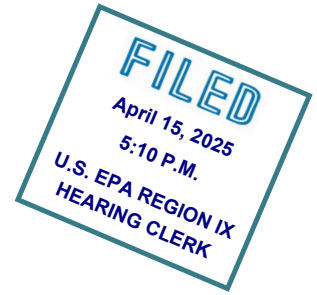


UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
SAN FRANCISCO, CALIFORNIA



In the Matter of:)	
)	Docket No. CAA (112r)-09-2025-0048
)	
ORGANICGIRL, LLC,)	
)	CONSENT AGREEMENT AND FINAL
)	ORDER PURSUANT TO
)	40 C.F.R. §§ 22.13 AND 22.18
Respondent.)	
_____)	

I. CONSENT AGREEMENT

The United States Environmental Protection Agency, Region IX (“EPA”), and organicgirl, LLC (“Respondent”) agree to settle this matter and consent to the entry of this Consent Agreement and Final Order (“CAFO”), which simultaneously commences and concludes this matter in accordance with 40 C.F.R. §§ 22.13 and 22.18.

A. AUTHORITY AND PARTIES

1. This is an administrative proceeding instituted pursuant to Section 113(a)(3)(A) and (d) of the Clean Air Act (“CAA”), 42 U.S.C. § 7413(a)(3)(A) and (d), for the assessment of a civil administrative penalty against Respondent for alleged violations of Section 112(r) of the CAA.
2. Complainant is the Acting Director of the Enforcement and Compliance Assurance Division, EPA Region IX, who has been duly delegated the authority to bring this action and to sign a consent agreement settling this action.

3. Respondent is a California limited liability company whose principal offices are located at 900 Work Street in Salinas, California.

B. APPLICABLE STATUTORY AND REGULATORY SECTIONS

4. Pursuant to Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), and its implementing regulations, owners and operators of stationary sources producing, processing, handling or storing a chemical in 40 C.F.R. Part 68, or any other extremely hazardous substance, have a general duty to identify hazards that may result from releases using appropriate hazard assessment techniques, to design and maintain a safe facility taking such steps as are necessary to prevent releases, and to minimize the consequences of accidental releases which do occur.
5. Pursuant to Section 112(r) of the CAA, EPA established a “threshold quantity” (“TQ”) for each “regulated substance,” above which a facility shall be subject to the requirements of Section 112(r) of the CAA. For substances designated as “regulated toxic substances” or “regulated flammable substances,” the TQs are specified at 40 C.F.R. § 68.130.
6. Ammonia (anhydrous) is a “regulated toxic substance” listed under CAA § 112(r)(3) with a TQ of 10,000 pounds. See 40 C.F.R. § 68.130, Table 1.
7. Under Section 112(r)(7) of the CAA and 40 C.F.R. § 68.12(a), the owner or operator of a covered stationary source must submit a Risk Management Plan (“RMP”), as provided in 40 C.F.R. §§ 68.150 - 68.185.
8. Under Section 112(r)(7) of the CAA and 40 C.F.R. § 68.10(i), the owner or operator of a covered stationary source with a process in an NAICS code listed in 40 C.F.R. § 68.10(i)(1) or subject to the Occupational Health and Safety Act (“OSHA”) process safety

management standard set forth in 29 C.F.R. § 1910.119 is subject to the “Program 3” requirements set forth in 40 C.F.R. § 68.12(d).

9. Under Section 112(r)(7) of the CAA and 40 C.F.R. § 68.12(d), facilities subject to the Program 3 requirements are required to implement the prevention requirements set forth in 40 C.F.R. §§ 68.65 through 68.87 and the emergency response program requirements set forth in 40 C.F.R. §§ 68.90 through 68.96.
10. Sections 111(a)(3) and 112(a)(3) of the CAA, 42 U.S.C. §§ 7411(a)(3) and 7412(a)(3), define “stationary source” as “any building, structure, facility, or installation which emits or may emit any air pollutant.”
11. Section 302(g) of the CAA, 42 U.S.C. § 7602(g), defines “air pollutant” as “any air pollution agent or combination of such agents, including any physical, chemical, biological, radioactive (including source material, special nuclear material, and byproduct material) substance or matter which is emitted into or otherwise enters the ambient air.”
12. The Administrator of EPA may assess against any person who violates any provision of CAA § 112(r) a civil penalty of up to \$55,808 per day for each offense that occurred after November 2, 2015. See Section 113(d)(1) of CAA, 42 U.S.C. § 7413(d)(1); 40 C.F.R. Part 19; and Civil Monetary Penalty Inflation Adjustment Rule at 88 Fed. Reg. 986 (Jan. 6, 2023).
13. EPA and the United States Department of Justice (“DOJ”) jointly determined that this matter, although it involves alleged violations that occurred more than one year before

the initiation of this proceeding, is appropriate for an administrative penalty assessment. See 42 U.S.C. § 7413(d); 40 C.F.R. § 19.4.

C. GENERAL ALLEGATIONS

14. At all times relevant to this CAFO, Respondent was a limited liability company and therefore a "person" as defined in Section 302(e) of CAA, 42 U.S.C. § 7602(e), and Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).
15. At all times relevant to this CAFO, Respondent operated a facility (the "Facility") located at 900 Work Street in Salinas, California, to process, store, and distribute prepackaged salads, fresh-cut vegetables, and other food products.
16. The real property and improvements thereto located at the Facility are a "stationary source" as defined by Sections 111(a)(3) and 112(a)(3) of the CAA, 42 U.S.C. §§ 7411(a)(3) and 7412(a)(3).
17. At all times relevant to this CAFO, Respondent produced, used or stored more than 10,000 pounds of ammonia (anhydrous) at the Facility and was subject to the requirements of CAA § 112(r)(7).
18. At all times relevant to this CAFO, Respondent was subject to Program 3 requirements because it had public receptors within the distance to the endpoint for the worst-case release and was subject to the OSHA process safety management standard set forth in 29 C.F.R. § 1910.119.
19. On January 17, 2024, EPA performed an inspection of the Facility pursuant to Section 112(r) of CAA, 42 U.S.C. § 7412(r) (the "Inspection"). Based upon the information

gathered during the Inspection and subsequent investigation, EPA determined that Respondent violated certain provisions of the CAA.

D. ALLEGED VIOLATIONS

Count 1

(Failure to Comply with Process Safety Information Requirement;

40 C.F.R. § 68.65(d)(2), (3))

20. Paragraphs 1 through 19 above are incorporated herein by this reference as if they were set forth here in their entirety.
21. 40 C.F.R. § 68.65(d)(2) requires an owner or operator of a facility subject to the requirements of CAA § 112(r)(7) to document that process equipment complies with recognized and generally accepted good engineering practices (“RAGAGEP”).
22. Based upon the Inspection and subsequent investigation, EPA determined that Respondent failed to document that the ammonia machinery room, ammonia pipes, ammonia sensors, ammonia and fire alarms, emergency ventilation system, electrical wiring, and exhaust fans on the roof at the Facility complied with RAGAGEP from January 2024 to August 2024.
23. Accordingly, EPA alleges that Respondent violated the process safety information requirements set forth at CAA § 112(r) and 40 C.F.R. § 68.65(d)(2) from January 2024 to August 2024.

Count 2

(Failure to Comply with the Process Hazard Analysis Requirements; 40 C.F.R. § 69.67(c), (e))

24. Paragraphs 1 through 19 above are incorporated herein by this reference as if they were set forth here in their entirety.
25. Under 40 C.F.R. § 68.67, an owner or operator of a facility subject to the requirements of CAA § 112(r)(7) must perform a Process Hazard Analysis (“PHA”) on processes covered by the CAA § 112(r) requirements to identify, evaluate, and control the hazards involved in the process.
26. Under 40 C.F.R. § 68.67(c), the owner or operator must perform a PHA that addresses a variety of factors, including the hazards of the process, engineering and administrative controls applicable to the hazards, and siting of the stationary source.
27. Under 40 C.F.R. § 68.67(e), the owner or operator must establish a system to promptly address the findings and recommendations of a PHA; assure that the recommendations are resolved in a timely manner and that the resolution is documented; document what actions are to be taken; complete actions as soon as possible; develop a written schedule of when these actions are to be completed; and communicate the actions to operating, maintenance and other employees who may be affected by the recommendations or actions.
28. Based upon the Inspection and subsequent investigation, EPA determined that Respondent failed to address the hazards of the process, engineering and administrative controls applicable to such hazards, and siting of the stationary source in the PHA

performed at the Facility in 2019, and also failed to establish a system to promptly address the findings and recommendations for safety devices in the 2019 PHA.

29. Accordingly, EPA alleges that Respondent violated CAA § 112(r) and 40 C.F.R. § 68.67(c) and (e) by failing to comply with the PHA requirements during 2020-2024.

Count 3

(Failure to Develop and Implement Adequate Operating Procedures; 40 C.F.R. § 68.69(a), (c))

30. Paragraphs 1 through 19 above are incorporated herein by this reference as if they were set forth here in their entirety.
31. Under 40 C.F.R. § 68.69(a) and (c), an owner or operator of a facility subject to the requirements of CAA § 112(r)(7) must 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, including but not limited to safety and health considerations, and must also certify annually that such procedures are current and accurate.
32. Based upon the Inspection and subsequent investigation, EPA determined that the operating procedures printed inside the emergency control box at the Facility were outdated; the written operating procedures for the High Pressure Receiver at the Facility were inaccurate from January 2024 to April 2024; and all written operating procedures at the Facility lacked annual certifications.
33. Accordingly, EPA alleges that Respondent violated CAA § 112(r) and 40 C.F.R. § 68.69(a) and (c) by failing to comply with the operating procedure requirements from during 2020-2024.

Count 4

(Failure to Comply with the Mechanical Integrity Requirements; 40 C.F.R. § 68.73(d), (e))

34. Paragraphs 1 through 19 above are incorporated herein by this reference as if they were set forth here in their entirety.
35. Under 40 C.F.R. § 68.73(d), an owner or operators of a facility subject to the requirements of CAA § 112(r)(7) must perform inspections and tests on process equipment. These inspections and testing procedures shall follow recognized and generally accepted good engineering practice, and their frequency must be consistent with applicable manufacturers' recommendations and good engineering practices. Each inspection and test must also be properly documented, including the results of the inspection and test.
36. Under 40 C.F.R. § 68.73(e), an owner or operator of a facility subject to the requirements of CAA § 112(r)(7) must correct deficiencies in covered 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.
37. Based upon the Inspection and subsequent investigation, EPA determined that Respondent failed to adequately track repairs recommended after the inspections and tests of the process equipment at the Facility during 2024 and failed to address deficient ammonia pipes and tanks, valves, emergency ventilation louvers, insulation or vapor barriers, and ammonia sensors at the Facility that were outside acceptable limits from January 2024 to August 2024.

38. Accordingly, EPA alleges that Respondent violated CAA § 112(r) and 40 C.F.R. § 68.73(d) and (e), by failing to comply with the mechanical integrity requirements during 2024.

Count 5

(Failure to Comply with the Management of Change Requirements;

40 C.F.R. § 68.75(a), (b))

39. Paragraphs 1 through 19 above are incorporated herein by this reference as if they were set forth here in their entirety.
40. Under 40 C.F.R. § 68.75(a) and (b), an owner or operator of a facility subject to the requirements of CAA § 112(r)(7) must establish and implement written procedures to manage changes to process equipment, and also ensure that management approval is documented prior to the implementation of changes.
41. Based upon the Inspection and subsequent investigation, EPA determined that Respondent failed to implement written procedures to manage upgrades of the emergency ventilation system at the Facility during 2020-2023.
42. Based upon the Inspection and subsequent investigation, EPA determined that Respondent failed to adequately document management approval of changes to process equipment at the Facility during 2020-2023.
43. Accordingly, EPA alleges that Respondent violated CAA § 112(r) and 40 C.F.R. § 68.75(a) and (b), by failing to comply with the management of change requirements for certain process equipment during 2020-2023.

Count 6

(Failure to Comply with Pre-Startup Safety Review Requirements; 40 C.F.R. § 68.77(b))

44. Paragraphs 1 through 19 above are incorporated herein by this reference as if they were set forth here in their entirety.
45. Under 40 C.F.R. § 68.77(a), an owner or operator of a facility subject to the requirements of CAA § 112(r)(7) must complete 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.
46. Under 40 C.F.R. § 68.77(b), the PSSR must ensure that construction and equipment are in accordance with design specification; safety, operating, maintenance, and emergency procedures are in place and are adequate; a PHA has been performed for new stationary sources; and training of each employee involved in operating a process has been completed.
47. Based upon the Inspection and subsequent investigation, EPA determined that the PSSRs performed by Respondent at the Facility during 2020-2024 lacked appropriate signatures from management and completion dates for various required tasks.
48. Accordingly, EPA alleges that Respondent violated CAA § 112(r) and 40 C.F.R. § 68.77(b), by failing to comply with the Pre-Startup Safety Review requirements during 2020-2024.

Count 7

(Failure to Comply with Incident Investigation Requirements; 40 C.F.R. § 68.81(d))

49. Paragraphs 1 through 19 above are incorporated herein by this reference as if they were set forth here in their entirety.

50. Under 40 C.F.R. § 68.81(a), an owner or operator of a facility subject to the requirements of CAA § 112(r)(7) must investigate each incident which resulted in, or could reasonably have resulted in, a catastrophic release.
51. Under 40 C.F.R. § 68.81(d), an owner or operator of a facility subject to the requirements of CAA § 112(r)(7) must prepare a report at the conclusion of each incident investigation which includes at a minimum: (1) date of incident; (2) date investigation began; (3) a description of the incident; (4) the factors that contributed to the incident; and (5) any recommendations resulting from the investigation.
52. Based upon the Inspection and subsequent investigation, EPA determined that the incident investigation reports prepared by Respondent at the Facility during 2020-2021 failed to include dates of investigation, factors that contributed to the incidents, and recommendations resulting from the investigations.
53. Accordingly, EPA alleges that Respondent violated CAA § 112(r) and 40 C.F.R. § 68.81(d), by failing to comply with the incident investigation requirements during 2020-2021.

Count 8

(Failure to Comply with the Requirements Regarding Contractors; 40 C.F.R. § 68.87(b))

54. Paragraphs 1 through 19 above are incorporated herein by this reference as if they were set forth here in their entirety.
55. Under 40 C.F.R. § 68.87(b), an owner or operator of a facility subject to the requirements of CAA § 112(r)(7) must obtain and evaluate information regarding a contractor's safety performance and programs in selecting any contractor performing

maintenance or repair, turnaround, major renovation, or specialty work on or adjacent to an RMP process, and periodically evaluate the contractor's performance.

56. Based upon the Inspection and subsequent investigation, EPA determined that Respondent failed to obtain and evaluate information regarding safety performance and programs of two contractors it hired to work on the RMP processes during 2024.
57. Accordingly, EPA alleges that Respondent violated CAA § 112(r) and 40 C.F.R. § 68.87(b), by failing to comply with the requirements regarding contractors during 2024.

E. RESPONDENT'S ADMISSIONS

58. In accordance with 40 C.F.R. § 22.18(b)(2) and for the purpose of this proceeding, Respondent: (i) admits that EPA has jurisdiction over the subject matter of this CAFO and over Respondent; (ii) neither admits nor denies the specific factual allegations contained in the CAFO; (iii) consents to any and all conditions specified in this CAFO, including the assessment of the civil administrative penalty under Section I.F of this CAFO, and Condition specified in Section I.G of this CAFO; (iv) waives, for the purpose of this proceeding, any right to contest the allegations contained in Section I.D of the CAFO; and (v) waives the right to appeal the proposed final order contained in this CAFO. 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.

F. CIVIL ADMINISTRATIVE PENALTY

59. Respondent agrees to the assessment of a civil penalty of ONE HUNDRED FIFTY-ONE THOUSAND NINE HUNDRED SEVENTY-NINE DOLLARS (\$151,979) for the claims set forth herein as final settlement of the civil claims against Respondent as alleged in Section I.D of the CAFO.
60. Respondent shall pay the assessed penalty according to the terms of this CAFO within thirty (30) days of the Effective Date of the CAFO. Payment shall be made by cashier's or certified check payable to the "Treasurer, United States of America," or be paid by one of the other methods stated at: <https://www.epa.gov/financial/makepayment>. If any clarification regarding a particular method of payment remittance is needed, please contact the EPA Cincinnati Finance Center at 513-487-2091. The payment shall be accompanied by a transmittal letter identifying the case name, the case docket number, and this CAFO. Concurrent with delivery of the payment of the penalty, Respondent shall send by e-mail a copy of the check or notification that the payment has been made by one of the other methods listed above, including proof of the date payment was made, and transmittal letter to the following addresses:

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

Bridget Johnson
Enforcement and Compliance Assurance Division (ENF-2-1)
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105

Johnson.bridget@epa.gov

Payment of the above civil administrative penalty shall not be used by Respondent or any other person as a tax deduction from Respondent's federal, state, or local taxes. 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 at henderson.jessica@epa.gov, within 30 days after the Final Order ratifying this Agreement is filed (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 CAFO; 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.

G. CONDITION

- 61. All submissions to EPA required in this section shall be in writing and sent to Bridget Johnson, electronically at johnson.bridget@epa.gov.
- 62. All certifications shall be signed by an authorized representative of Respondent. If a condition directs Respondent to certify facts to EPA, Respondent shall submit a written statement containing the following language: "The undersigned hereby certifies under

penalty of law, and based on information and belief formed after reasonable inquiry, that the statements and information herein and all supporting documentation are true, accurate, and complete.”

63. If Respondent is unable to complete the condition required in this Section within the associated schedule, Respondent shall submit a written request for a modification, including the basis for the request, to EPA. Respondent shall submit this request within seven (7) days of identifying a need for a modification. Based on this request, EPA may in its sole discretion grant or deny, in full or in part, the request for modification.
64. Respondent is responsible for the satisfactory completion of the condition described in Paragraph 66.
65. After receipt of documentation supporting completion of the condition, EPA will notify the Respondent, in writing, regarding: (a) any deficiencies in the condition along with a grant of fourteen (14) days for Respondent to correct any deficiencies; or (b) indicate that EPA concludes that the condition has been completed satisfactorily. If a dispute exists as to the satisfactory completion of this condition, they will be addressed in accordance with Section I.J of this CAFO.
66. Within 90 days of the Effective Date of this CAFO, Respondent shall submit a copy of the PHA recommendation tracking list demonstrating completion of all remaining open items identified in the 2022 Mechanical Integrity Audit.

H. STIPULATED PENALTIES

67. In the event that Respondent fails to submit a payment of the civil penalty to EPA by the deadline specified in Paragraph 60 of this CAFO, Respondent shall pay stipulated

penalties up to: FIVE HUNDRED DOLLARS (\$500) per day for first to fifteenth day of delay; ONE THOUSAND DOLLARS (\$1,000) per day for sixteenth to thirtieth day of delay; and ONE THOUSAND FIVE HUNDRED DOLLARS (\$1,500) per day for each day of delay thereafter.

68. In the event that Respondent fails to complete any activity required under Section I.G of this CAFO, Respondent shall pay stipulated penalties up to: ONE THOUSAND DOLLARS (\$1,000) per day for first to fifteenth day of delay; TWO THOUSAND DOLLARS (\$2,000) per day for sixteenth to thirtieth day of delay; and THREE THOUSAND DOLLARS (\$3,000) per day for each day of delay thereafter.
69. After giving effect to any extensions of time granted by EPA, Respondent shall pay a stipulated penalty in the amount of Two Hundred Dollars (\$200) for each day that each notice required by this CAFO is submitted late.
70. 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. Respondent shall pay stipulated penalties within fifteen (15) days of receipt of a written demand by Complainant for such penalties. Payment of stipulated penalties shall be made in accordance with the procedure set forth for payment of penalties in Section I.F of this CAFO.
71. If a stipulated penalty is not paid in full, interest shall begin to accrue on the unpaid balance at the end of the fifteen-day period at the current rate published by the United States Treasury, as described at 40 C.F.R. § 13.11. Complainant reserves the right to take

any additional action, including but not limited to, the imposition of civil penalties, to enforce compliance with this CAFO or with the CAA and the implementing regulations.

72. 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 CAFO.

I. FORCE MAJEURE

73. “*Force majeure*,” for purposes of this CAFO, is defined as any event arising from causes beyond the control of Respondent, of any entity controlled by Respondent, or of Respondent’s contractors, that delays or prevents the performance of any obligation under this CAFO despite Respondent’s best efforts to fulfill the obligation. The requirement that Respondent exercise “best efforts to fulfill the obligation” includes using best efforts to anticipate any potential *force majeure* event and best efforts to address the effects of any potential *force majeure* event (a) as it is occurring and (b) following the potential *force majeure*, such that the delay and any adverse effects of the delay are minimized. “*Force Majeure*” does not include Respondent’s financial inability to perform any obligation under this CAFO.
74. If any event occurs or has occurred that may delay the performance of any obligation under this CAFO, as to which Respondent intends to assert a claim of *force majeure*, Respondent will provide notice orally or by electronic transmission to EPA within five (5) days of when Respondent first knew, or by the exercise of due diligence should have known, that the event would cause a delay. Within fifteen (15) days thereafter, Respondent will provide in writing to EPA an explanation and description of the reasons

for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; Respondent's rationale for attributing such delay to *force majeure*; and a statement as to whether, in the opinion of Respondent, the delay in performance of an obligation under this CAFO resulting from such event may cause or contribute to an endangerment to public health, welfare, or the environment ("15-Day *Force Majeure* Notice"). Respondent will include with any written *Force Majeure* Notice documentation supporting the claim that the delay was attributable to *force majeure*. Failure to substantially comply with the above requirements will preclude Respondent from asserting any claim of *force majeure* for that event for the period of time in which Respondent has failed to comply with the notice requirements, and for any additional delay caused by such failure. Respondent will be deemed to know of any circumstances of which Respondent, any entity controlled by Respondent, or Respondent's contractors knew or should have known. If EPA agrees that the delay or anticipated delay is attributable to *force majeure*, it will notify Respondent in writing, within 15 days of receipt of Respondent's notice, and the time for performance of the obligations under this CAFO that are affected by *force majeure* will be extended by EPA, for such time as is necessary to complete those obligations. An extension of the time for performance of the obligations affected by *force majeure* will not, of itself, extend the time for performance of any other obligation. EPA will notify Respondent in writing of the length of the extension, if any, for performance of the obligations affected by *force majeure*. If EPA does not agree that

the delay or anticipated delay has been or will be caused by *force majeure*, EPA will notify Respondent in writing of its decision within 15 days of receipt of Respondent's notice.

75. If EPA does not respond within the timeframe above or if EPA does not agree that the delay or anticipated delay has been or will be caused by *force majeure*, Respondent may elect to invoke the dispute resolution process set forth in Section K. Respondent must do so no later than 30 days after: (a) receipt of EPA's notice of decision regarding Respondent's *force majeure* claim; or (b) EPA fails to provide a written response within 30 days after receipt of Respondent's *Force Majeure* Notice.

J. DISPUTE RESOLUTION

76. Unless otherwise expressly provided for in this CAFO, the dispute resolution procedures of this Section shall be the exclusive mechanism for resolving disputes under this CAFO. The Parties shall attempt to resolve any disagreements concerning this CAFO expeditiously and informally.
77. If Respondent objects to any EPA action taken pursuant to this CAFO, including EPA finding that Respondent has not met its obligations under Section I.G (Condition) of this CAFO, it shall notify EPA in writing of its objection(s) within seven (7) days. EPA may, in its discretion, submit a response to the objection to Respondent no later than seven (7) days after receipt of Respondent's objection. EPA and Respondent shall have 21 days from EPA's receipt of Respondent's written objection(s) to resolve the dispute (the "Negotiation Period"). The Negotiation Period may be extended at the sole discretion of EPA.

78. Any agreement reached by the Parties pursuant to this Section shall be in writing and shall, upon signature by the Parties, be incorporated into and become an enforceable part of this CAFO.
79. If agreement reached by the Parties pursuant to this Section shall be in writing and shall, upon signature by the Parties, be incorporated into and become an enforceable part of this CAFO.
80. Respondent's obligations under Section I.G of this CAFO shall not be tolled by submission of any objection.
81. Following resolution of the dispute, as provided by this Section, Respondent shall fulfill the requirement that was the subject of dispute in accordance with the agreement reached or with EPA's decision, regardless of whether Respondent agrees with the decision.

K. CERTIFICATION OF COMPLIANCE

82. In executing this CAFO, Respondent certifies that, to its knowledge, other than the work to be performed under Section I.G of this CAFO, it has taken all steps necessary to return to full compliance with CAA § 112(r) and its implementing regulations.

L. RETENTION OF RIGHTS

83. In accordance with 40 C.F.R. § 22.18(c), Respondents' full compliance with this Consent Agreement shall only resolve Respondent's liability for federal civil penalties. Nothing in this CAFO is intended to or shall be construed to resolve (i) any civil liability for violations of any provision of any federal, state, or local law, statute, regulation, rule, ordinance, or permit not specifically alleged in Section I.D of the CAFO; or (ii) any

criminal liability. EPA specifically reserves any and all authorities, rights, and remedies available to it (including, but not limited to, injunctive or other equitable relief or criminal sanctions) to address any violation of this CAFO or any violation not specifically alleged in Section I.D of the CAFO.

84. This CAFO does not exempt, relieve, modify, or affect in any way Respondent's duty to comply with all applicable federal, state, and local laws, regulations, rules, ordinances, and permits.

M. MISCELLANEOUS

85. This CAFO may be amended or modified only by written agreement executed by both EPA and Respondent.
86. The headings in this CAFO are for convenience of reference only and shall not affect interpretation of this CAFO.
87. Each party to this action shall bear its own costs and attorneys' fees.
88. Respondent consents to entry of this CAFO without further notice.

N. EFFECTIVE DATE

89. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CAFO shall be effective on the date that the final order contained in this CAFO, having been approved and issued by either the Regional Judicial Officer or Regional Administrator, is filed with the Regional Hearing Clerk.

O. BINDING EFFECT

90. The undersigned representative of Complainant and the undersigned representative of Respondent each certifies that he or she is fully authorized to enter into the terms and conditions of this CAFO and to bind the party he or she represents to this CAFO.
91. 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.

P. NOTICE

92. Except as otherwise provided in Section I.G, any notices, documents, information, reports, plans, approvals, disapprovals, or other correspondence submitted from one party to another under this CAFO shall be addressed as follows:

To EPA:

Bridget Johnson
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105
Johnson.Bridget@epa.gov

With a copy to:

David Kim
Office of Regional Counsel
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105
Kim.David@epa.gov

To Respondent:

John Carillo
organicgirl, LLC
900 Work Street
Salinas, CA 93901
John.carillo@iloveorganicgirl.com

With a copy to:

Stephen Pessagno
Varela, Lee, Metz & Guarino, LLP
1111 Broadway, Suite 2150
Oakland, CA 94607
spessagno@vmlglaw.com

FOR RESPONDENT, ORGANICGIRL, LLC:

03/24/25



Digitally signed by Mark Drever
Date: 2025.03.24 06:25:22
-07'00'

DATE

NAME: Mark Drever

TITLE: CEO

FOR COMPLAINANT, EPA REGION IX:

4/11/2025

**AMY MILLER-
BOWEN**

Digitally signed by AMY
MILLER-BOWEN
Date: 2025.04.11 10:03:21
-07'00'

DATE

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

II. FINAL ORDER

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

IT IS HEREBY ORDERED that this CAFO (Docket No. CAA (112r)-09-2025-0048) be entered, and that Respondent shall pay a civil administrative penalty in the amount of ONE HUNDRED FIFTY-ONE THOUSAND NINE HUNDRED SEVENTY-NINE DOLLARS (\$151,979), and otherwise comply with the terms and conditions set forth in the Consent Agreement.

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

CERTIFICATE OF SERVICE

I certify that the original of the fully executed Consent Agreement and Final Order in the matter of Organicgirl LLC (Docket No. CAA(112r)-09-2025-0048) was filed with Regional Hearing Clerk, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, and that a true and correct copy of the same was served on the parties, via electronic mail, as indicated below:

RESPONDENT: John Carrillo
Refrigeration Supervisor
Organicgirl LLC
900 Work Street
Salinas, CA 93901
John.Carrillo@iloveorganicgirl.com

COMPLAINANT: David Kim
Assistant Regional Counsel
U.S. EPA – Region IX
Hazardous Waste Section I (ORC-3-1)
75 Hawthorne Street
San Francisco, CA 94105
Kim.David@epa.gov

Ponly Tu
Regional Hearing Clerk
U.S. EPA – Region IX