

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)	DOCKET NO. CAA-10-2026-0097
)	
SPECIALTY SALES, LLC,)	CONSENT AGREEMENT
D/B/A HOOFIN-IT LLC,)	
)	
Jerome, Idaho)	
)	
Respondent.)	

I. STATUTORY AUTHORITY

1.1. This Consent Agreement is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Section 113(d) of the Clean Air Act (“CAA”), 42 U.S.C. § 7413(d), and by Section 325 of the Emergency Planning and Community Right-to-Know Act (“EPCRA”), 42 U.S.C. § 11045.

1.2. Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and Section 325 of EPCRA, 42 U.S.C. § 11045, and in accordance with the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties,” 40 C.F.R. Part 22, EPA issues, and Specialty Sales, LLC (“Respondent”) agrees to issuance of, the Final Order attached to this Consent Agreement (“Final Order”).

II. PRELIMINARY STATEMENT

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

2.2. The Director of the Enforcement and Compliance Assurance Division, EPA Region 10 (“Complainant”) has been delegated the authority pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and Section 325 of EPCRA, 42 U.S.C. § 11045, to sign consent agreements between EPA and the party against whom an administrative penalty for violations of the CAA and EPCRA is proposed to be assessed.

2.3. EPA and the United States Department of Justice jointly determined, pursuant to 42 U.S.C. § 7413(d) and 40 C.F.R. § 19.4, 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 action.

2.4. Part III of this Consent Agreement contains concise statements of the factual and legal bases for the alleged violations of the CAA and EPCRA together with the specific provisions of the CAA and EPCRA and the implementing regulations that Respondent is alleged to have violated.

III. ALLEGATIONS

3.1. Respondent is a corporation formed in the State of California and does business in the State of Idaho.

3.2. At all times relevant to this Consent Agreement, Respondent has been the “owner or operator” of a facility located at 2341 South Davis Street, Jerome, Idaho 83338 (the “Facility”).

CAA Chemical Accident Prevention

3.3. Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and its implementing regulations at 40 C.F.R. Part 68, require the owner or operator of a stationary source at which a regulated substance is present in more than a threshold quantity to develop and implement a Risk Management Plan (“RMP”) and program 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.

3.4. Section 112(r)(7)(E) of the CAA, 42 U.S.C. § 7412(r)(7)(E), makes it unlawful for any person to operate a stationary source subject to the regulations promulgated under Section 112(r) of the CAA, 42 U.S.C. § 7412(r), in violation of such regulations.

3.5. Section 112(a)(9) of the CAA, 42 U.S.C. § 7412(a)(9), defines an “owner or operator” as any person who owns, leases, operates, controls, or supervises a stationary source.

3.6. Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), and 40 C.F.R. § 68.3 define “stationary source” in relevant part as any buildings, structures, equipment, installations, or substance emitting stationary activities which belong to the same industrial group, which are located on one or more contiguous properties, which are under the control of the same person (or persons under common control), and from which an accidental release may occur.

3.7. “Threshold quantity” (“TQ”) is the quantity specified for regulated substances pursuant to Section 112(r)(5) of the CAA, 42 U.S.C. § 112(r)(5), listed in 40 C.F.R. § 68.130, and determined to be present at a stationary source as specified in 40 C.F.R. § 68.115.

3.8. Section 112(r)(2)(B) of the CAA, 42 U.S.C. § 7412(r)(2)(B), and 40 C.F.R. § 68.3 define “regulated substance” as any substance listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), in 40 C.F.R. § 68.130.

3.9. Formaldehyde (CAS # 50-00-0) is a regulated substance with a TQ of 15,000 pounds, as listed in 40 C.F.R. § 68.130.

3.10. 40 C.F.R. § 68.3 defines “process” as any activity involving a regulated substance including any use, storage, manufacturing, handling, or on-site movement of such substances, or a combination of these activities. For purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release, shall be considered a single process.

3.11. 40 C.F.R. § 68.3 defines “covered process” as a process that has a regulated substance present in more than a threshold quantity, as determined under 40 C.F.R. § 68.115.

3.12. The regulations at 40 C.F.R. Part 68 classify covered processes into three program levels, designated as Program 1, Program 2, and Program 3, which contain specific requirements for owners and operators of stationary sources to ensure that risk management program requirements appropriately match the size and risks of regulated processes.

3.13. Under 40 C.F.R. § 68.10(l), a covered process is subject to Program 3 if the process does not meet the requirements under 40 C.F.R. § 68.10(g) and the process is either classified in one of ten North American Industry Classification System (“NAICS”) codes or is

subject to the Occupational Safety and Health Administration (“OSHA”) process safety management (“PSM”) standard at 29 C.F.R. § 1910.119.

3.14. Pursuant to 40 C.F.R. § 68.10 and 40 C.F.R. § 68.150(b), the owner or operator of a covered stationary source must comply with the requirements of 40 C.F.R. Part 68 and submit its first RMP no later than the latest of the following dates: (1) June 21, 1999; (2) Three years after the date on which a regulated substance is first listed under § 68.130, or (3) The date on which a regulated substance is first present above a TQ in a process.

3.15. Per 40 C.F.R. §§ 68.12(a) and (d) and 68.150, the owner or operator of a subject stationary source must submit to EPA a single RMP as provided in 40 C.F.R. §§ 68.155 through 68.185 for all covered processes in the method and format to the central point specified by EPA as of the date of submission.

3.16. Under 40 C.F.R. §§ 68.12(a) and 68.180(a)(1), the owner or operator shall provide in the RMP the name, phone number, and email address of local emergency planning and response organizations with which the stationary source last coordinated emergency response efforts, pursuant to 40 C.F.R. § 68.10(g)(3) or § 68.93.

3.17. Under 40 C.F.R. §§ 68.12(a) and 68.180(a)(2), the owner or operator shall provide in the RMP the date of the most recent coordination with the local emergency response organizations, pursuant to 40 C.F.R. § 68.93.

3.18. Under 40 C.F.R. § 68.12(d), the owner or operator of a stationary source subject to Program 3, in addition to submitting the RMP under 40 C.F.R. § 68.12(a), must: (1) develop and implement a management system to oversee the implementation of the risk management program elements as provided in 40 C.F.R. § 68.15; (2) conduct a hazard assessment as provided

in 40 C.F.R. §§ 68.20 through 68.42; (3) implement the Program 3 prevention requirements provided in 40 C.F.R. §§ 68.65 through 68.87; (4) develop and implement an emergency response program as provided in 40 C.F.R. §§ 68.90 through 68.95; and (5) submit as part of the RMP the data on prevention program elements for Program 3 processes as provided in 40 C.F.R. § 68.175.

3.19. Under 40 C.F.R. § 68.25(a)(2)(i), the owner or operator of a stationary source with a Program 3 process must analyze and report in the RMP one worst-case scenario that is estimated to create the greatest distance in any direction to an endpoint resulting from an accidental release of a regulated toxic substance from covered processes under worst-case conditions.

3.20. Per 40 C.F.R. § 68.28(a) and (b)(i), the owner or operator must identify and analyze at least one alternative release scenario for each regulated toxic substance held in a covered process and, for each scenario, select a scenario that is more likely to occur than the worst-case release scenario under 40 C.F.R. § 68.25 and that will reach an endpoint offsite.

3.21. Per 40 C.F.R. § 68.30(a), the owner or operator must estimate in the RMP the population within a circle with its center at the point of the release and a radius determined by the distance to the endpoint defined in 40 C.F.R. § 68.22(a).

3.22. Under 40 C.F.R. § 68.33(a), the owner or operator of a stationary source with a Program 3 process must list in the RMP environmental receptors within a circle with its center at the point of the release and a radius determined by the distance to the endpoint.

3.23. Under 40 C.F.R. § 68.65, the owner or operator of a subject stationary source must complete a compilation of written process safety information before conducting any process hazard analysis and must keep process safety information up to date.

3.24. Under 40 C.F.R. § 68.67, the owner or operator of a stationary source with a Program 3 covered process must perform an initial process hazard analysis (i.e., hazard evaluation) on its covered process. Per 40 C.F.R. § 68.67(e), the owner or operator must establish a system to promptly address findings and recommendations resulting from the process hazard analysis; 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 whose work assignments are in the process and who may be affected by the recommendations or actions.

3.25. Per 40 C.F.R. § 68.69, the owner or operator 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.

3.26. Under 40 C.F.R. § 68.71(a), each employee involved in operating a process, and each employee before being involved in operating a newly assigned process, must be trained in an overview of the process and in the operating procedures.

3.27. Under 40 C.F.R. § 68.71(b), refresher training must be provided at least every three years, and more often, if necessary, to each employee involved in operating a process to assure that the employee understands and adheres to the current operating procedures of the process.

3.28. Under 40 C.F.R. § 68.71(c), the owner or operator must ascertain that each employee involved in operating a process has received and understood the required training. The owner or operator must prepare a record which contains the identity of the employee, the date of training, and the means used to verify that the employee understood the training.

3.29. Under 40 C.F.R. § 68.73(a) and (b), for process equipment including pressure vessels and storage tanks, piping systems (including piping components such as valves), relief and vent systems and devices, emergency shutdown systems, controls (including monitoring devices and sensors, alarms, and interlocks) and pumps, the owner or operator must establish and implement written procedures to maintain the on-going integrity of process equipment.

3.30. Under 40 C.F.R. § 68.73(d), inspections and tests must be performed and documented on process equipment following procedures that are recognized and generally accepted good engineering practices at a frequency consistent with applicable manufacturer's recommendations and good engineering practices, and more frequently if determined to be necessary by prior operating experience.

3.31. Under 40 C.F.R. § 68.73(e), the owner or operator must correct deficiencies in equipment that are outside acceptable limits (defined by the process safety information in § 68.65) before further use or in a safe and timely manner when necessary means are taken to assure safe operation.

3.32. Under 40 C.F.R. § 68.79(a), the owner or operator must certify that they have evaluated compliance with 40 CFR Part 68, Subpart D, at least every three years to verify that the procedures and practices developed are adequate and are being followed.

3.33. Per 40 C.F.R. § 68.79(b)-(d), the compliance audit must be conducted by at least one person knowledgeable in the process; a report of the findings of the audit must be developed; and the owner or operator must promptly determine and document an appropriate response to each of the findings of the compliance audit and document that deficiencies have been corrected.

3.34. Under 40 C.F.R. § 68.83(a), an owner or operator must develop a written plan of action regarding the implementation of the employee participation requirements including: (1) an annual notice to employees of the plan's availability to view, and (2) training as often as necessary to ensure employees, employees' representatives, and management involved in the process are informed of the details of the plan.

3.35. Under 40 C.F.R. § 68.83(b) and (c), the owner or operator must consult with employees and their representatives on the conduct, development, and addressing findings of process hazards analyses, other elements of process safety management, and compliance audits.

3.36. Under 40 C.F.R. §§ 68.90 and 68.95, the owner or operator of a subject stationary source with a Program 3 process must develop and implement an emergency response program that meets the requirements of 40 C.F.R. § 68.95 or, in the case of an owner or operator whose employees will not respond to accidental releases of regulated substances, meet the requirements of 40 C.F.R. § 68.90(b).

3.37. Under 40 C.F.R. § 68.90(b)(1), to qualify for the exception provided in 40 C.F.R. § 68.90(b), a stationary source with any regulated toxic substance held in a process above the TQ must be included in the community emergency response plan developed under 42 U.S.C. § 11003.

3.38. Under 40 C.F.R. § 68.90(b)(3), to qualify for the exception provided in 40 C.F.R. § 68.90(b), a stationary source must also ensure there are appropriate mechanisms in place to notify emergency responders when there is a need for an emergency response for the stationary source.

CAA Allegations

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

3.40. On January 11, 2024, EPA sent an information request letter to Respondent pursuant to Section 114 of the Clean Air Act (CAA), 42 U.S.C. § 7414, to determine compliance with Section 112(r) of the CAA and 40 C.F.R. Part 68. On February 23, 2024, Respondent submitted information in response that indicated the Facility is a Program Level 3 facility.

3.41. The Facility includes storage tanks, pumps and transfer piping and other buildings, structures, equipment, installations, or substance emitting stationary activities from which an accidental release of a regulated substance may occur; which belong to the same industrial group; which are located on one or more contiguous properties; and which are under the control of the same person (or persons under common control). The Facility is therefore a single “stationary source” as defined in Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), and 40 C.F.R. § 68.3.

3.42. The Facility has a formaldehyde storage system that since February 2017 and all subsequent relevant times contained more than the 15,000-pound TQ for formaldehyde and constitutes a single “covered process” under 40 C.F.R. § 68.3 (“the Facility Process”).

3.43. The Facility Process is classified as a Program 3 covered process because it does not meet the Program 1 eligibility requirements in 40 C.F.R. § 68.10(l), it does not meet the requirements of 40 C.F.R. § 68.10(g), and it is subject to the OSHA PSM standard at 29 C.F.R. § 1910.119.

Count 1: Failure to Submit Risk Management Plan

3.44. Paragraphs 3.1 through 3.43 above are incorporated herein by reference as if they were set forth here in their entirety.

3.45. The Facility stored more than the TQ of formaldehyde since at least February 2017 and at all subsequent relevant times.

3.46. Respondent prepared, but did not submit, an RMP for the Facility Process to EPA on or before February 2017.

3.47. Thus, since at least February 2017, Respondent violated Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 C.F.R. § 68.150(b)(3).

Count 2: Failure to Provide an Emergency Response Program and Exercises in the RMP

3.48. Paragraphs 3.1 through 3.43 above are incorporated herein by reference as if they were set forth here in their entirety.

3.49. At all times relevant to this matter, Respondent incorrectly identified the local emergency planning and response organization, did not provide the date of the most recent notification exercise, and did not include what mechanisms are in place to notify the public and emergency responders when there is a need for emergency response.

3.50. Thus, since at least February 2017, Respondent violated Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7) and 40 C.F.R. §§ 68.12(a) and 68.180.

Count 3: Failure to Comply with Management System Requirements

3.51. Paragraphs 3.1 through 3.43 above are incorporated herein by reference as if they were set forth here in their entirety.

3.52. Since 2017, Respondent failed to assign a qualified person or position that has the overall responsibility for the development, implementation, and integration of the risk management program elements at the Facility and the organization chart did not clearly indicate responsibility for the risk management program elements.

3.53. Thus, since at least February 2017, Respondent violated Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7) and 40 C.F.R. § 68.15.

Count 4: Failure to Comply with Hazard Assessment Requirements

3.54. Paragraphs 3.1 through 3.43 above are incorporated herein by reference as if they were set forth here in their entirety.

3.55. At all times relevant to this matter, Respondent's hazard assessment did not meet the requirements of 40 C.F.R. §§ 68.25, 68.28, 68.30, and 68.33.

3.56. Respondent did not prepare a worst-case release scenario analysis meeting the requirements of 40 C.F.R. § 68.25(a)(2)(i), per 40 C.F.R. § 68.20.

3.57. Respondent did not determine the offsite impacts to the population and the environment within the release radius, per 40 C.F.R. §§ 68.30(a) and 68.33(a).

3.58. Respondent's alternative release scenario did not pose an alternative scenario that was more likely to occur than the worst-case release scenario, per 40 C.F.R. § 68.28(b)(i).

3.59. Thus, since at least February 2017, Respondent violated Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7) and 40 C.F.R. §§ 68.20 through 68.39.

Count 5: Failure to Comply with Process Safety Information Requirements

3.60. Paragraphs 3.1 through 3.43 above are incorporated herein by reference as if they were set forth here in their entirety.

3.61. At all times relevant to this matter, Respondent did not fully complete a compilation of all specified written process safety information required by 40 C.F.R. § 68.65 for the Facility Process. Although Respondent reviewed, analyzed and collected certain safety information applicable to the Facility Process, certain required information pertaining to the technology of the process was missing: (1) safe upper and lower limits, per 40 C.F.R. § 68.65(c)(1)(iv); (2) consequences of deviation, per 40 C.F.R. § 68.65(c)(1)(v); (3) design codes and standards employed, per 40 C.F.R. § 68.65(d)(1)(vi); and (4) safety systems, per 40 C.F.R. § 68.65(d)(1)(viii).

3.62. Thus, since at least February 2017, Respondent violated Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7) and 40 C.F.R. § 68.65.

Count 6: Failure to Comply with Process Hazard Analysis Requirements

3.63. Paragraphs 3.1 through 3.43 above are incorporated herein by reference as if they were set forth here in their entirety.

3.64. At all times relevant to this matter, the Process Hazard Analysis conducted by Respondent did not include a system to promptly address and document the team's findings and recommendations, or documentation to demonstrate compliance.

3.65. Thus, since at least February 2017, Respondent violated Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7) and 40 C.F.R. § 68.67(e).

Count 7: Failure to Comply with Operating Procedures Requirements

3.66. Paragraphs 3.1 through 3.43 above are incorporated herein by reference as if they were set forth here in their entirety.

3.67. At all times relevant to this matter, Respondent's written operating procedures for safely conducting activities involved in each covered process as required by 40 C.F.R. § 68.69, were incomplete. Required information pertaining to the following procedures was missing: (1) non-routine operations, including temporary operations, as required by 40 C.F.R. § 68.69(a)(1)(iii); (2) emergency shutdown, as required by 40 C.F.R. § 68.69(a)(1)(iv); (3) emergency operations, as required by 40 C.F.R. § 68.69(a)(1)(v); and (4) operating limits, including consequences of deviation and steps required to correct or avoid deviation, as required by 40 C.F.R. § 68.69(a)(2).

3.68. Thus, since at least February 2017, Respondent violated Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7) and 40 C.F.R. § 68.69.

Count 8: Failure to Comply with Training Requirements

3.69. Paragraphs 3.1 through 3.43 above are incorporated herein by reference as if they were set forth here in their entirety.

3.70. At all times relevant to this matter, Respondent failed to document that operators involved in a covered process were provided refresher training every three years.

3.71. Thus, for at least the last three years, Respondent violated Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7) and 40 C.F.R. § 68.71.

Count 9: Failure to Comply with Mechanical Integrity Requirements

3.72. Paragraphs 3.1 through 3.43 above are incorporated herein by reference as if they were set forth here in their entirety.

3.73. Respondent failed to document inspections and testing of process equipment consistent with recognized and generally accepted good engineering practices (RAGAGEP), as required by 40 C.F.R. § 68.73(d).

3.74. Respondent failed to establish acceptable limits, defined by the process safety information in 40 C.F.R. § 68.65, in order to correct equipment deficiencies to assure safe operation within those limits, as required by 40 C.F.R. § 68.73(e).

3.75. Thus, since at least February 2017, Respondent violated Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7) and 40 C.F.R. § 68.73.

Count 10: Failure to Comply with Compliance Audit Requirements

3.76. Paragraphs 3.1 through 3.43 above are incorporated herein by reference as if they were set forth here in their entirety.

3.77. At all times relevant to this matter, Respondent failed to certify that it had evaluated compliance with the provisions of 40 C.F.R. Part 68 for the Facility Process at least three years after the regulated substance, formaldehyde, was first present onsite above the TQ of 15,000 pounds, per 40 C.F.R. § 68.79(a).

3.78. Respondent failed to develop a report on the findings of its compliance audits, per 40 C.F.R. § 68.79(c).

3.79. Respondent failed to promptly determine and document an appropriate response to each of the findings of the compliance audit, and document that deficiencies had been corrected, per 40 C.F.R. § 68.79(d).

3.80. Thus, since at least February 2017, Respondent violated Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7) and 40 C.F.R. § 68.79.

Count 11: Failure to Comply with Employee Participation Requirements

3.81. Paragraphs 3.1 through 3.43 above are incorporated herein by reference as if they were set forth here in their entirety.

3.82. Since 2021, Respondent failed to document: (1) annual notice to employees of the employee participation plan; (2) training to ensure employees, employees' representatives, and management involved in the Facility Process are informed of the employee participation plan; and (3) consultation with its employees and their representatives on the conduct and development of process hazard analyses and other elements of process safety management in 40 C.F.R, Part 68, as required by 40 C.F.R. § 68.83(a)-(c).

3.83. Thus, for at least the last five years, Respondent violated Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7) and 40 C.F.R. § 68.83.

Count 12: Failure to Comply with Emergency Response Program Requirements

3.84. Paragraphs 3.1 through 3.43 above are incorporated herein by reference as if they were set forth here in their entirety.

3.85. At all times relevant to this matter, Respondent's emergency response program did not meet the requirements of 40 C.F.R. § 68.95 as the Respondent failed to list the Facility in the community emergency response plan developed under 42 U.S.C. § 11003, as required by 40 C.F.R. § 68.90(b)(1).

3.86. Respondent did not file an Emergency and Hazardous Chemical Inventory Form until March 1, 2024.

3.87. Thus, between at least February 2017 and March 1, 2024, Respondent violated Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7) and 40 C.F.R. §§ 68.90 and 68.95.

Count 13: Failure to Provide an Emergency Response Program and Exercises in the RMP

3.88. Paragraphs 3.1 through 3.43 above are incorporated herein by reference as if they were set forth here in their entirety.

3.89. At all times relevant to this matter, Respondent did not provide in the RMP: (1) the correct local emergency planning and response organization; and (2) the date of the most recent coordination exercise.

3.90. Thus, since at least February 2017, Respondent violated Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7) and 40 C.F.R. §§ 68.12(a) and 68.180.

CAA Enforcement Authority

3.91. Violations of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 C.F.R. Part 68 are subject to federal enforcement under Section 113(a)(3) of the CAA, 42 U.S.C. § 7413(a)(3).

3.92. Under Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and 40 C.F.R. Part 19, EPA may assess a civil penalty of not more than \$57,617 per day of violation.

EPCRA Hazardous Chemical Reporting

3.93. Section 312(a) of EPCRA, 42 U.S.C. § 11022(a), and 40 C.F.R. § 370.44, require the owner or operator of a facility, which is required by the OSHA to prepare or have available a material safety data sheet (“MSDS”) for a hazardous chemical, to prepare and submit an Emergency and Hazardous Chemical Inventory Form (Tier I or Tier II as described in 40 C.F.R. Part 370) to the Local Emergency Planning Committee (“LEPC”), the State Emergency Response Commission (“SERC”), and the fire department with jurisdiction over the facility. Pursuant to 40 C.F.R. § 370.45(a), the required information must be submitted annually by

March 1 after the calendar year when the facility had hazardous chemicals present at or above threshold levels. The form must contain the information required by Section 312(d) of EPCRA, 42 U.S.C. § 11022(d), covering all hazardous chemicals required by OSHA to have an MSDS that are present at the facility at any one time during the preceding year in amounts equal to or exceeding 10,000 pounds or, in the case of an Extremely Hazardous Substance (“EHS”), in amounts equal to or exceeding 500 pounds or the Threshold Planning Quantity (“TPQ”), whichever is lower.

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

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

3.96. Under Section 329(5) of EPCRA, 42 U.S.C. § 11049(5), “hazardous chemical” has the meaning given to such term by Section 311(e), 42 U.S.C. § 11021(e), of EPCRA. Section 311(e) of EPCRA, 42 U.S.C. § 11049(e), defines “hazardous chemical” as the meaning given to such term by 29 C.F.R. § 1910.1200(c), which defines “hazardous chemical” as any chemical which is classified as a physical hazard or a health hazard, a simple asphyxiant, combustible dust, pyrophoric gas, or hazard not otherwise classified.

3.97. The OSHA Hazard Communication Standard (“OSHA Standard”), 29 C.F.R. § 1910.1200(b), requires employers to provide information to their employees about hazardous chemicals to which they are exposed by means of, inter alia, an MSDS. The section applies to

any chemical which is known to be present in the workplace in such a manner that employees may be exposed under normal conditions of use or in a foreseeable emergency.

3.98. Formalin, sulfuric acid, anhydrous citric acid, copper sulfate pentahydrate, and zinc sulfate are defined as hazardous chemicals under the OSHA Standard.

3.99. The OSHA Standard requires an MSDS to be prepared, or available, for formalin, sulfuric acid, anhydrous citric acid, copper sulfate pentahydrate, and zinc sulfate.

3.100. Formalin (CAS # 50-00-0) and sulfuric acid (CAS # 7664-93-9) are listed in Appendices A and B of 40 C.F.R. Part 355 and are, therefore, Extremely Hazardous Substances under 40 C.F.R. § 370.66.

3.101. Formalin has a TPQ of 500 pounds, as specified in Appendices A and B of 40 C.F.R. Part 355.

3.102. Sulfuric acid has a TPQ of 1,000 pounds as specified in Appendices A and B of 40 C.F.R. Part 355, therefore, in accordance with 40 C.F.R. § 370.10(a)(1), the threshold quantity for submitting an Emergency and Hazardous Chemical Inventory Form for sulfuric acid is 500 pounds (the lower of 500 pounds for an EHS and 1,000 pounds, the TPQ for sulfuric acid).

3.103. In accordance with 40 C.F.R. § 370.10(a)(2), the TPQ for submitting an Emergency and Hazardous Chemical Inventory Form for anhydrous citric acid (CAS # 77-92-9), copper sulfate pentahydrate (CAS # 7758-99-8), and zinc sulfate (CAS # 7733-02-0) is 10,000 pounds.

EPCRA Allegations

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

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

3.106. At all times relevant to this Consent Agreement, Respondent produced, used or stored formalin, sulfuric acid, anhydrous citric acid, copper sulfate pentahydrate, and zinc sulfate at the Facility in an amount equal to or greater than the TPQs.

3.107. At all times relevant to this Consent Agreement, and for the purposes of submitting an Emergency and Hazardous Chemical Inventory Form under Section 312(a) of EPCRA, 42 U.S.C. § 11022(a), and 40 C.F.R. § 370.44, the Idaho Office of Emergency Management was the SERC, the Jerome County Emergency Management was the LEPC, and the Jerome County Fire Department was the fire department with jurisdiction over the Facility.

Count 1: Failure to Timely File EPCRA § 312 Tier II Inventory Report with the SERC, LEPC, and the Fire Department for Calendar Year 2021

3.108. Paragraphs 3.1 through 3.2 and 3.93 through 3.107 above are incorporated herein by reference as if they were set forth here in their entirety.

3.109. During calendar year 2021, Respondent stored greater than 500 pounds of formalin and sulfuric acid at the Facility.

3.110. During calendar year 2021, Respondent stored greater than 10,000 pounds of anhydrous citric acid, copper sulfate pentahydrate, and zinc sulfate at the Facility.

3.111. Respondent violated 42 U.S.C. § 11022 and 40 C.F.R. § 370.45 by failing to timely submit an Emergency and Hazardous Chemical Inventory Form for formalin, sulfuric

acid, anhydrous citric acid, copper sulfate pentahydrate, and zinc sulfate to the SERC, the LEPC, and the fire department for calendar year 2021 by March 1, 2022.

Counts 2-4: Failure to Timely File EPCRA § 312 Tier II Inventory Report with the SERC, the LEPC, and the Fire Department for Calendar Year 2022

3.112. Paragraphs 3.1 through 3.2 and 3.93 through 3.107 above are incorporated herein by reference as if they were set forth here in their entirety.

3.113. During calendar year 2022, Respondent stored greater than 500 pounds of formalin and sulfuric acid at the Facility.

3.114. During calendar year 2022, Respondent stored greater than 10,000 pounds of anhydrous citric acid, copper sulfate pentahydrate, and zinc sulfate at the Facility.

3.115. Respondent violated 42 U.S.C. § 11022 and 40 C.F.R. § 370.45 by failing to timely submit an Emergency and Hazardous Chemical Inventory Form for formalin, sulfuric acid, anhydrous citric acid, copper sulfate pentahydrate, and zinc sulfate to the SERC for calendar year 2022 by March 1, 2023.

3.116. Respondent violated 42 U.S.C. § 11022 and 40 C.F.R. § 370.45 by failing to timely submit an Emergency and Hazardous Chemical Inventory Form for formalin, sulfuric acid, anhydrous citric acid, copper sulfate pentahydrate, and zinc sulfate to the LEPC for calendar year 2022 by March 1, 2023.

3.117. Respondent violated 42 U.S.C. § 11022 and 40 C.F.R. § 370.45 by failing to timely submit an Emergency and Hazardous Chemical Inventory Form for formalin, sulfuric acid, anhydrous citric acid, copper sulfate pentahydrate, and zinc sulfate to the fire department for calendar year 2022 by March 1, 2023.

EPCRA Enforcement Authority

3.118. Under Section 325 of EPCRA, 42 U.S.C. § 11045, and 40 C.F.R. Part 19, EPA may assess a civil penalty of not more than \$71,545 for each such violation.

IV. TERMS OF SETTLEMENT

4.1. Respondent admits the jurisdictional allegations of this Consent Agreement.

4.2. Respondent neither admits nor denies the specific factual allegations contained in this Consent Agreement.

4.3. In determining the amount of penalty to be assessed, EPA has taken into account the factors specified in Section 113(e)(1) of the CAA, 42 U.S.C. § 7413(e)(1) and Section 325(b) of EPCRA, 42 U.S.C. § 11045(b). After considering these factors, EPA has determined and Respondent agrees that an appropriate penalty to settle this action is \$382,398 (the “Assessed Penalty”), \$295,149 of which reflects violations of the CAA, and \$87,249 of which reflects violations of EPCRA.

4.4. Respondent agrees to pay the Assessed Penalty within 30 days of the effective date of the Final Order.

4.5. Payments under this Consent Agreement and the Final Order shall be paid by any of the electronic methods specified at: www.epa.gov/financial/makepayment and in accordance with instructions provided at that webpage. Respondent must note on the check or other form of payment the Respondent’s name and the docket number of this action.

4.6. Concurrently with all payments or within 24 hours of any payment, Respondent must serve copies of proof of other payment, to the following addresses:

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

Mhara Coffman
U.S. Environmental Protection Agency, Region 10
Via electronic mail to:
Coffman.mhara@epa.gov

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

Proof of payment means, as applicable, a copy of the receipt or confirmation of payment method, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent's name.

4.7. If Respondent fails to timely pay any portion of the Assessed Penalty, the entire unpaid balance of the Assessed Penalty and all accrued interest shall become immediately due and owing. If such a failure to pay occurs, Respondent may be subject to a civil action pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), to collect the Assessed Penalty under the CAA. In any collection action, the validity, amount, and appropriateness of the Assessed Penalty shall not be subject to review.

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

- a. Interest. Any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges, shall bear interest at the rate established pursuant to 26 U.S.C. § 6621(a)(2) from the effective date of the Final Order, provided, however, that

no interest shall be payable on any portion of the Assessed Penalty that is paid within 30 days of the effective date of the Final Order contained herein.

b. Attorneys' Fees, Collection Costs, Nonpayment Penalty. Pursuant to 42 U.S.C. § 7413(d)(5), should Respondent fail to pay the Assessed Penalty and interest on a timely basis, Respondent shall also be required to pay the United States' enforcement expenses, including but not limited to attorneys' fees and costs incurred by the United States for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be ten percent of the aggregate amount of Respondent's outstanding penalties and nonpayment penalties accrued from the beginning of such quarter.

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

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

a. Interest. To protect the interests of the United States, any unpaid portion of the Assessed Penalty shall bear interest at the rate set at the Internal Revenue Service ("IRS") large corporate underpayment rate applicable on the effective date of the Final Order and non-variable throughout the period of nonpayment, provided, however, that no

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

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

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

4.11. The Assessed Penalty and any additional costs incurred under Paragraphs 4.8 and 4.10, represent an administrative civil penalty assessed by EPA and shall not be deductible for purposes of federal taxes.

4.12. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the 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, Respondent shall complete the following actions as applicable:

- 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 Division at Henderson.Jessica@epa.gov, on or before the date that Respondent’s penalty payment is due, pursuant to Paragraph 4.4, or within 7 days should the final order become effective between December 15 and December 31 of the calendar year. EPA recommends encrypting IRS Form W-9 email correspondence.
- d. In the event that Respondent has certified in its completed IRS Form W-9 that it does not yet have a TIN but has applied for a TIN, Respondent shall provide EPA’s Cincinnati Finance Division with Respondent’s TIN, via email, within five days of Respondent’s receipt of a TIN issued by the IRS.

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

4.14. The undersigned representative of Respondent also certifies that, as of the date of Respondent's signature of this Consent Agreement, Respondent has corrected the violation(s) alleged in Part III.

4.15. Except as described in Paragraphs 4.8 and 4.10, each party shall bear its own costs and attorneys' fees in bringing or defending this action.

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

4.17. 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.

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

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

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

DATED:

FOR RESPONDENT:

Bill

Digitally signed by Bill
Date: 2026.04.27
19:24:55 -05'00'

BILL SCARPER, Vice President of Operations
Specialty Sales, LLC

FOR COMPLAINANT:

for _____

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

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)	DOCKET NO. CAA-10-2026-0097
)	
SPECIALTY SALES, LLC,)	FINAL ORDER
D/B/A HOOFIN-IT LLC,)	
)	
Jerome, Idaho)	
)	
Respondent.)	

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

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

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

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

IT IS SO ORDERED.

Regional Judicial Officer
EPA Region 10

Certificate of Service

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER, In the Matter of: Specialty Sales, LLC D/B/A Hoofin-It LLC, Docket No.: CAA-10-2026-0097**, was filed with the Regional Hearing Clerk and that a true and correct copy was served on the date specified below to the following addressees via electronic mail:

Shannon Rebersak
U.S. Environmental Protection Agency
Region 10, Mail Stop 11-C07
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101

rebersak.shannon@epa.gov

Bill Scarper
Vice President of Operations
Specialty Sales, LLC
4672 E Drummond Ave
Fresno, CA 93725

bscarper@specialtysalesllc.com

Regional Hearing Clerk
EPA Region 10