.R. §§ 13.13 and 13.14.
- b. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to

satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.

- c. Suspend or revoke Respondent's licenses or other privileges or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, per 40 C.F.R. § 13.17.
- d. Request that the Attorney General bring a civil action in the appropriate district court to recover the full remaining balance of the Assessed Penalty, in addition to interest and the amounts described above, per 42 U.S.C. § 7524(c)(6). In any such action, the validity, amount, and appropriateness of the Assessed Penalty shall not be subject to review.

48. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.

49. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Agreement shall not be deductible for purposes of federal taxes.

50. 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. In order 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 therein 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 to Dana Sherrer at sherrer.dana@epa.gov, within 30 days after the Final Order ratifying this Agreement is filed, 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 further:

- i) notify EPA's Cincinnati Finance Center of this fact, via email, within 30 days after the 30 days after the Effective Date of this Order per Paragraph 65; and
- ii) provide EPA's Cincinnati Finance Center with Respondent's TIN, via email, within five (5) days of Respondent's issuance and receipt of the TIN.

Stipulated Penalties

51. If Respondent fails to make the payment specified in Paragraph 43, Respondent agrees to pay in addition to the assessed penalty and other fees and charges identified in Paragraphs 46 and 47, a stipulated penalty of \$5,000 per day that the Respondent is late in paying the penalty.

52. Respondent agrees to pay any stipulated penalties within thirty (30) days of receipt of EPA's written demand for such penalties. All penalties shall begin to accrue on the first date of nonpayment of the assessed penalty and shall continue to accrue through the date of complete payment of the assessed penalty. Respondent will use the method of payment specified in Paragraph 44 and agrees to pay interest, handling charges and penalties that accrue for late payment of the stipulated penalty in the same manner as set forth in Paragraphs 46 and 47.

53. EPA may elect to pursue any other administrative or judicial remedies for violations of this CAFO in addition to or in lieu of assessing stipulated penalties and/or reduce or waive stipulated penalties due under this CAFO.

Miscellaneous Provisions

54. Respondent certifies that to the best of its knowledge it is in compliance as of the date of signature of this CAFO with the fuel injector and engine air filter replacement requirements,

implemented through 40 C.F.R. §§ 1033.815(a), for the locomotives with violations alleged in Paragraphs 33 – 36 of this CAFO.

55. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns. Prior to payment of the Assessed Penalty and providing payment notification in accordance with this CAFO, Respondent must give written notice and a copy of this CAFO to any successors in interest prior to any transfer of ownership or control of any portion of or interest in Respondent. Simultaneously with such notice, Respondent shall provide written notice of such transfer, assignment, or delegation to the EPA. In the event of any such transfer, assignment, or delegation, Respondent shall not be released from the obligations or liabilities of this CAFO unless the EPA has provided written approval of the release of said obligations or liabilities.

56. By signing this Consent Agreement, Respondent acknowledges that this CAFO will be available to the public and agrees that this CAFO does not contain any confidential business information or personally identifiable information.

57. By signing this Consent Agreement, Respondent waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the final order accompanying the consent agreement

58. By signing this Consent Agreement, the undersigned representative of Complainant and the undersigned representative of Respondent each certify that he or she is fully authorized to

execute and enter into the terms and conditions of this Consent Agreement and has the legal capacity to bind the party he or she represents to this Consent Agreement. This Consent Agreement may be signed in counterparts, and its validity shall not be challenged on that basis.

59. By signing this Consent 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.

60. Each party agrees to bear its own costs and attorney's fees in this action.

F. Effect of Consent Agreement and Final Order

61. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts specifically alleged in this Consent Agreement.

62. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the CAA and other federal, state, or local laws or statutes, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.

63. This CAFO constitutes the entire agreement between the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to the subject matter hereof.

G. Effective Date

64. Respondent and Complainant agree to the issuance of the attached Final Order. Upon filing, the EPA will transmit a copy of the filed CAFO to the Respondent.

65. This Consent Agreement shall become effective after execution of the Final Order by the Regional Judicial Officer on the date of filing with the Regional Hearing Clerk.

The foregoing Consent Agreement, In the Matter of: Union Pacific Railroad Co.
EPA Docket No. CAA-09-2026-0045, is hereby stipulated, agreed, and approved for entry:

FOR RESPONDENT:

Feb. 23, 2026
Date

Rami Hanash
Name: Rami HANASH
Title: Sr. ENVIRON. Counsel
Union Pacific Railroad Co.

**The foregoing Consent Agreement, In the Matter of: Union Pacific Railroad Co.
EPA Docket No. CAA-09-2026-0045, is hereby stipulated, agreed, and approved for entry:**

FOR COMPLAINANT:

Date

Amy C. Miller-Bowen
Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region IX

FINAL ORDER

Complainant and Respondent, having entered into the foregoing Consent Agreement,

IT IS HEREBY ORDERED that this Consent Agreement and Final Order (EPA Docket No. CAA-09-2026-0045) be entered, and that Respondent shall pay a civil penalty in the amount of TWO HUNDRED SEVENTY THOUSAND NINE HUNDRED AND SIXTY-EIGHT DOLLARS (\$270,968) in accordance with the terms of this Consent Agreement and Final Order and otherwise comply with all requirements set forth in this Consent Agreement and Final Order.

This Consent Agreement and Final Order shall become effective upon filing.

DATE

Beatrice Wong
Regional Judicial Officer
U.S. Environmental Protection Agency, Region IX