

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)	DOCKET NO. EPCRA-10-2026-0103
)	
LAMB WESTON HOLDINGS,)	CONSENT AGREEMENT
)	
Eagle, Idaho,)	
)	
Respondent.)	
)	

I. STATUTORY AUTHORITY

1.1. This Consent Agreement is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Section 325 of the Emergency Planning and Community Right-to-Know Act (“EPCRA”), 42 U.S.C. § 11045.

1.2. Pursuant to Section 325 of EPCRA, 42 U.S.C. § 11045, and in accordance with the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties,” 40 C.F.R. Part 22, EPA issues, and Lamb Weston Holdings, (“Respondent”) agrees to issuance of, the Final Order attached to this Consent Agreement (“Final Order”).

II. PRELIMINARY STATEMENT

2.1. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b), issuance of this Consent Agreement commences this proceeding, which will conclude when the Final Order becomes effective.

2.2. The Director of the Enforcement and Compliance Assurance Division, EPA Region 10 (“Complainant”) has been delegated the authority pursuant to Section 325 of

EPCRA, 42 U.S.C. § 11045, to sign consent agreements between EPA and the party against whom an administrative penalty for violations of EPCRA is proposed to be assessed.

2.3. Part III of this Consent Agreement contains a concise statement of the factual and legal basis for the alleged violations of EPCRA and the implementing regulations that Respondent is alleged to have violated.

III. ALLEGATIONS

A. Statutory and Regulatory Background

3.1 Under Section 304(a) and (b) of EPCRA, 42 U.S.C. § 11004(a) and (b), and 40 C.F.R. Part 355, if a release of an extremely hazardous substance in an amount equal to or greater than the reportable quantity occurs from a facility at which a hazardous chemical is produced, used, or stored, and the release requires, or occurred in a manner that would require, notice under Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), the owner or operator of the facility shall immediately notify the State Emergency Response Commission ("SERC") of any state likely to be affected by the release and the Local Emergency Planning Committee ("LEPC") for any area likely to be affected by the release.

3.2 Under Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), "facility" means all buildings, equipment, structures, and other stationary items which are located on a single site or on contiguous or adjacent sites and which are owned or operated by the same person (or by any person which controls, is controlled, or under common control with, such person).

3.3 Under Section 329(7) of EPCRA, 42 U.S.C. § 11049(7), "person" means, inter alia, any individual, corporation, or partnership.

3.4 Under Section 329(8) of EPCRA, 42 U.S.C. § 11049(8), “release” means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles) of any hazardous chemical, extremely hazardous substance or toxic chemical.

3.5 Ammonia is an “extremely hazardous substance” listed in Appendices A and B of 40 C.F.R. Part 355 with a reportable quantity of 100 pounds over any continuous 24-hour period and is, therefore, an Extremely Hazardous Substance under 40 C.F.R. § 370.66.

B. General Allegations

3.6 Respondent is a “person” as that term is defined under Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

3.7 At all times relevant to the allegations set forth herein, Respondent was the owner and operator of a facility located at 187107 South Watts Rd., Paterson, Washington 99345 (“Facility”).

3.8 The Facility is a "facility" as that term is defined by Section 329(4) of EPCRA, 42 U.S.C. § 11049(4).

3.9 Respondent produced, used or stored ammonia at the Facility and released a reportable quantity of an EHS, ammonia.

3.10 On or about November 7, 2023, a “release”, as that term is defined by Section 329(8) of EPCRA, 42 U.S.C. § 11049(8), of anhydrous ammonia in excess of 100 pounds occurred at the Facility (“the Release”).

3.11 At all times relevant to this Consent Agreement, and for the purposes of providing notice under Section 304(a) and (c) of EPCRA, 42 U.S.C. § 11004(a) and (c), the Washington State Emergency Operations Center, Washington State Dept. of Ecology was the SERC for Washington, and Benton County Emergency Management was the LEPC for Benton County.

3.12 As a result of the information obtained by EPA and subsequent investigation, Complainant has determined that Respondent has violated the reporting requirements of Section 304 of EPCRA, 42 U.S.C. § 11004.

C. Violations

Count 1: Failure to immediately notify the SERC required by EPCRA § 304(a).

3.13 On November 7, 2023, a Release occurred from the Facility that resulted in approximately 508 pounds of ammonia was emitted into the air over a 5-hour period.

3.14 The Release was a “release” as that term is defined under Section 329(8) of EPCRA, 42 U.S.C. § 11049(8).

3.15 The Release surpassed the reportable quantity for ammonia.

3.16 Respondent had knowledge that the Release surpassed the reportable quantity for ammonia on November 7, 2023, no later than 14:42 PT.

3.17 The Release required immediate notification to the SERC under Section 304(a) of EPCRA, 42 U.S.C. 11004(a).

3.18 Notification to the SERC was made by the EPA duty officer forwarding the report from the NRC on November 7, 2023, at 15:01 PT.

3.19 Respondent did not immediately notify the SERC.

3.20 By failing to immediately notify the SERC as soon as Respondent knew or should have known that the Release was of an amount equal to or greater than the reportable quantity, Respondent violated Section 304(a) of EPCRA, 42 U.S.C. § 11004(a), and 40 C.F.R. §§ 355.42(a) and 355.43(a).

Count 2: Failure to immediately notify the LEPC required by EPCRA § 304(a).

3.21 On November 7, 2023, a Release occurred from the Facility that resulted in approximately 508 pounds of ammonia emitted to the air over a 5-hour period.

3.22 The Release was a “release” as that term is defined under Section 329(8) of EPCRA, 42 U.S.C. § 11049(8).

3.23 The Release surpassed the reportable quantity for ammonia.

3.24 Respondent had knowledge that the Release surpassed the reportable quantity for ammonia on November 7, 2023, no later than 14:42 PT.

3.25 The Release required immediate notification to the LEPC under Section 304(a) of EPCRA, 42 U.S.C. 11004(a).

3.26 Notification to the LEPC was made by the SERC forwarding the report from the NRC on November 7, 2023, at 15:05 PT.

3.27 Respondent failed to provide immediate notice to the LEPC.

3.28 By failing to immediately notify the LEPC as soon as Respondent knew or should have known that the Release was of an amount equal to or greater than the reportable quantity, Respondent violated Section 304(a) of EPCRA, 42 U.S.C. § 11004(a), and 40 C.F.R. §§ 355.42(a) and 355.43(a).

IV. TERMS OF SETTLEMENT

- 4.1. Respondent admits the jurisdictional allegations of this Consent Agreement.
- 4.2. Respondent neither admits nor denies the specific factual allegations contained in this Consent Agreement.
- 4.3. In determining the amount of penalty to be assessed, EPA has taken into account the factors specified in Section 325(b) of EPCRA, 42 U.S.C. § 11045(b). After considering these factors, EPA has determined that an appropriate penalty to settle this action is \$31,500 (the “Assessed Penalty”).
- 4.4. Respondent agrees to pay the Assessed Penalty within 30 days of the effective date of the Final Order.
- 4.5. Payments under this Consent Agreement and the Final Order shall be paid by any of the electronic methods specified at: www.epa.gov/financial/makepayment and in accordance with instructions provided at that webpage. Respondent must note on the payment its name and the docket number of this action.
- 4.6. Concurrently with payment, Respondent must serve copies of proof of payment to the Regional Hearing Clerk and EPA Region 10 at the following addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 10
Via electronic mail to:
R10_RHC@epa.gov

Ryan Bowsby
U.S. Environmental Protection Agency, Region 10
Via electronic mail to:
Bowsby.Ryan@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 receipt or confirmation of payment method, 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.

4.7. If Respondent fails to timely pay any portion of the Assessed Penalty, the entire unpaid balance of the Assessed Penalty and all accrued interest shall become immediately due and owing. If such a failure to pay occurs, Respondent may be subject to a civil action under Section 325(f)(1) of EPCRA, 42 U.S.C. § 11045(f)(1), to collect any unpaid penalties, together with interest, handling charges, and nonpayment penalties, as set forth below.

4.8. If Respondent fails to pay any portion of the Assessed Penalty in full by its due date, Respondent shall also be responsible for payment of the following amounts:

- a. Interest. Interest begins to accrue from the effective date of the Final Order attached herein. If the Assessed Penalty is not paid in full within 30 days, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. To protect the interests of the United States, the rate of interest is set at the Internal Revenue Service ("IRS") standard underpayment rate applicable on the effective date of the Final Order and non-variable throughout the period of nonpayment, provided, however, that no

interest shall be payable on any portion of the Assessed Penalty that is paid within 30 days of the effective date of the Final Order contained herein.

b. Handling Charges. Pursuant to 31 U.S.C. § 3717(e)(1), Respondent will be assessed a charge to cover EPA's costs of processing and handling overdue debts.

c. Nonpayment Penalty. Pursuant to 31 U.S.C. § 3717(e)(2), a nonpayment penalty of 6% per annum shall be assessed monthly on all debts, including any portion of the Assessed Penalty, interest, penalties, and other charges, that remain delinquent more than 90 days. Nonpayment shall be calculated as of the date the underlying penalty first becomes past due.

4.9. The Assessed Penalty and any additional costs incurred under Paragraph 4.8, represents an administrative civil penalty assessed by EPA and shall not be deductible for purposes of federal taxes.

4.10. The undersigned representative of Respondent certifies that he or she is authorized to enter into the terms and conditions of this Consent Agreement and to bind Respondent to this document.

4.11. Except as described in Paragraph 4.8, each party shall bear its own costs and attorneys' fees in bringing or defending this action.

4.12. For the purposes of this proceeding, Respondent expressly waives any affirmative defenses and the right to contest the allegations contained in this Consent Agreement and to appeal the Final Order.

4.13. 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.

4.14. The provisions of this Consent Agreement and the Final Order shall bind Respondent and its agents, servants, employees, successors, and assigns.

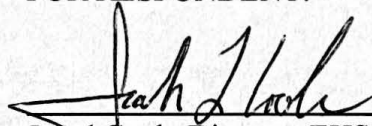
4.15. Respondent consents to the issuance of any specified compliance or corrective action order, to any conditions specified in this consent agreement, and to any stated permit action.

4.16. The above provisions in Part IV are STIPULATED AND AGREED upon by Respondent and EPA Region 10.

DATED:

4/24/20

FOR RESPONDENT:



Jarod Cook, Director, EHS-North America
Lamb Weston Holdings, Inc.

FOR COMPLAINANT:

EDWARD J. KOWALSKI, Director
Enforcement & Compliance Assurance Division
EPA Region 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)	DOCKET NO. EPCRA-10-2026-0103
)	
LAMB WESTON HOLDINGS,)	FINAL ORDER
)	
Eagle, Idaho)	
)	
Respondent.)	
)	

1.1. The Administrator has delegated the authority to issue this Final Order to the Regional Administrator of EPA Region 10, who has redelegated this authority to the Regional Judicial Officer in EPA Region 10.

1.2. The terms of the foregoing Consent Agreement are ratified and incorporated by reference into this Final Order. Respondent is ordered to comply with the terms of settlement.

1.3. The Consent Agreement and this Final Order constitute a settlement by EPA of all claims for civil penalties under EPCRA for the violations alleged in Part III of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(a), nothing in this Final Order shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of EPCRA and regulations promulgated or permits issued thereunder.

1.4. This Final Order shall become effective upon filing with the Regional Hearing Clerk.

IT IS SO ORDERED.

Regional Judicial Officer
EPA Region 10

Certificate of Service

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER, In the Matter of Lamb Weston Holdings, Docket No.: EPCRA-10-2026-0103**, was filed with the Regional Hearing Clerk and that a true and correct copy was served on the date specified below to the following addressees via electronic mail:

Lauren Gates
U.S. Environmental Protection Agency
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1200 Pennsylvania Ave., N.W., MC 2333A
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1301 Second Ave., Suite 4200
Seattle, WA 98101-3099

Regional Hearing Clerk
EPA Region 10