

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX



In the matter of:)	U.S. EPA Docket No.
)	
)	RCRA-09-2025-0030
Owens-Brockway Glass Container Inc.)	
CAD009146929)	CONSENT AGREEMENT AND
)	FINAL ORDER PURSUANT TO
Respondent.)	40 C.F.R. SECTIONS 22.13 AND
)	22.18
)	

CONSENT AGREEMENT

A. PRELIMINARY STATEMENT

1. This is a civil administrative enforcement action instituted pursuant to Section 3008(a)(1) of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. § 6928(a)(1), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, as codified at 40 Code of Federal Regulations ("C.F.R.") Part 22 ("Consolidated Rules").
2. The Administrator of the United States Environmental Protection Agency ("EPA") has delegated enforcement authority under Section 3008 of RCRA, 42 U.S.C. § 6928, to the Regional Administrator of the EPA Region 9, who in turn has delegated this authority to the Director of the Enforcement and Compliance Assurance Division, hereinafter, "Complainant."
3. Respondent is Owens-Brockway Glass Container Inc. ("Respondent").
4. This Consent Agreement and Final Order ("CA/FO"), which contains the elements of a complaint required by 40 C.F.R. § 22.14(a)(1)-(3) and (8), simultaneously commences and concludes this penalty proceeding, as authorized by 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).
5. Complainant and Respondent agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their respective interests and in the public interest.

B. PARTIES BOUND

6. This CA/FO shall apply to and be binding on Respondent, Respondent's officers, directors, partners, agents, employees, contractors, successors and assigns. Action or inaction of any persons, firms, contractors, employees, agents, or corporations acting under, through, or for Respondent shall not excuse any failure of Respondent to fully perform its obligations under this CA/FO. Changes in ownership, real property interest, or transfer of personal assets shall not alter Respondent's obligations under this CA/FO.

C. STATUTORY AND REGULATORY FRAMEWORK

7. Subtitle C of RCRA requires the EPA Administrator to promulgate regulations establishing a hazardous waste management program. Section 3006 of RCRA, 42 U.S.C. § 6926, provides, *inter alia*, that authorized state hazardous waste management programs are carried out under Subtitle C of RCRA. Therefore, a violation of any requirement of a law under an authorized state hazardous waste program is a violation of a requirement of Subtitle C of RCRA.
8. The State of California received authorization to administer the hazardous waste management program in lieu of the federal program pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, and 40 C.F.R. Part 271, on or about August 1, 1992. This authorization was updated on September 26, 2001 (*see* 66 FR 49118, September 26, 2001), on October 7, 2011 (*see* 76 FR 62303, October 7, 2011), and again on January 14, 2020 (*see* 85 FR 2038, as corrected [*see* 86 FR 29207, June 1, 2021]). The authorized hazardous waste program is established pursuant to the Hazardous Waste Control Law, Chapter 6.5 of Division 20 of the California Health and Safety Code, and the regulations promulgated thereunder at Title 22, Division 4.5 of the California Code of Regulations, 22 C.C.R. § 66001 *et seq.* The State is authorized for all the hazardous waste management regulations referenced in this CA/FO.¹
9. A violation of the State of California's authorized hazardous waste program, found at Health & Safety Code § 25100 *et seq.*, constitutes a violation of Subtitle C of RCRA and, therefore, a person who violates California's authorized hazardous waste program is subject to the powers vested in the EPA Administrator by Section 3008 of RCRA, 42 U.S.C. § 6928.
10. Section 3008 of RCRA, 42 U.S.C. § 6928, authorizes the EPA Administrator to issue orders assessing a civil penalty and/or requiring compliance immediately or within a specified time for violation of any requirement of Subtitle C of RCRA, Section 3001 of RCRA *et seq.*, 42 U.S.C. § 6921 *et seq.*

¹ EPA is enforcing California hazardous waste management program requirements as approved and authorized by the United States. All citations to the "C.C.R." refer to Division 4.5 of Title 22 of the California Code of Regulations as they existed at the time of their most recent federal authorization. As a convenience, corresponding Federal citations are provided in brackets.

D. GENERAL ALLEGATIONS

11. Respondent is a glass container manufacturing company that owns and operates a manufacturing facility, located at 14700 W. Schulte Road, in Tracy, California, with an EPA ID number of CAD009146929 (the "Facility"). Air emissions generated during glass container "forming" pass through an electrostatic precipitator ("ESP") and a stack into the atmosphere. The manufacturing processes generates various waste streams that are considered RCRA hazardous wastes, including, but not limited to: dust produced by the ESPs ("EP Dust"), which carries RCRA waste codes D007, D008, and D010; furnace batch (ash) and furnace brick and debris generated by the furnaces, which carry RCRA waste codes D010 and D004, D006, D007, and D008, respectively; and a waste sodium hydroxide solution from parts washing, which carries the RCRA waste code D002. Respondent accumulates wastes in multiple hazardous waste central accumulation areas ("CAAs") and satellite accumulation areas ("SAAs") throughout the Facility. Most of the hazardous waste generated at the Facility is transported to the Main Accumulation Area ("HWA-01") for pick up and removal off-site.
12. On January 30, 2024, EPA conducted a compliance evaluation inspection ("CEI") of the Facility pursuant to Subtitle C of RCRA.
13. Based upon the findings EPA made during the inspection, and additional information obtained subsequent to the inspection, EPA determined that Respondent violated California Health & Safety Code § 25100 *et seq.* and the regulations adopted pursuant thereto, as approved and authorized by the United States.
14. Respondent is a "person" as defined in 22 C.C.R. § 66260.10 [*see also* 40 C.F.R. § 260.10].
15. Respondent is the "owner" and/or "operator" of a facility as defined in 22 C.C.R. § 66260.10 [*see also* 40 C.F.R. § 260.10].
16. Respondent is a "generator" of hazardous waste as defined in 22 C.C.R. § 66260.10 [*see also* 40 C.F.R. § 260.10].
17. Respondent is or has been engaged in "treatment," "storage," and/or "disposal" of "hazardous waste" as defined in 22 C.C.R. §§ 66260.10 and 66261.3 [*see also* 40 C.F.R. §§ 260.10 and 261.3].
18. At the Facility, Respondent generates and accumulates, or has generated and accumulated, "hazardous waste" as defined in California Health & Safety Code § 25117, and 22 C.C.R. §§ 66260.10 and 66261.3 [*see also* RCRA § 1004(5), and 40 C.F.R. §§ 260.10 and 261.3]. These hazardous wastes include but are not limited to the following hazardous waste codes: D002, D004, D006, D007, D008, and D010.

E. ALLEGED VIOLATIONS

Count I

Failure to make an accurate waste determination

19. Paragraphs 1 through 18 above are incorporated herein by reference.
20. 22 C.C.R. § 66262.11 [*see also* 40 C.F.R. § 262.11]² requires a person who generates a waste, as defined by 22 C.C.R. § 66261.2, to determine if that waste is a hazardous waste. Pursuant to 22 C.C.R. §§ 66262.11(a)-(b)³, to make such a determination, the generator shall first determine if the waste is excluded from regulation under 22 C.C.R. § 66261.4 or Section 25143.2 of the California Health and Safety Code, and shall then determine if the waste is listed as a hazardous waste in Title 22, Division 4.5, Chapter 11, Article 4 of the California Code of Regulations, 22 C.C.R. §§ 66261.30-66261.50.
21. During the CEI, EPA observed Respondent managing one stainless steel drum labelled as methyl ethyl ketone (MEK) as RCRA ignitable hazardous waste (D001) and toxicity characteristic hazardous waste (D035).
22. The corresponding waste profile for the MEK (Profile # 18100193) indicates that Respondent characterizes the waste as D001 and D035.
23. Based on information gathered as part of the CEI, EPA determined that the MEK waste met the criteria for the waste code for spent non-halogenated solvent (F005), in addition to the D001 and D035 waste codes.
24. Based on a review of Respondent's waste manifests, EPA determined that on at least two occasions in 2021 and 2024, respectively, Respondent shipped MEK hazardous waste off-site with waste codes D001 and D035 but failed to include the F005 waste code on its hazardous waste manifest forms.
25. Therefore, by failing to determine if the waste is listed as a hazardous waste in Title 22, Division 4.5, Chapter 11, Article 4 of the California Code of Regulations, 22 C.C.R. §§ 66261.30-66261.35, Respondent failed to make an accurate hazardous waste determination, a violation of 22 C.C.R. § 66262.11 [*see also* 40 C.F.R. § 262.11].

Count II

² The current version of 40 C.F.R. § 262.11 clarifies EPA's longstanding policy that generators must make an accurate waste determination.

³ The State of California amended this regulation subsequent to its most recent federal authorization. Subsequent amendments by the State to the federally authorized version of the State regulation do not affect the applicable portion of the requirement and, therefore, have no effect on this enforcement action.

**Operating without a permit due to failure to maintain and operate the facility to
minimize the possibility of any unplanned release**

26. Paragraphs 1 through 18 above are incorporated herein by reference.
27. 22 C.C.R. § 66270.1 [*see also* 40 C.F.R. § 270.1] requires that, with certain exceptions not relevant here, owners and operators must have interim status or obtain a permit for treatment, storage, or disposal of hazardous waste.
28. 22 C.C.R. § 66262.34(a)(4)⁴ [*see also* 40 C.F.R. § 262.17(a)(6)] exempts generators of hazardous waste from the permit requirements of 22 C.C.R. § 66270.1 [*see also* 40 C.F.R. § 270.1] and allows generators to accumulate hazardous waste on-site for up to 90 days provided that they meet certain conditions, including that the generator complies with the requirements for owners or operators in Title 22, Division 4.5, Chapter 15, Article 3 (Preparedness and Prevention) of the California Code of Regulations, 22 C.C.R. §§ 66265.30-66265.37 [*see also* 40 C.F.R. §§ 262.250-262.265].
29. 22 C.C.R. § 66265.31⁵ [*see also* 40 C.F.R. § 262.251] provides that facilities must be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.
30. At the time of the CEI, EPA determined that Respondent managed hazardous waste but did not have interim status or a permit to do so.
31. During the CEI, EPA observed standing liquid, surrounded by a white solid, on the floor adjacent to sodium hydroxide dip tanks at the Facility.
32. Based on information gathered as part of the CEI, EPA determined that the standing liquid was liquid from the sodium hydroxide dip tanks and the white solid was sodium hydroxide precipitate, which Respondent manages as RCRA hazardous waste (D002).
33. During the CEI, at an outdoor CAA ("HWA-14") located outside of the Facility's ESP structure, EPA observed white solid material on the ground adjacent a supersack.
34. Based on information gathered as part of the CEI, EPA determined that the white solid in HWA-14 was EP Dust, which Respondent manages as RCRA hazardous waste (D007,

⁴ This California regulation has been updated and renumbered subsequent to its most recent federal authorization and can now be found at 22 C.C.R. § 66262.17(a)(6). *See* footnote 1.

⁵ This California regulation has been updated and renumbered subsequent to its most recent federal authorization and can now be found at 22 C.C.R. § 66262.251. *See* footnote 1.

D008, and D010). The EP Dust was released into the open environment where it was subject to transport via stormwater runoff and wind-blown transport.

35. During the CEI, at an outdoor CAA ("HWA-15") located across from the Facility's ESP structure, EPA observed white solid material in two areas on the asphalt and pavement, including (i) white solid material on the asphalt of HWA-15 in a rectangular shape forming an outline the approximate size of supersacks and (ii) on the driveway adjacent to HWA-15 in a track-out pattern leading from the driveway towards a road along the boundary of the Facility.
36. Based on information gathered as part of the CEI and EPA's observations of the EP Dust at HWA-14, EPA determined that the solid material at, and adjacent to, HWA-15 was EP Dust, which Respondent manages as RCRA hazardous waste (D007, D008 and D010). The EP Dust was released into the open environment where it was subject to transport via stormwater runoff and wind-blown transport.
37. Therefore, by failing to clean up hazardous waste or hazardous waste constituents that posed a threat of release into the environment, and by failing to prevent multiple releases of hazardous waste or hazardous waste constituents into the environment, Respondent failed to maintain and operate the Facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment, a violation of 22 C.C.R. § 66265.31 [*see also* 40 C.F.R. § 262.251].
38. EPA alleges that by failing to satisfy the requirements of 22 C.C.R. § 66265.31 [*see also* 40 C.F.R. § 262.251], Respondent failed to meet the conditional requirement for permit exemption and therefore was operating a hazardous waste management facility without a permit in violation of 22 C.C.R. § 66270.1 [*see also* 40 C.F.R. § 270.1].

Count III

Operating without a permit due to failure to maintain a complete contingency plan

39. Paragraphs 1 through 18 above are incorporated herein by reference.
40. 22 C.C.R. § 66270.1 [*see also* 40 C.F.R. § 270.1] requires that, with certain exceptions not relevant here, owners and operators must have interim status or obtain a permit for treatment, storage, or disposal of hazardous waste.
41. 22 C.C.R. § 66262.34(a)(4)⁶ [*see also* 40 C.F.R. § 262.17(a)(6)] exempts generators of hazardous waste from the permit requirements of 22 C.C.R. § 66270.1 [*see also* 40 C.F.R.

⁶ See footnote 4.

§ 270.1] and allows generators to accumulate hazardous waste on-site for up to 90 days provided that they meet certain conditions, including that the generator complies with the requirements for owners or operators in Title 22, Division 4.5, Chapter 15, Article 4 (Contingency Plan and Emergency Procedures) of the California Code of Regulations, 22 C.C.R. §§ 66265.50-66265.56 [see also 40 C.F.R. §§ 262.250-262.265].

42. 22 C.C.R. § 66265.51(a)⁷ [see also 40 C.F.R. § 262.260(a)] requires that each owner or operator have a contingency plan for the facility designed to minimize hazards to human health or the environment from fires, explosions or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water.
43. 22 C.C.R. § 66265.52⁸ details the required content of the contingency plan, including, *inter alia*, the plan must list names, addresses, and telephone numbers (office and home) of all persons qualified to act as emergency coordinator; the list must be kept up to date; and where more than one person is listed, one shall be named as primary emergency coordinator and others shall be listed in the order in which they will assume responsibility as alternates, 22 C.C.R. § 66265.52(d) [see also 40 C.F.R. § 262.261(d)].
44. At the time of the CEI, EPA determined that Respondent managed hazardous waste but did not have interim status or a permit to do so.
45. Based on information gathered as part of the CEI, EPA found that the contingency plan did not contain the information required by the regulations and was not up to date. The contingency plan lacked addresses or second phone numbers for the emergency coordinators. The contingency plan also listed as an alternate emergency coordinator an individual who was no longer with the Respondent as of the date of the CEI or as of the time of the plan's submittal.
46. Therefore, by failing to include addresses or second phone numbers for the emergency coordinators in the contingency plan, and by failing to name a current alternate emergency coordinator in the contingency plan, Respondent failed to maintain a complete and up to date contingency plan, a violation of 22 C.C.R. § 66265.52 [see also 40 C.F.R. § 262.260].
47. EPA alleges that by failing to satisfy the requirements of 22 C.C.R. § 66265.52 [see also 40 C.F.R. § 262.260], Respondent failed to meet the conditional requirement for permit exemption and therefore was operating a hazardous waste management facility without a permit in violation of 22 C.C.R. § 66270.1 [see also 40 C.F.R. § 270.1].

⁷ This California regulation has been updated and renumbered subsequent to its most recent federal authorization and can now be found at 22 C.C.R. § 66262.260(a). See footnote 1.

⁸ This California regulation has been updated and renumbered subsequent to its most recent federal authorization and can now be found at 22 C.C.R. § 66262.261. See footnote 1.

Count IV

Operating without a permit due to failure to maintain personnel training records

48. Paragraphs 1 through 18 above are incorporated herein by reference.
49. 22 C.C.R. § 66262.34(a)(4)⁹ [*see also* 40 C.F.R. § 262.17(a)(7)] exempts generators of hazardous waste from the permit requirements of 22 C.C.R. § 66270.1 [*see also* 40 C.F.R. § 270.1] and allows generators to accumulate hazardous waste on-site for up to 90 days provided that they meet certain conditions, including that the generator complies with the personnel training requirements in 22 C.C.R. § 66265.16¹⁰ [*see also* 40 C.F.R. § 262.17(a)(7)].
50. The personnel training requirements provide, *inter alia*, that training records on current personnel shall be kept until closure of the facility and training records on former employees shall be kept for at least three years from the date the employee last worked at the facility, 22 C.C.R. § 66265.16(e)¹¹ [*see also* 40 C.F.R. § 262.17(a)(7)(v)].
51. At the time of CEI, EPA determined that Respondent managed hazardous waste but did not have interim status or a permit to do so.
52. During the CEI, the EPA Inspectors requested records of training for Respondent's employees at the Facility for the years 2021 through 2023, as applicable.
53. Based on information gathered as part of the CEI, EPA determined that Respondent did not retain records of training for at least two employees for calendar years 2021 or 2022 and for at least one employee for calendar year 2023.
54. Therefore, by failing to maintain personnel training records on current personnel until the closure of the facility and/or on former employees for at least three years from the date the employee last worked at the Facility, Respondent failed to comply with the personnel training requirements of 22 C.C.R. § 66265.16 [*see also* 40 C.F.R. § 262.17(a)(7)].
55. EPA alleges that by failing to satisfy the requirements of 22 C.C.R. § 66265.16 [*see also* 40 C.F.R. § 262.17(a)(7)], Respondent failed to meet the conditional requirement for

⁹ This California regulation has been updated and renumbered subsequent to its most recent federal authorization and can now be found at 22 C.C.R. § 66262.17(a)(7). *See* footnote 1.

¹⁰ This California regulation has been updated and renumbered subsequent to its most recent federal authorization and can now be found at 22 C.C.R. § 66262.17(a)(7)(E). *See* footnote 1.

¹¹ *See* footnote 3.

permit exemption and therefore was operating a hazardous waste management facility without a permit in violation of 22 C.C.R. § 66270.1 [*see also* 40 C.F.R. § 270.1].

F. CIVIL PENALTY

56. Respondent agrees to pay a civil penalty in the amount of FORTY-SEVEN THOUSAND EIGHT HUNDRED AND THIRTY-SIX DOLLARS (\$47,836) ("Assessed Penalty") within thirty (30) calendar days of the Effective Date of this CA/FO. The Effective Date of this CA/FO as defined in Section M, below, is the date the Final Order, signed by the Regional Judicial Officer, is filed with the Regional Hearing Clerk.

57. 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>.

58. When making a payment, Respondent shall:

- a. Identify every payment with Respondent's name and the docket number of this Agreement, RCRA-09-2025-0030.
- b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of such payment to the following persons via electronic mail:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 9
R9HearingClerk@epa.gov

Lydia Dorrance
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency - Region 9
dorrance.lydia@epa.gov

and

U.S. Environmental Protection Agency
Cincinnati Finance Center
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.

59. Interest, Charges, and Penalties on Late Payments. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay the full amount of the Assessed Penalty per this Agreement, EPA is authorized to recover, in addition to the amount of the unpaid Assessed Penalty, the following amounts.

- a. Interest. Interest begins to accrue from the Effective 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 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 IRS standard underpayment rate, any lower rate would fail to provide Respondent adequate incentive for timely payment.
- b. Handling Charges. Respondent will be assessed monthly a charge to cover EPA's costs of processing and handling overdue debts. If Respondent fails to pay the Assessed Penalty in accordance with this Agreement, EPA will assess a charge to cover the costs of handling any unpaid amounts for the first thirty (30) day period after the Effective Date. Additional handling charges will be assessed every thirty (30) days, or any portion thereof, until the unpaid portion of the Assessed Penalty as well as any accrued interest, penalties, and other charges are paid in full.
- c. Late Payment Penalty. A late payment penalty of six percent (6%) per annum, will be assessed monthly on all debts, including any unpaid portion of the Assessed Penalty, interest, penalties, and other charges, that remain delinquent more than ninety (90) days. Any such amounts will accrue from the Effective Date.

60. 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 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. Refer this matter to the United States Department of Justice for litigation and collection, per 40 C.F.R. § 13.33.

61. 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.

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

G. ADMISSIONS AND WAIVERS OF RIGHTS

63. In accordance with 40 CFR § 22.18(b), for the purpose of this proceeding, Respondent:

- a. admits the jurisdictional allegations of this CA/FO;
- b. neither admits nor denies specific factual allegations contained in this CA/FO;
- c. consents to the assessment of any stated civil penalty, to the issuance of any specified compliance or corrective action order, and to any conditions specified in this CA/FO; and
- d. waives any right to contest the allegations and its right to appeal the proposed final order accompanying this consent agreement.

64. In executing this CA/FO, 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 CA/FO.

H. CERTIFICATION OF COMPLIANCE

65. In executing this CA/FO, Respondent certifies under penalty of law to EPA that it has taken all steps necessary to return to full compliance with RCRA, 42 U.S.C. § 6901 *et seq.*, and its implementing regulations.

I. DELAY IN PERFORMANCE/STIPULATED PENALTIES

66. In the event 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. For the purposes of this Section, Respondent's obligation to meet any and all requirements set for this in this CA/FO shall include completion of any and all activities required under this CA/FO in a manner acceptable to EPA and within the specified time schedules in and approved under this CA/FO.
67. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations.
68. 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.
69. In addition to any stipulated penalties assessed, interest and penalties shall accrue in accordance with 40 C.F.R. § 13.11.
70. Payment of stipulated penalties shall be made in accordance with the procedure set forth for payment of penalties in Section F of this CA/FO.
71. The payment of stipulated penalties specified in this Section shall not be deducted by Respondent or any other person or entity for federal taxation purposes.
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 CA/FO.

J. RESERVATION OF RIGHTS

73. 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.
74. 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. OTHER CLAIMS

75. Nothing in this CA/FO shall constitute or be construed as a release from any other claim, cause of action or demand in law or equity by or against any person, firm, partnership, entity or corporation for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from the Facility.

L. MISCELLANEOUS

76. This CA/FO can be signed in counterparts.
77. The headings in this CA/FO are for convenience of reference only and shall not affect interpretation of this CA/FO.
78. Each party to this action shall bear its own costs and attorneys' fees.
79. EPA and Respondent consent to entry of this CA/FO without further notice.
80. 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.

M. EFFECTIVE DATE

81. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), the effective date of this CA/FO ("Effective Date") shall be 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.

In the Matter of Owens-Brockway Glass Container Inc.
Consent Agreement and Final Order

FOR RESPONDENT OWENS-BROCKWAY GLASS CONTAINER INC.:

3/10/2025
Date

D-I R-I-L
Dan Riemenschneider
Tracy Plant Manager

In the Matter of Owens-Brockway Glass Container Inc.
Consent Agreement and Final Order

FOR COMPLAINANT U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION IX:

AMY MILLER-BOWEN

Digitally signed by AMY MILLER-
BOWEN
Date: 2025.03.27 09:07:25 -07'00'

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

FINAL ORDER

IT IS HEREBY ORDERED that this Consent Agreement and Final Order pursuant to 40 C.F.R. Sections 22.13 and 22.18 (U.S. EPA Docket No. RCRA-09-2025-0030) be entered and that Respondent pay a civil penalty of FORTY-SEVEN THOUSAND EIGHT HUNDRED AND THIRTY-SIX DOLLARS (\$47,836), due within thirty (30) days from the Effective Date of this Consent Agreement and Final Order, in accordance with all terms and conditions of this Consent Agreement and Final Order.

This Final Order shall be effective upon filing by the Regional Hearing Clerk.

Beatrice Wong
Regional Judicial Officer
United States 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 Owens-Brockway Glass Container, Inc. (Docket No. RCRA-09-2025-0030) 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: Dan Riemenschneider
Owens-Brockway Glass Container, Inc.
14700 W. Schulte Road
Tracy, CA 95376
Dan.Riemenschneider@o-i.com

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

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