

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX



In the matter of:)	U.S. EPA Docket No.
)	CAA(112r)-09-2023-0097
)	
Hill Brothers Chemical Company)	
)	CONSENT AGREEMENT AND
)	FINAL ORDER PURSUANT TO
Respondent.)	40 C.F.R. §§ 22.13 AND 22.18

A. PRELIMINARY STATEMENT

1. This is a civil administrative enforcement action instituted pursuant to Sections 113(a)(3)(A) and (d) of the Clean Air Act (“CAA”), as amended, 42 U.S.C. §§ 7413(a)(3)(A) and (d), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits (“Consolidated Rules”), as codified at 40 C.F.R. Part 22.
2. Complainant is the United States Environmental Protection Agency, Region IX (“EPA”).
3. Respondent is Hill Brothers Chemical Company (“Respondent”).
4. The Administrator of EPA has delegated to the Regional Administrators the authority to sign consent agreements memorializing settlements of enforcement actions under the CAA. Delegation 7-6-A, dated August 4, 1994. The Regional Administrator, EPA Region IX, in turn, has re-delegated this authority to the Director of the Enforcement and Compliance Assurance Division, with Regional Delegation R9-7-6-A, dated February 11, 2023.
5. This Consent Agreement and Final Order (“CA/FO”), pursuant to 40 C.F.R. §§ 22.13 and 22.18, simultaneously commences and concludes this proceeding, wherein EPA alleges that Respondent violated Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and its implementing regulations.
6. EPA and Respondent, having agreed that settlement of this action is in the public interest, consent to the entry of this CA/FO. Respondent agrees to comply with the terms of this CA/FO.

B. GENERAL ALLEGATIONS

7. Respondent is a private family-owned company with a corporate office in Orange County, California. Respondent is a “person” as defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e). Respondent owns and/or operates facilities located at 15017 Clark Avenue, City of Industry, California (the "City of Industry Facility") and 4450 North 42nd Avenue, Phoenix, Arizona (the "Phoenix Facility") (hereafter, the City of Industry Facility and the Phoenix Facility are referred to together as the "Facilities"). Respondent specializes in repackaging and distributing chemicals and manufacturing chemicals onsite. The Facilities are located within populated residential, commercial, and industrial areas.
8. The City of Industry Facility receives and repackages anhydrous ammonia and manufactures aqueous ammonia in a reactor by mixing anhydrous ammonia and water. The City of Industry Facility also receives chlorine and other chemicals. The Phoenix Facility receives and repackages chlorine and receives and distributes sulfur dioxide and anhydrous ammonia. The Phoenix Facility also manufactures sodium hypochlorite (bleach) from chlorine and caustic.
9. EPA inspected the Phoenix Facility on March 22, 2016, and the City of Industry Facility on September 12, 2017, pursuant to Section 112(r) of the CAA, 42, U.S.C. § 7412(r), for compliance with 40 C.F.R. Part 68. EPA provided its Notice of Inspection Findings and conveyed potential areas of noncompliance to Respondent on August 9, 2018. Respondent entered into an Administrative Order on Consent to complete outstanding compliance tasks on March 25, 2021, and certified full compliance within the defined schedule on or before March 25, 2022. Based upon the information gathered during this inspection and subsequent investigation, EPA alleges that Respondent violated certain provisions of the CAA.
10. Section 113 of the CAA, 42 U.S.C. § 7413, authorizes EPA to assess civil penalties for any violation of Section 112(r) of the CAA, 42 U.S.C. § 7412(r).
11. At all times relevant to this CA/FO, Respondent has been and continues to be a “person” as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
12. At all times relevant to this CA/FO, the Facility has been a “stationary source” as defined by Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), and 40 C.F.R. § 68.3.
13. Respondent is subject to the powers vested in the EPA Administrator by Section 113 of the CAA, 42 U.S.C. § 7413.
14. Pursuant to Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and its implementing regulations, the owner or operator of a stationary source at which a regulated substance is present in more than a threshold quantity (“TQ”) must develop a risk management plan (“RMP”) to detect and prevent or minimize accidental releases of such substances from the stationary source, and to provide a prompt emergency response to any such releases in order to protect human health and the environment.

15. For substances designated as “regulated toxic substances,” the TQs are specified at 40 C.F.R. § 68.130, Table 1.
 - a. Anhydrous ammonia is a “regulated toxic substance” pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), with a TQ of 10,000 pounds, specified in 40 C.F.R. § 68.130, Table 1.
 - b. Aqueous ammonia (concentration 20% or greater) is a “regulated toxic substance” pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), with a TQ of 20,000 pounds, specified in 40 C.F.R. § 68.130, Table 1.
 - c. Chlorine is a “regulated toxic substance” pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), with a TQ of 2,500 pounds. 40 C.F.R. § 68.130, Table 1.
 - d. Sulfur dioxide is a “regulated toxic substance” pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), with a TQ of 10,000 pounds. 40 C.F.R. § 68.130, Table 1.
16. At the time of inspection, the City of Industry Facility maintained approximately 1,070,000 pounds of anhydrous ammonia, and 270,000 pounds of aqueous ammonia.
17. At the time of inspection, the Phoenix Facility maintained approximately 1,090,000 pounds of chlorine, 20,700 pounds of anhydrous ammonia, and 11,600 pounds of sulfur dioxide
18. At all times relevant to this CA/FO, Respondent produced, used or stored more than a TQ of regulated toxic substances in one or more processes at its Facilities.

C. ALLEGED VIOLATIONS OF LAW

Count I

(Failure to document lines of authority)

19. Paragraphs 1 through 18, above, are incorporated herein by this reference as if they were set forth here in their entirety.
20. 40 C.F.R. § 68.15(c) requires that owners or operators document persons responsible for implementing the risk management program and document the lines of authority in an organization chart or similar document.

21. Based on information gathered during the inspection and subsequent investigation, EPA determined that Respondent did not document the assigned persons responsible for implementing the individual requirements at the Facilities.
22. By failing to document the assigned persons responsible for implementing the risk management program for the Facilities, Respondent violated 40 C.F.R. § 68.15(c).

Count II
(Failure to document an alternative release scenario)

23. Paragraphs 1 through 18, above, are incorporated herein by this reference as if they were set forth here in their entirety.
24. 40 C.F.R. § 68.28(a) requires owners or operators to identify and analyze at least one alternative release scenario for each regulated toxic substance held in a covered process.
25. Based on information gathered during the inspection and subsequent investigation, EPA determined that Respondent did not document an alternative release scenario for aqueous ammonia at its City of Industry Facility.
26. By failing to document an alternative release scenario for aqueous ammonia at its City of Industry Facility, Respondent violated 40 C.F.R. § 68.28(a).

Count III
(Failure to comply with process safety information requirements)

27. Paragraphs 1 through 18, above, are incorporated herein by this reference as if they were set forth here in their entirety.
28. 40 C.F.R. § 68.65 requires that owners or operators complete a compilation of written process safety information before conducting any process hazard analysis. Owners or operators are required to compile information pertaining to technology of the process, including: a block flow diagram or simplified process flow diagram (40 C.F.R. § 68.65(c)(1)(i)); and the maximum intended inventory (40 C.F.R. § 68.65(c)(1)(iii)). Owners or operators are also required to compile information pertaining to the equipment in the process, including: piping and instrument diagrams (40 C.F.R. § 68.65(d)(1)(ii)); the relief system design and design basis (40 C.F.R. § 68.65(d)(1)(iv)); and material and energy balances for processes built after June 21, 1999 (40 C.F.R. § 68.65(d)(1)(vii)).
29. Based on information gathered during the inspection and subsequent investigation, EPA determined that Respondent failed to have the following process safety information: the City of Industry Facility's block flow diagram did not include the reaction chamber; neither Facility had accurate documentation for the maximum intended inventories; the

City of Industry Facility did not have current configurations of piping and instrument diagrams for the aqueous ammonia production area in the railcar unloading station; and neither Facility had documented system design and design basis for pressure relief equipment and lacked analyses showing the set pressure and capacity were adequate and discharge termination piping would not adversely affect the relief valve performance. Respondent failed to document energy and material balances at both Facilities.

30. By failing to adequately document a complete compilation of written process safety information before conducting any process hazard analysis, Respondent violated 40 C.F.R. § 68.65.

Count IV
(Failure to comply with recognized and generally accepted good engineering practices)

31. Paragraphs 1 through 18, above, are incorporated herein by this reference as if they were set forth here in their entirety.
32. 40 C.F.R. § 68.65(d)(2) requires the owner or operator to document that equipment complies with recognized and generally accepted good engineering practices (“RAGAGEP”).
33. 40 C.F.R. § 68.65(d)(3) requires owners and operators to determine and document that any existing equipment that was designed or constructed in accordance with standards that are no longer in general use, is designed, maintained, inspected, tested, and operating in a safe manner.
34. EPA observed a missing bolt on the pipe support securing the ammonia Rail Tower 1 Structure at the City of Industry Facility. RAGAGEP requires that provisions be made as necessary in accordance with good piping practices. Section 5.6.3 of the Compressed Gas Association (“CGA”) 2.1-2014 states, “All piping shall be supported in accordance with good piping practices, and provisions shall be made as necessary for expansion, contraction, impact, vibration, and settling.”
35. EPA observed that the Tank 6 nameplate at the City of Industry Facility did not include 1) identification of compliance with the rules of the American Society of Mechanical Engineers (“ASME”) Code under which the container was constructed, and 2) a National Board of Boiler and Pressure Vessel Inspectors stamping to indicate registration of the container. EPA also observed that the nameplate was not permanently attached to the system. Section 5.4.1 of the CGA 2.1-2014 states, “Each system nameplate ... shall be permanently attached to the system by continuous welding around its perimeter ... Each container ... shall be marked as follows: With a marking ... identifying compliance with rules of the ASME Code under which the container is constructed ... With National

Board of Boiler and Pressure Vessel Inspectors stamping to indicate registration of the container.”

36. EPA observed the hydrostatic pressure relief valve (“PRV”) located below Rail Tower 1 discharged to an unsafe location at the City of Industry Facility. At the time of inspection, the PRV was installed with its outlet at chest level with the potential to expose personnel to ammonia in an over pressurization event. 29 C.F.R. § 1910.111(b)(9)(ix)) states, “A hydrostatic relief valve shall be installed between each pair of valves in the liquid ammonia piping or hose where liquid may be trapped so as to relieve into the atmosphere at a safe location.”
37. EPA observed that the PRVs for R and C grade compressors at the City of Industry Facility were installed at waist level and pointed down to the ground venting directly into the atmosphere. Both PRVs had the potential to expose personnel to ammonia during an over pressurization event. RAGAGEP requires that PRVs discharge in a safe location. Section 5.8.4 of the CGA 2.1-2014 states, “when the discharge of ammonia from a pressure relief valve to the open air or atmosphere is ... undesirable due to safety, health... considerations, pressure relief valve discharge may be routed to a properly designed, installed, inspected, tested, and maintained control device such as an ammonia recovery unit, absorption unit, or flare system.”
38. EPA observed that 150-pound chlorine cylinders were not secured adequately at the Phoenix Facility. RAGAGEP requires that all compressed gas cylinders in service or in storage at a user location be secured to prevent falling or rolling. Section 5.8.4 of the CGA P-1-2015, *Standard for Safe Handling of Compressed Gases in Containers*, states, "All compressed gas cylinders in service or in storage at user locations shall be secured to prevent falling or rolling. At gas suppliers' facilities and distributors' warehouses, the nesting of cylinders is an equivalent means of securement.”
39. EPA observed several chlorine pipes that were not labeled and marked with flow direction in the Powell Bleach Manufacturing System Area at the Phoenix Facility. RAGAGEP states that positive identification of the contents of a piping system include name and contents, and that arrows are used to indicate the direction of flow, as are necessary to identify the hazard. Section 3.1 of the American Society of Mechanical Engineers Standard No. A13.1.2015, *Scheme for the Identification of Piping Systems* states, “Positive identification of the contents of a piping system shall [include]... name of the contents Arrows shall be used to indicate direction of flow... Contents shall be identified ...with sufficient additional details such as temperature, pressure, etc., as are necessary to identify the hazard.”
40. EPA observed one-ton sulfur dioxide containers stored outdoors in full sun at the Phoenix Facility. Section 7.7.1. of the CGA G03-1995, *Sulfur Dioxide*, states, “in hot climates, containers should be protected from the continuous direct rays of the sun.”

41. EPA observed a one-ton SO₂ container that was unsecured to prevent against accidental movement at the Phoenix Facility. Section 5.8.4 of CGA P-1-2015 states that “all compressed gas cylinders in storage shall be secured to prevent falling or rolling.”
42. By failing to document that equipment complies with RAGAGEP at the Facilities or is designed, maintained, inspected, tested, and operating in a safe manner, Respondent violated 40 C.F.R. § 68.65(d).

Count V

(Failure to comply with process hazard analysis requirements)

43. Paragraphs 1 through 18, above, are incorporated herein by this reference as if they were set forth here in their entirety.
44. 40 C.F.R. § 68.67(c)(7) requires that the process hazard analysis (“PHA”) address a qualitative evaluation of a range of the possible safety and health effects of failure of controls.
45. 40 C.F.R. § 68.67(e) requires owners or operators to establish a system to promptly address findings and recommendations, and to assure that the recommendations are resolved in a timely manner and that the resolution is documented.
46. Based on information gathered during the inspection and subsequent investigation, EPA determined that the City of Industry Facility did not adequately evaluate the range of possible safety and health effects due to failure of controls.
47. Based on information gathering during the inspection and subsequent investigation, EPA determined that the Facilities failed to track process PHA recommendations to assure that the recommendations were resolved in a prompt manner at the Facilities. Respondent’s 2017 PHA tracking table included at least two recommendations open from its 2009 PHA that had been repeated in its 2014 PHA.
48. By failing to adequately evaluate the range of possible safety and health effects of a failure of controls at the City of Industry Facility, and by failing to assure that PHA recommendations were resolved promptly and that resolution was documented at the Facilities, Respondent violated 40 C.F.R. §§ 68.67(c)(7) and 68.67(e).

Count VI

(Failure to comply with operating procedure requirements)

49. Paragraphs 1 through 18, above, are incorporated herein by this reference as if they were set forth here in their entirety.

50. 40 C.F.R. § 68.69(a) requires owners or operators to develop and implement written operating procedures that provide clear instructions for safely conducting activities involved in each covered process consistent with the process safety information.
51. Based on information gathered during the inspection and subsequent investigation, EPA determined that Respondent did not have operating procedures for several ammonia operations at its Phoenix Facility.
52. 40 C.F.R. § 68.69(c) requires operating procedures to be reviewed as often as necessary to assure that they reflect current operating practice and that the owner or operator certify annually that the operating procedures are current and accurate.
53. Based on information gathered during the inspection and subsequent investigation, EPA determined that Respondent failed to adequately certify that its operating procedures for the Facilities were current and accurate.
54. 40 C.F.R. § 68.69(d) requires that owners or operators develop and implement safe work practices to provide for the control of hazards during operations that apply to employees and contractor employees.
55. During the inspection, EPA observed an open sampling port for anhydrous ammonia at the City of Industry Facility and Respondent did not have procedures requiring that the sampling ports be capped or plugged after each use. Uncapped sampling ports are not considered safe working practices.
56. By failing to have written operating procedures for several ammonia operations, failing to certify its operating procedures were current and accurate, and failing to develop and implement safe work practices to provide for control of hazards during operations, Respondent violated 40 C.F.R. § 68.69(a), (c) and (d).

Count VII
(Failure to adequately document training records)

57. Paragraphs 1 through 18, above, are incorporated herein by this reference as if they were set forth here in their entirety.
58. 40 C.F.R. § 68.71(b) requires that refresher training be provided at least every three years, to each employee involved in operating a process to assure that the employee understands and adheres to the current operating procedures of the process.
59. 40 C.F.R. §68.71(c) requires records to be kept containing the identity of the employee, date of training, and means used to verify that the employee understood the training.

60. Based on information gathered during the inspection and subsequent investigation, EPA determined that Respondent did not have adequate training records indicating that each employee working at the Phoenix Facility was appropriately trained on, understood, and adhered to current operating procedures.
61. By failing to have adequate training records at the Phoenix Facility, Respondent violated 40 C.F.R. § 68.71(b)-(c).

Count VIII
(Failure to comply with mechanical integrity requirements)

62. Paragraphs 1 through 18, above, are incorporated herein by this reference as if they were set forth here in their entirety.
63. 40 C.F.R. § 68.73(d)(2) requires that inspection and testing procedures follow RAGAGEP.
64. Based on information gathered during the inspection and subsequent investigation, EPA determined that Respondent did not have documentation of inspections and testing of ammonia pressure vessels at its City of Industry Facility. Inspection and testing procedures must comply with RAGAGEP. Section 4.4.7 of National Board Inspection Code, Part 2 Inspection (2013) states, “the period between internal inspections or a complete in-service evaluation of pressure-retaining items shall not exceed one-half the estimated remaining service life of the vessel or 10 years, whichever is less.”
65. Based on information gathered during the inspection and subsequent investigation, EPA determined that Respondent did not have a procedure to do the annual pressure testing on hoses in service for anhydrous ammonia at its City of Industry Facility in accordance with Section 5.7.10 of CGA 2.1-2014, which states that hoses in anhydrous ammonia service be pressure tested at least annually.
66. Based on information gathered during the inspection and subsequent investigation, EPA determined that Respondent did not have an adequate mechanical integrity program (e.g., API 510, API 570, CGA G-2.1, and ASME B31.1), and equipment specific manufacturers’ recommendations for inspection, testing, and preventative maintenance at its Phoenix Facility, which was an unaddressed recommendation from its 2008, 2011, and 2014 compliance audits.
67. By failing to document that inspections and testing of ammonia pressure vessels, hoses in service for anhydrous ammonia, and its mechanical integrity program follow RAGAGEP, Respondent violated 40 C.F.R. § 68.73(d)(2).

Count IX

(Failure to correct deficiencies in equipment to assure safe operation)

68. Paragraphs 1 through 18, above, are incorporated herein by this reference as if they were set forth here in their entirety.
69. 40 C.F.R. § 68.73(e) requires owners or operators to correct deficiencies in equipment that are outside acceptable limits before further use or in a safe and timely manner when necessary means are taken to assure safe operation.
70. Based on information gathered during the inspection and subsequent investigation, EPA determined that some or all of the ammonia detectors were not reliable or operable due to electrical issues at the City of Industry Facility.
71. At the time of inspection, EPA observed the vapor barrier was missing on a portion of the overhead chlorine/sodium hydroxide insulated piping at the Phoenix Facility. As stated in Section 10.8 of the Chlorine Institute Pamphlet 6, “Chlorine pipelines (liquid and gaseous) often operate at pressures and temperatures that cause condensation and ice formation on the outside of the lines...for this reason the insulation must provide a sufficient moisture barrier to prevent corrosion under the insulation.”
72. At the time of the inspection of the Phoenix Facility, EPA observed corrosion on chlorine piping, vapor lines, vent holes, and the base of the Powell System.
73. By failing to correct deficiencies in equipment that are outside acceptable limits before further use at the Facilities, Respondent violated 40 C.F.R. § 68.73(e).

Count X

(Failure to address compliance audit findings)

74. Paragraphs 1 through 18, above, are incorporated herein by this reference as if they were set forth here in their entirety.
75. 40 C.F.R. § 68.79(d) requires owners or operators to promptly determine and document an appropriate response to each of the findings of the compliance audit, and document that deficiencies have been corrected.
76. Based on information gathered during the inspection and subsequent investigation, EPA determined that Respondent did not address some 2011, 2014, and 2017 compliance audit findings for the Facilities in a prompt manner.

77. By failing to adequately document resolution for recommendations and findings in compliance audits at the Facilities, Respondent violated 40 C.F.R. § 68.79(d).

Count XI
(Failure to address incident investigation findings)

78. Paragraphs 1 through 18, above, are incorporated herein by this reference as if they were set forth here in their entirety.
79. 40 C.F.R. § 68.81(e) requires owners or operators to establish a system to promptly address and resolve the incident report findings and recommendations and that resolutions and corrective actions be documented.
80. Based on information gathered during the inspection and subsequent investigation, EPA determined that Respondent had not addressed the findings and recommendations in the report for the incident investigation of the 2014 rail car leak at the Phoenix Facility.
81. By failing to promptly address and resolve incident report findings and recommendations for a 2014 rail car leak at the Phoenix Facility, Respondent violated 40 C.F.R. § 68.81(e).

Count XII
(Failure to document contractor requirements)

82. Paragraphs 1 through 18, above, are incorporated herein by this reference as if they were set forth here in their entirety.
83. 40 C.F.R. § 68.87(b)(1) requires owners or operators to obtain and evaluate information regarding the contract owner or operator's safety performance and programs when selecting a contractor.
84. Based on information gathered during the inspection and subsequent investigation, EPA determined the Respondent did not have a methodology in place to adequately document contractor safety reviews or periodic evaluation of the contractor's performance in fulfilling its obligations at the Phoenix Facility.
85. By failing to document contractor safety reviews or evaluation of contractor's performance at the Phoenix Facility, Respondent violated 40 C.F.R. § 68.87(b)(1).

Count XIII
(Failure to update emergency contact information)

86. Paragraphs 1 through 18, above, are incorporated herein by this reference as if they were set forth here in their entirety.

87. 40 C.F.R. § 68.195(b) requires that owners or operators correct the RMP within one month of any change in the emergency contact information.
88. Based on information gathered during the inspection and subsequent investigation, EPA determined that Respondent did not update emergency contact information within one month of a change at the Phoenix Facility.
89. By failing to update emergency contact information within one month of the change at the Phoenix Facility, Respondent violated 40 C.F.R. § 68.195(b).

D. CIVIL PENALTY

90. EPA proposes that Respondent be assessed, and Respondent agrees to pay TWO HUNDRED FIVE THOUSAND DOLLARS (\$205,000) as the civil administrative penalty for the violations alleged herein.
91. The proposed penalty was calculated in accordance with the “Combined Enforcement Policy for Clean Air Act Sections 112(r)(1), 112(r)(7), and 40 C.F.R. Part 68” dated June 2012, was adjusted for inflation by the Federal Civil Penalties Inflation Adjustment Act, as amended, and the Civil Monetary Inflation Adjustment Rule, 40 C.F.R. Part 19, and takes into account Respondent’s ability to pay.
92. This settlement is based on the accuracy of Respondent’s representations to EPA concerning its financial resources.

E. RESPONDENT’S ADMISSIONS AND WAIVERS OF RIGHTS

93. In accordance with 40 C.F.R. § 22.18(b)(2) for the purpose of this proceeding, Respondent:
 - (a) admits the jurisdictional allegations of the CA/FO;
 - (b) neither admits nor denies specific factual allegations contained in the CA/FO;
 - (c) consents to all conditions specified in this CA/FO and to the assessment of the civil administrative penalty set forth in Section D above;
 - (d) waives any right to contest the allegations set forth in this CA/FO; and
 - (e) waives its right to appeal this proposed Final Order.

F. PARTIES BOUND

94. This CA/FO shall apply to and be binding upon Respondent and its agents, successors and assigns, until the civil penalty required under Section D has been paid, and any delays in performance and/or stipulated penalties have been resolved. At such times as those matters are concluded, this CA/FO shall terminate and constitute full settlement of civil penalty liability for the violations alleged herein.
95. No change in ownership or legal status relating to the Facility will in any way alter Respondent's obligations and responsibilities under this CA/FO.
96. Until all requirements of this CA/FO are satisfied, Respondent shall give notice of this CA/FO to any successor in interest prior to transfer of ownership or operation of the Facility and shall notify EPA within seven (7) days prior to such transfer.
97. The undersigned representative of Respondent hereby certifies that he or she is fully authorized by Respondent to enter into and execute this CA/FO, and to legally bind Respondent to it.

G. CERTIFICATION OF COMPLIANCE

98. Respondent certifies to EPA that as of the Effective Date, and consistent with paragraph 40 of the 2022 Administrative Order on Consent between EPA and Respondent, it has corrected the violations alleged in this Agreement and is currently in compliance with 40 C.F.R. Part 68 at the Facilities.
99. The signatory for Respondent certifies under penalty of law that this certification of compliance is based upon true, accurate and complete information, which the signatory can verify personally or regarding which the signatory has inquired of the person or persons directly responsible for gathering the information.

H. PAYMENT OF CIVIL PENALTY

100. Respondent consents to the assessment of and agrees to pay a civil administrative penalty of TWO HUNDRED FIVE THOUSAND DOLLARS (\$205,000) in settlement of the civil penalty claims made in this CA/FO.
101. Respondent shall pay total civil penalty within thirty (30) days from the Effective Date of this CA/FO, in accordance with all terms and conditions of this CA/FO. Respondent shall indicate the Respondent's name and address, Respondent's point of contact person and phone number, the EPA docket numbers for this action. Payment made by corporate, certified, or cashier's checks shall be payable to "Treasurer of the United States. Information on how to make a payment to EPA can accessed here: <https://www.epa.gov/financial/makepayment>.

102. Respondent shall send a copy of each check, or notification that the payment has been made by one of the other methods provided on the website on how to make a payment provided in Paragraph 101 above, including proof of the date payment was made, via electronic mail with a transmittal letter indicating Respondent's name, the case title, and docket number, to both:

Regional Hearing Clerk (ORC-1)
U.S. Environmental Protection Agency - Region IX
R9HearingClerk@epa.gov

And

Cyntia Steiner
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency - Region IX
steiner.cyntia@epa.gov

103. Failure to send the penalty so that it is received by the due date will result in imposition of interest from the Effective Date of this CA/FO at the current interest rate published by the U.S. Treasury, as described at 40 C.F.R. § 13.11. In addition, a six percent (6%) per annum penalty that will be assessed monthly will be applied on any principal amount not paid within ninety (90) days of the due date. If clarification regarding a particular method of payment remittance is needed, contact the EPA Cincinnati Finance Center at 513-487-2091.
104. The penalties specified in this CA/FO shall represent civil administrative penalties assessed by EPA and shall not be deducted by Respondent or any other person or entity for federal taxation purposes.

I. DELAY IN PERFORMANCE/STIPULATED PENALTIES

105. In the event that Respondent fails to meet any requirement set forth in this CA/FO, Respondent shall pay stipulated penalties as follows: FIVE HUNDRED DOLLARS (\$500) per day for the first to fifteenth day of delay, ONE THOUSAND DOLLARS (\$1,000) per day for the sixteenth to thirtieth day of delay, and FIVE THOUSAND DOLLARS (\$5,000) per day for each day of delay thereafter. Compliance by Respondent shall include completion of any activity under this CA/FO in a manner acceptable to EPA and within the specified time schedules in and approved under this CA/FO.
106. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations. Stipulated penalties shall begin to accrue on the day after performance is due and shall continue to accrue through the final day until performance is complete. All

stipulated penalties owed to EPA shall be due within thirty (30) days of receipt by Respondent of a notification of noncompliance. Such notification shall describe the noncompliance and shall indicate the amount of penalties due. Interest at the current rate published by the United States Treasury, as described at 40 C.F.R. § 13.11, shall begin to accrue on the unpaid balance at the end of the thirty-day period.

107. Payment of stipulated penalties shall be made in accordance with the procedure set forth for payment of penalties in Section H of this CA/FO.
108. The payment of stipulated penalties specified in this Section shall not be deducted by Respondent or any other person or entity for federal, state, or local taxation purposes.
109. Notwithstanding any other provision of this section, EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this CA/FO.

J. RESERVATION OF RIGHTS

110. In accordance with 40 C.F.R. § 22.18(c), full compliance with this CA/FO shall only resolve Respondent's liability for federal civil penalties for the violations specifically alleged herein and does not in any case affect the right of the EPA to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.
111. This CA/FO is not a permit or modification of any existing permit issued pursuant to any federal, state, or local laws or regulations. This CA/FO shall in no way relieve or affect Respondent's obligations under any applicable federal, state or local laws, regulations, or permits.

K. MISCELLANEOUS

112. This CA/FO may be amended or modified only by written agreement executed by both EPA and Respondent.
113. The headings in this CA/FO are for convenience of reference only and shall not affect interpretation of this CA/FO.
114. Each party to this action shall bear its own costs and attorneys' fees.
115. Respondent consents to entry of this CA/FO without further notice.
116. By signing this CAFO, 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.

L. EFFECTIVE DATE

117. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CA/FO shall be effective on the date that the Final Order contained in this CA/FO, having been approved and issued by the Regional Judicial Officer, is filed with the Regional Hearing Clerk.

IT IS SO AGREED

Respondent Hill Brothers Chemical Company


DATE: 09/20/2023

BY: Shane T. Burkhart

Name: Shane T. Burkhart

Title: Director, Safety & Compliance

Complainant United States Environmental Protection Agency, Region IX

BY: AMY MILLER-
BOWEN  Digitally signed by AMY
MILLER-BOWEN
Date: 2023.09.26
08:21:49 -07'00'

Amy C. Miller-Bowen
Director
Enforcement and Compliance Assurance Division

FINAL ORDER

IT IS HEREBY ORDERED that this Consent Agreement and Final Order (“CA/FO”) In the Matter of Hill Brothers Chemical Company (U.S. EPA Docket No. CAA(112r)-09-2023-0097) be entered and that Respondent pay a total civil penalty of TWO HUNDRED FIVE THOUSAND DOLLARS (\$205,000) due within thirty (30) days from the Effective Date of this CA/FO, in accordance with all terms and conditions of this CA/FO.

BEATRICE WONG Digitally signed by
BEATRICE WONG
Date: 2023.09.27
11:40:43 -07'00'

Beatrice Wong Date
Regional Judicial Officer
U.S. EPA, Region IX

