

**ENVIRONMENTAL APPEALS BOARD  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.**

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In re Anheuser-Busch, LLC                          )  
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    ) Docket No. CAA/EPCRA-HQ-2022-5006  
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**FINAL ORDER**

Pursuant to 40 C.F.R. § 22.18(b)-(c) of EPA's Consolidated Rules of Practice, the attached Consent Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified.

The Respondent is ORDERED to comply with all terms of the Consent Agreement, effective immediately.

So ordered.<sup>1</sup>

**ENVIRONMENTAL APPEALS BOARD**

Dated: June 2, 2023

Kathie A. Stein  
Kathie A. Stein  
Environmental Appeals Judge

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<sup>1</sup> The three-member panel ratifying this matter is composed of Environmental Appeals Judges Aaron P. Avila, Mary Kay Lynch, and Kathie A. Stein.

**BEFORE THE ENVIRONMENTAL APPEALS BOARD  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.**

<b>In the Matter of:</b>	)	
	)	
<b>Anheuser-Busch, LLC</b>	)	<b>Docket No. CAA/EPRCA-HQ-2022-5006</b>
	)	
	)	
<b>Respondent.</b>	)	
	)	

**CONSENT AGREEMENT AND FINAL ORDER**

**CONSENT AGREEMENT**

Complainant, United States Environmental Protection Agency, (“EPA” or “Agency”), and Respondent, Anheuser-Busch, LLC (“Anheuser-Busch”) (collectively, “the Parties”), having consented to the entry of this Consent Agreement and the attached proposed Final Order without the taking of any testimony and without adjudication of any issues of law or fact, consent to the terms of this Consent Agreement and attached Final Order (“CAFO”).

**I. PRELIMINARY STATEMENT**

1. This proceeding is an administrative action for the assessment of civil penalties under Section 113(a)(3)(A) and (d) of the Clean Air Act (“CAA”), 42 U.S.C. § 7413(a)(3)(A) and (d), and Section 325 of the Emergency Planning and Community Right-to-Know Act (“EPCRA”), 42 U.S.C. § 11045.

2. The EPA and Anheuser-Busch have agreed to a settlement of this action before the filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2)–(3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2)–(3).

3. Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), the Administrator and the Attorney General jointly determined that this matter, in which the total penalty exceeds \$414,364<sup>1</sup> and the first date of alleged violation occurred more than 12 months prior to the initiation of the administrative action, was appropriate for administrative penalty action.

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<sup>1</sup> See 87 Fed. Reg. 1676, 1679 (Jan. 12, 2022) (Adjusting CAA Section 113(d)(1) penalty for inflation).

4. This Consent Agreement serves as notice that the EPA has reason to believe that Respondent has violated:

- i) Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and the Accident Release Prevention Requirements: Risk Management Programs in 40 C.F.R. Part 68, promulgated pursuant to Section 112(r) of the CAA, 42 U.S.C. § 7412(r); and
- ii) The emergency release notification requirements of Section 304 of EPCRA, 42 U.S.C. § 11004, and the regulations promulgated pursuant to Section 328 of EPCRA, 42 U.S.C. § 11048, and codified at 40 C.F.R. Part 355.

5. Furthermore, this Consent Agreement serves as notice pursuant to Section 113(d)(2)(A) of the CAA, 42 U.S.C. § 7413(d)(2)(A) and Section 325 of EPCRA, 42 U.S.C. § 11045, of the EPA's intent to issue an order assessing penalties for these violations.

6. The Environmental Appeals Board is authorized to ratify this Consent Agreement that memorializes a settlement between Complainant and Respondent.

## II. PARTIES

7. Complainant is the United States Environmental Protection Agency. On the EPA's behalf, the Director of the Waste and Chemical Enforcement Division is authorized by lawful delegation from the Administrator to institute and settle civil administrative penalty proceedings under Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and Section 325 of EPRCA, 42 U.S.C. § 11045.

8. Respondent, Anheuser-Busch, LLC, is headquartered at 1 Busch Pl., Saint Louis Missouri, 63118-1852. Respondent owns and operates facilities located in: Merrimack, New Hampshire; Fort Collins, Colorado; and Fairfield, California (the "Facilities"), among other locations.

## III. STATUTORY AND REGULATORY BACKGROUND

### *Section 112(r) of the Clean Air Act and 40 C.F.R. Part 68*

9. On November 15, 1990, the President signed into law the CAA Amendments of 1990. The Amendments added Section 112(r) to Title I of the CAA, 42 U.S.C. § 7412(r), which requires the Administrator of the EPA to, among other things, promulgate regulations in order to prevent accidental releases of certain regulated substances. Section 112(r)(3), 42 U.S.C. § 7412(r)(3), mandates that the Administrator promulgate a list of regulated substances with threshold quantities and defines the stationary sources that will be subject to the regulations mandated by Section 112(r)(7), 42 U.S.C. § 7412(r)(7). Specifically, Section 112(r)(7), 42 U.S.C. § 7412(r)(7), requires the Administrator to promulgate regulations that address release prevention, detection, and correction requirements for these listed regulated substances.

10. On June 20, 1996, the EPA promulgated a final rule known as the Chemical Accident Prevention Provisions (“RMP Regulations”), 40 C.F.R. Part 68, which implements Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7). This rule requires owners and operators of stationary sources to develop and implement a risk management program that includes a hazard assessment, a chemical accident prevention program, and an emergency response program.

11. The RMP Regulations at 40 C.F.R. Part 68 set forth the requirements of a risk management program that must be established at each stationary source. The risk management program is summarized in a Risk Management Plan that must be submitted to the EPA.

12. Pursuant to Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 C.F.R. § 68.150, a Risk Management Plan must be submitted for all covered processes by the owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process no later than the latter of June 21, 1999, or the date on which a regulated substance is first present above the threshold quantity in a process.

13. Pursuant to Section 112(r)(7)(E), it is unlawful for any person to operate any stationary source subject to such regulation or requirement in violation of such regulation or requirement. 42 U.S.C. § 7412(r)(7)(E).

14. The extremely hazardous substances listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), include anhydrous ammonia.

15. Under 40 C.F.R. § 68.10, an owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process must comply with the requirements of 40 C.F.R. Part 68. Forty C.F.R. § 68.130 establishes that the threshold quantity for anhydrous ammonia is 10,000 pounds.

16. Each process in which a regulated substance is present in more than a threshold quantity (“covered process”) is subject to one of three risk management programs. Program 1 is the least comprehensive, and Program 3 is the most comprehensive.

17. Forty C.F.R. § 68.10 sets forth how the RMP Regulations apply to covered processes. Pursuant to 40 C.F.R. § 68.10(d), a covered process is subject to Program 3 requirements if the process does not meet the eligibility requirements of Program 1, as described in 40 C.F.R. § 68.10(b), and it either falls under a specified North American Industry Classification System code or is subject to the Occupational Safety and Health Administration process safety management standard, 29 C.F.R. § 1910.119.

18. Section 113(a) and (d) of the CAA, 42 U.S.C. § 7413(a) and (d), allow EPA to assess civil penalties for violations of Part 68. Forty C.F.R. Part 19 sets out the statutory penalties as adjusted for inflation.

***EPCRA***

19. Section 304 of EPCRA, 42 U.S.C. § 11004, and the regulations set forth at 40 C.F.R. Part 355, Subpart C, require the owner or operator of a facility at which a hazardous chemical is produced, used, or stored, and at which there is a release of a reportable quantity of any EPCRA extremely hazardous substance or Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”) hazardous substance to immediately notify the State Emergency Response Commission (“SERC”) of any State likely to be affected by the release and the emergency coordinator for the Local Emergency Planning Committee (“LEPC”) for any area likely to be affected by the release.

20. Pursuant to Section 302(a)(2) of EPCRA, 42 U.S.C. § 11002(a)(2), extremely hazardous substances are listed in 40 C.F.R. Part 355, Appendices A and B, which include ammonia.

21. Section 325(b) of EPCRA, 42 U.S.C. § 11045(b), authorizes the EPA to assess civil penalties for violations of the requirements of Section 304 of EPCRA, 42 U.S.C. § 11004. Forty C.F.R. Part 19 sets out the statutory penalties as adjusted for inflation.

**IV. DEFINITIONS**

22. Section 302(e) of the CAA, 42 U.S.C. § 7602(e), defines “person” to include any individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency department, or instrumentality of the United States and any officer, agent, or employee thereof.

23. Section 112(r)(2)(A) of the CAA, 42 U.S.C. § 7412(r)(2)(A), defines “accidental release” as an unanticipated emission of a regulated substance or other extremely hazardous substance into the ambient air from a stationary source.

24. Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(c), and the regulations at 40 C.F.R. § 68.3 define “stationary source,” in 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.

25. 40 C.F.R. § 68.3 defines “regulated substance” as any substance listed pursuant to Section 112(r)(3) of the CAA, as amended, in 40 C.F.R. § 68.130.

26. The regulations at 40 C.F.R. § 68.3 define “threshold quantity” as the quantity specified for regulated substances pursuant to Section 112(r)(5) of the CAA, 42 U.S.C. § 7412(r)(5), as amended, 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.

27. 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 combination of these activities. For the purposes of this definition, any group of vessels that is 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.

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

29. Section 329(8) of EPCRA, 42 U.S.C. § 11049(8), defines “release” as any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment of any hazardous chemical, extremely hazardous substance, or toxic chemical.

## V. STIPULATED FACTS

30. At all relevant times, Respondent was and is a “person” as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e), and Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

31. Each of the Facilities is a “stationary source” as defined in Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), and a “facility” as defined in Section 329(4) of EPCRA, 42 U.S.C. § 11049(4).

32. Respondent is the owner and operator of each Facility as defined in 40 C.F.R. §§ 68.3 and 355.61.

33. Ammonia is a “regulated substance” pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), and 40 C.F.R. § 68.130. At all relevant times, each of the Facilities stored over a threshold quantity for anhydrous ammonia, as listed in 40 C.F.R. § 68.130, which is 10,000 pounds, and used the substance in a “process” as defined in 40 C.F.R. § 68.3.

34. Ammonia is an extremely hazardous substance as defined by Section 329(3) of EPCRA, 42 U.S.C. § 11049(3), and as designated pursuant to Section 302(a) of EPCRA, 42 U.S.C. § 11002(a), and listed in 40 C.F.R. Part 355, Appendix A. At all relevant times, the Fort Collins Facility stored over the reportable quantity of 100 pounds, and the threshold planning quantity of 500 pounds, as listed in 40 C.F.R. Part 355, Appendix A.

35. Each of the three Facilities are subject to the RMP Regulations applicable to “Program 3” facilities within the meaning of 40 C.F.R. §§ 68.10(d) and 68.12(d).

36. 40 C.F.R. § 68.12(d)(3) requires owners and operators of stationary sources with a process subject to Program 3 to implement the Program 3 prevention requirements of 40 C.F.R. §§ 68.65–68.87.

37. The term recognized and generally accepted good engineering practices (“RAGAGEP”) includes generally recognized industry standards and codes including those set forth in:

- a) ANSI/IIAR 2-2014, American National Standard for Safe Design of Closed-Circuit Ammonia Refrigeration Systems;
- b) ANSI/IIAR 6-2019, American National Standard for the Inspection, Testing, and Maintenance of Closed-Circuit Ammonia Refrigeration Systems; and
- c) ANSI/IIAR 9-2020, American National Standard for Minimum System Safety Requirements for Existing Closed-Circuit Ammonia Refrigeration Systems.

38. The EPA conducted inspections at each of the three Facilities as follows: the Merrimack Facility from November 2 to 3, 2016; the Fort Collins Facility from May 24 to 25, 2017; and the Fairfield Facility on July 24, 2019.

## **VI. EPA’S SPECIFIC FINDINGS OF FACT AND LAW**

39. Complainant hereby states and alleges that Respondent has violated the CAA and EPCRA and federal regulations promulgated thereunder as follows:

### ***Merrimack Facility***

40. Respondent owns and operates a stationary source that manufactures alcohol products at 221 Daniel Webster Highway, Merrimack, New Hampshire 03054-4357.

41. At its stationary source, Respondent has one RMP Program Level 3 covered process, which stores or otherwise uses a toxic substance, anhydrous ammonia, in an amount exceeding its applicable threshold of 10,000 pounds.

42. From November 2–3, 2016, the EPA and its contractor conducted an on-site inspection of the records and equipment for the purpose of assessing Respondent’s compliance with the RMP Regulations.

### **Count 1**

43. Paragraphs 1 through 42 are incorporated herein by reference.

44. 40 C.F.R. § 68.65(d)(2) requires owners and operators to document that equipment complies with RAGAGEP. 40 C.F.R. § 68.65(d)(3) requires that for existing equipment designed and constructed in accordance with codes, standards, or practices that are no longer in general use, the owner or operator shall determine and document that the equipment is designed, maintained, inspected, tested, and operating in a safe manner.

45. Respondent violated 40 C.F.R. § 68.65(d)(2) and (3) by failing to design and construct its equipment with, and/or document that its equipment complies with RAGAGEP in

the following instances, and as detailed further in Appendix A: 1) failure to properly label multiple pieces of equipment, including ammonia alarms, ammonia piping and equipment in the ammonia machinery room and stockhouses, and doors into the ammonia machinery room; 2) failure to install appropriate equipment, including certain audible alarms, an emergency shut-off switch for the ammonia refrigeration equipment, an emergency ventilation switch, a self-closing dead-man valve on oil pots, and bump protection; and 3) failure to install multiple pieces of equipment consistent with RAGAGEP parameters such as making the machinery room door airtight, appropriately distancing pressure relief valves from certain locations, and locating critical isolation valves such that they are directly operable from the floor or are chain-operable from a permanent work surface.

### **Count 2**

46. Paragraphs 1 through 45 are incorporated herein by reference.

47. 40 C.F.R. § 68.73(e) requires owners and operators to correct deficiencies in equipment that are outside acceptable limits (defined by the process safety information in 40 C.F.R. § 68.65) before further use or in a safe and timely manner when necessary means are taken to assure safe operation.

48. Respondent violated 40 C.F.R. § 68.73(e) by failing to remove frost and ice that built up on ammonia piping and equipment and failing to correct breached insulation, as detailed further in Appendix A.

### ***Fort Collins Facility***

49. Respondent owns and operates a stationary source that manufactures alcohol products at 2351 Busch Drive, Fort Collins, Colorado 80524.

50. At its stationary source, Respondent has one RMP Program Level 3 covered process, which stores or otherwise uses a toxic substance, anhydrous ammonia, in an amount exceeding its applicable threshold of 10,000 pounds.

51. From May 24 to 25, 2017, the EPA conducted an on-site inspection of the records and equipment for the purpose of assessing Respondent's compliance with the RMP Regulations.

52. On December 18, 2018, the Fort Collins Facility had a release of anhydrous ammonia from the refrigeration system that resulted in injuries to employees of Respondent at the Fort Collins Facility.

### **Count 3**

53. Paragraphs 1 through 52 are incorporated herein by reference.

54. Respondent violated 40 C.F.R. § 68.65(d)(2) and (3) by failing to design and construct its equipment with, and/or document that its equipment complies with RAGAGEP in the following instances, and as detailed further in Appendix A: 1) failure to adequately identify

and label ammonia piping; 2) failure to either duct combustion air to the boiler in the Powerhouse from outside of the machinery room or install an ammonia detector that will shut off the boiler; and 3) failure to install an operational emergency stop switch and emergency ventilation control switch outside of the Powerhouse.

**Count 4**

55. Paragraphs 1 through 54 are incorporated herein by reference.

56. 40 C.F.R. § 68.69(a) requires owners and operators to develop and implement written operating procedures that provide clear instructions for safely conducting activities involved in each covered process consistent with the process safety information and shall address at least the following elements: 1) steps for each operating phase, 2) operating limits, 3) safety and health considerations, and 4) safety systems and their functions.

57. Respondent violated 40 C.F.R. § 68.69(a) by failing to include all four of the elements listed in 40 C.F.R. § 68.69(a) in developing two of its standard operating procedures, specifically: 1) the steps for each operating phase; 2) the operating limits, specifically necessary consequences of deviations and required steps to correct or avoid such deviations; and 3) the safety systems and their functions.

**Count 5**

58. Paragraphs 1 through 57 are incorporated herein by reference.

59. 40 C.F.R. § 68.73(d)(1) and (4) requires owners and operators to conduct inspections and tests on process equipment and to document each inspection and test that has been performed on process equipment. The documentation shall identify the date of the inspection or test, the name of the person who performed the inspection or test, the serial number or other identifier of the equipment on which the inspection or test was performed, a description of the inspection or test performed, and the results of the inspection or test.

60. Respondent violated 40 C.F.R. § 68.73(d)(4) by failing to conduct and document the following inspections and tests of process equipment: 1) failure to conduct and document a 12-month electrical inspection of compressor 3 under work order 51208690 in 2015; and 2) failure to conduct and document a mechanical integrity assessment of the pressure vessels and shell-and-tube exchanges until November 2016 in accordance with IIAR Bulletin 110.

**Count 6**

61. Paragraphs 1 through 60 are incorporated herein by reference.

62. 40 C.F.R. § 68.195(a) requires that, for any accidental release meeting the five-year accident history reporting criteria of 40 C.F.R. § 68.42 and occurring after April 9, 2004, the owner or operator shall submit the data required under §§ 68.168, 68.170(j), and 68.175(l) with respect to that accident within six months of the release or by the time the RMP is updated under § 68.190, whichever is earlier.

63. Respondent violated 40 C.F.R. § 68.195(a) by failing to correct the RMP to include the new accident history information with the estimated quantity of ammonia released, as required by 40 C.F.R. §§ 68.42 and 68.168, within six months of an accidental release of anhydrous ammonia at the Facility on December 18, 2018.

**Count 7**

64. Paragraphs 1 through 63 are incorporated herein by reference.

65. 40 C.F.R. §§ 355.40(b) and 355.42 require owners and operators to provide a written follow-up emergency notice of a release to the State Emergency Response Commission and Local Emergency Planning Committee as soon as practicable after the release. The follow-up emergency notice must provide and update information required in the immediate notification pursuant to 40 C.F.R. § 355.40(a), including an estimate of the quantity of the substance that was released into the environment.

66. Respondent violated 40 C.F.R. § 355.40 by failing to include an estimate of the quantity of the ammonia released into the environment during the December 18, 2018 incident in a written follow up to the State Emergency Response Commission and Local Emergency Planning Committee.

***Fairfield Facility***

67. Respondent owns and operates a stationary source that manufactures alcohol products at 3101 Busch Drive, Fairfield, California 94534.

68. At its stationary source, Respondent has one RMP Program Level 3 covered process, which stores or otherwise uses a toxic substance, anhydrous ammonia, in an amount exceeding its applicable threshold of 10,000 pounds.

69. On July 24, 2019, the EPA and its contractor conducted an on-site inspection of the records and equipment for the purpose of assessing Respondent's compliance with the RMP Regulations.

**Count 8**

70. Paragraphs 1 through 69 are incorporated herein by reference.

71. Respondent violated 40 C.F.R. § 68.65(d)(2)–(3) by failing to adhere to RAGAGEP in the following ways, and as detailed further in Appendix A: 1) failure to properly label multiple pieces of equipment, including ammonia alarms, ammonia piping between the Powerhouse and other areas of the Facility, and doors into the Powerhouse; 2) failure to maintain or operate equipment consist with RAGAGEP parameters, such as failing to timely calibrate ammonia sensors and isolate the Powerhouse from other areas with air-tight doors, and 3) failure to install certain pieces of equipment such as self-closing valves on oil drain lines.

**Count 9**

72. Paragraphs 1 through 71 are incorporated herein by reference.

73. 40 C.F.R. § 68.73(e) requires owners and operators to correct deficiencies in equipment that are outside acceptable limits (defined by the process safety information in 40 C.F.R. § 68.65) before further use or in a safe and timely manner when necessary means are taken to assure safe operation.

74. Respondent violated 40 C.F.R. § 68.73(e) by failing to correct the following deficiencies in equipment outside acceptable limits before further use in the following ways, and as detailed further in Appendix A: 1) failure to correct corrosion and degradation of ammonia piping and other equipment; and 2) failure to remove frost and ice build-up on piping and other equipment.

**VII. TERMS OF SETTLEMENT**

75. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:

- (a) admits the jurisdictional allegations in this CAFO;
- (b) neither admits nor denies the other allegations set forth herein;
- (c) consents to the assessment of a civil penalty as stated below;
- (d) consents to the issuance of any specified compliance or corrective action order;
- (e) consents to the conditions specified in this Consent Agreement;
- (f) consents to any stated Permit Action;
- (g) waives any right to contest the allegations set forth herein; and
- (h) waives its rights to appeal the Final Order accompanying this Consent Agreement.

76. For the purpose of this proceeding, Respondent:

- (a) agrees that this CAFO states a claim upon which relief may be granted against Respondent;
- (b) acknowledges that this CAFO constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement actions;

- (c) waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CAFO, including any right of judicial review under Section 307(b)(1) of the CAA, 42 U.S.C. § 7607(b)(1);
- (d) consents to personal jurisdiction in any action to enforce this Consent Agreement or Final Order, or both, in the United States District Court for the District of Columbia; and
- (e) waives any rights it may possess at law or in equity to challenge the authority of the EPA to bring a civil action in a United States District Court to compel compliance with the Consent Agreement or Final Order, or both, and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action.

77. Respondent agrees to:

- (a) Pay the civil penalty identified in this Consent Agreement; and
- (b) Conduct a third-party expert review of its RMP-covered facilities as detailed in Appendix B (the “Third-Party Review”).

### **VIII. PENALTIES**

78. Pursuant to Section 113(d)(2)(B) and (e) of the CAA, 42 U.S.C. § 7413(d)(2)(B) and (e), Section 325(b) of EPCRA, 42 U.S.C. § 11045(b), and taking into account the relevant statutory penalty criteria, the applicable penalty policy, and Respondent’s cooperation in agreeing to perform the non-penalty obligations in this CAFO, the EPA has determined that it is fair and proper to assess a civil penalty of five-hundred and thirty-seven thousand dollars (\$537,000), for the violations alleged in this matter.

79. Respondent shall pay the penalty within thirty (30) days of the effective date of the Final Order. Respondent shall make payment by *either* sending a certified or cashier’s check made payable to the “United States Treasury” and bearing the Respondent’s name and docket number CAA/EPCRA-HQ-2022-5006 [INSERT CAA/EPCRA-HQ-2022-5006 to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Docket No. CAA/EPRCA-HQ-2022-5006  
Cincinnati Finance Center  
PO Box 979077  
St. Louis, MO 63197-9000

*or* effecting a wire transfer with the notation “Anheuser-Busch, LLC Civil Penalty Docket No. CAA/EPCRA-HQ-2022-5006,” by using the following instructions:

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, NY 10045

[Field Tag 4200 of the Fedwire message should read “D 68010727 Environmental Protection Agency.”]

80. Respondent shall, within 24 hours of payment of the penalty, send proof of payment<sup>2</sup> to:

Headquarters Hearing Clerk (1900L)  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

and via email in PDF format to Lindsay Simmons at [Simmons.Lindsay@epa.gov](mailto:Simmons.Lindsay@epa.gov).

81. Pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), if Respondent fails to pay the civil penalty amount relating to the alleged CAA violations (which shall be deemed to be 94 percent of the total due under Paragraph 78, above) in full, it will be subject to an action to compel payment, plus interest, enforcement expenses, and a nonpayment penalty. Interest will be assessed on the civil penalty if it is not paid within thirty (30) calendar days of the effective date of this CAFO. In that event, interest will accrue from the effective date of this CAFO at the “underpayment rate” established pursuant to 26 U.S.C. § 6621(a)(2). In the event that a penalty is not paid when due, an additional charge will be assessed to cover the United States’ enforcement expenses, including attorneys’ fees and collection costs. In addition, a quarterly nonpayment penalty will be assessed for each quarter during which the failure to pay the penalty persists. Such nonpayment penalty shall be 10 percent of the aggregate amount of Respondent’s outstanding civil penalties and nonpayment penalties hereunder accrued as of the beginning of such quarter. In any such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review. There are other actions the EPA may take if respondent fails to timely pay: refer the debt to a credit reporting agency or a collection agency, 42 U.S.C. § 7413(d)(5), 40 C.F.R. §§ 13.13, 13.14, and 13.33; collect the debt by administrative offset (*i.e.*, the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H; suspend or revoke Respondent’s licenses or

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<sup>2</sup> Proof of payment shall mean, as applicable: a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to the EPA requirements, in the amount due, and identified with the docket number.

other privileges; or suspend or disqualify Respondent from doing business with the EPA or engaging in programs the EPA sponsors or funds, 40 C.F.R. § 13.17.

82. In the event that any portion of the civil penalty amount relating to the alleged EPCRA violation (which shall be deemed to be six percent of the total due under Paragraph 78, above) is not paid in full within thirty (30) calendar days of the effective date of this CAFO, the penalty shall be payable, plus accrued interest, without demand. Interest shall be payable at the rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b)(2) and shall accrue from the original date on which the payment was due to the date of payment. In addition, a penalty charge of six percent per year will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. However, should assessment of the penalty charge on the debt be required, it will be assessed as of the first day payment is due under 31 C.F.R. § 901.9(d). In any such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

83. Stipulated Penalties for Compliance Milestones: Stipulated penalties accrue per violation of the requirements specified in Appendix B. Respondent shall pay stipulated penalties not more than fifteen (15) days after receipt of written demand by EPA for such penalties. The method of payment shall be in accordance with the provisions of paragraph 79 above. Interest and late charges shall be paid as stated in paragraph 84 below.”

84. Collection of Unpaid Stipulated Penalty for Failure to Perform Non-Penalty Conditions: Pursuant to 31 U.S.C. § 3717, the EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. In the event that Respondent fails to timely pay any portion of the stipulated penalty relating to the performance of the terms in Appendix B, the penalty shall be payable, plus accrued interest, without demand. Interest shall be payable at the rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b)(2) and shall accrue from the original date on which the penalty was due to the date of payment. In addition, a penalty charge of six percent per year will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. Should assessment of the penalty charge on the debt be required, it will be assessed as of the first day payment is due under 31 C.F.R. § 901.9(d). In any such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

## **IX. EFFECT OF SETTLEMENT AND RESERVATION OF RIGHTS**

85. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this CAFO shall only resolve Respondent’s liability for Federal civil penalties for the violations and facts specifically alleged above.

86. The terms, conditions, and compliance requirements of this Agreement may not be modified or amended except upon the written agreement of both parties, and approval of the Environmental Appeals Board, except as specified in Paragraph 102.

87. Any violation of this Order may result in a civil judicial action for an injunction or civil penalties, or both, as provided in Section 113(b)(2) of the Act, 42 U.S.C. § 7413(b)(2), as well as criminal sanctions as provided in Section 113(c) of the Act, 42 U.S.C. § 7413(c). The EPA may use any information submitted under this Order in an administrative, civil judicial, or criminal action.

88. This settlement is conditioned upon the thoroughness and accuracy of Respondent's representations to the EPA in this matter, and upon the certification memorialized in the Paragraph directly below.

89. Respondent certifies that, to its knowledge, it is currently operating the Facilities in compliance with Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 C.F.R. Part 68; and Section 302 and 304 of EPCRA, 42 U.S.C. §§ 11002 and 11004, and their implementing regulations.

90. Full payment of the penalty proposed in this Consent Agreement shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Consent Agreement does not waive, extinguish, or otherwise affect Respondent's obligation to comply with all applicable provisions of the CAA, EPCRA, and regulations promulgated thereunder.

91. Any violation of this Consent Agreement may result in a civil judicial action for an injunction or civil penalties as provided in Section 113(b)(2) of the Act, 42 U.S.C. § 7413(b)(2), as well as criminal sanctions as provided in Section 113(c) of the Act, 42 U.S.C. § 7413(c). The EPA may use any information submitted under this Consent Agreement in an administrative, civil judicial, or criminal action.

92. Nothing in this Consent Agreement shall relieve Respondent of the duty to comply with all applicable provisions of the Act and other federal, state, or local laws or statutes. Nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, or be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.

93. Nothing herein shall be construed to limit the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

94. This Consent Agreement constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to the subject matter hereof.

## X. OTHER MATTERS

95. By signing this Consent Agreement, the undersigned representative of Respondent certifies that he or she is fully authorized to execute and enter into the terms and conditions of this Consent Agreement and has the legal capacity to bind the party he or she represents to this Consent Agreement.

96. Complainant and Respondent, by entering into this Consent Agreement, each give their respective consent to accept digital signatures hereupon. Respondent further consents to accept electronic service of the fully executed CAFO, by e-mail, at: [jay.eversman@anheuser-busch.com](mailto:jay.eversman@anheuser-busch.com). Respondent understands that this e-mail address may be made public when the CAFO and Certificate of Service are filed and uploaded to a searchable database.

97. This Consent Agreement shall not dispose of the proceeding without a final order from the Environmental Appeals Board ratifying the terms of this Consent Agreement. This Consent Agreement shall be effective upon the filing of the Final Order by EPA's Environmental Appeals Board. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

98. The penalty specified herein shall represent civil penalties assessed by the EPA and shall not be deductible for purposes of Federal, State, and local taxes.

99. This Consent Agreement shall apply to, and be binding upon, Respondent and Respondent's agents, successors, and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms, or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this Consent Agreement.

100. For purposes of the identifying requirement of 26 U.S.C. § 162(f) of the Internal Revenue Service Code, the performance of the actions referred to in Paragraph 77 of this agreement are restitution or required to come into compliance with law.

101. Respondent and the EPA agree to settle this matter without the necessity of a formal hearing and to bear their respective costs and attorneys' fees.

102. Deadlines set forth in Section VII, as well as those set forth in Appendix B, for submittals or performance may be extended by the Chief of the EPA's Office of Enforcement and Compliance Assurance's Chemical Risk and Reporting Enforcement Branch, at his or her discretion, without further amendment of this Order. The EPA will provide Respondent with written confirmation and documentation of any such extensions of time.

IN THE MATTER OF ANHEUSER-BUSCH, LLC  
Docket No. CAA/EPCRA-HQ-2022-5006

The foregoing Consent Agreement in the Matter of Anheuser-Busch, LLC, Docket No. CAA/EPCRA-HQ-2022-5006, is hereby Stipulated, Agreed, and Approved for Entry.

**FOR RESPONDENT:**

**ANHEUSER-BUSCH, LLC**



Date: April 20, 2023

Jay P. Eversman  
Associate General Counsel  
Anheuser-Busch, LLC  
One Busch Place, 202-7  
Saint Louis, MO 63118  
Respondent's Federal tax identification Number 43-0161000

IN THE MATTER OF ANHEUSER-BUSCH, LLC  
Docket No. CAA/EPCRA-HQ-2022-5006

The foregoing Consent Agreement in the Matter of Anheuser-Busch, LLC, Docket No. CAA/EPCRA-HQ-2022-5006, is hereby Stipulated, Agreed and Approved for Entry.

**FOR COMPLAINANT:**

**U.S. ENVIRONMENTAL PROTECTION AGENCY**

Date: \_\_\_\_\_

**GREGORY  
SULLIVAN**

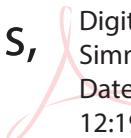


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SULLIVAN  
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Gregory Sullivan  
Director  
Waste and Chemical Enforcement Division  
Office of Civil Enforcement  
U.S. Environmental Protection Agency

Date: \_\_\_\_\_

**Simmons,  
Nicole L**



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Simmons, Nicole L  
Date: 2023.05.02  
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Nicole L. Simmons  
Attorney-Advisor  
Office of Civil Enforcement  
U.S. Environmental Protection Agency

IN THE MATTER OF ANHEUSER-BUSCH, LLC  
Docket No. CAA/EPCRA-HQ-2022-5006

## APPENDIX A

### **Recognized and Generally Accepted Good Engineering Practices**

In collaboration with the American National Standards Institute (“ANSI”), the International Institute of Ammonia Refrigeration (“IIAR”) has issued *Standard 2: American National Standard for Safe Design of Closed-Circuit Ammonia Mechanical Refrigeration Systems* (2014) (“ANSI/IIAR 2-2014”), *American National Standard for the Inspection, Testing, and Maintenance of Closed-Circuit Ammonia Refrigeration Systems* (2019) (“ANSI/IIAR 6-2019”),<sup>3</sup> and *American National Standard for Minimum System Safety Requirements for Existing Closed-Circuit Ammonia Refrigeration Systems* (2020) (“ANSI/IIAR 9-2020”), along with other applicable standards and guidance. The National Fire Protection Association has also issued the *Standard System for the Identification of the Hazards of Materials for Emergency Response* (published in 1966; periodically revised thereafter) (“NFPA-704”). These standards are consistently relied upon by refrigeration experts and are sometimes incorporated by reference into state building and mechanical codes.

For Counts 1–3 and 8–9, the following examples of relevant RAGAGEP apply:

Facility/Count/Findings	Examples of Relevant RAGAGEP
Merrimack Facility (Merrimack, NH)	
Count 1	<b>40 C.F.R. § 68.65(d)(2) &amp; (3)</b>
Failure to clearly mark with signage ammonia detection alarms in the Control Room and other locations in the Utilities Room.	<ul style="list-style-type: none"><li>• ANSI/IIAR 9-2020:<ul style="list-style-type: none"><li>○ § 7.3.12.6 (“Ammonia leak detection alarms shall be identified by signage adjacent to visual and audible alarm devices”)</li><li>○ § 7.2.9.1(2) (“The meaning of each alarm shall be clearly marked by signage near the visual and audible alarms” in a Machinery Room)</li></ul></li></ul>

<sup>3</sup> ANSI/IIAR 6-2019 replaced several IIAR Bulletins, including IIAR Bulletin No. 109, *Guidelines for IIAR Minimum Safety Criteria for a Safe Ammonia Refrigeration System* (1997) (“IIAR Bulletin 109”) and IIAR Bulletin No. 110, *Guidelines for Start-Up, Inspection, and Maintenance of Ammonia Mechanical Refrigerating Systems* (1993, most recently updated in 2007) (“IIAR Bulletin 110”), which were in effect at the time of the Merrimack and Fort Collins facility inspections.

IN THE MATTER OF ANHEUSER-BUSCH, LLC  
Docket No. CAA/EPCRA-HQ-2022-5006

<b>Facility/Count/Findings</b>	<b>Examples of Relevant RAGAGEP</b>
	<ul style="list-style-type: none"> <li>• ANSI/IIAR 2-2014, § 17.6 (same as ANSI/IIAR 9-2020 § 7.3.12.6)</li> </ul>
Portions of the ammonia piping in the Utilities Room, Stockhouse 2, and Building 6 Keg Room were not labeled to identify contents, physical state, or direction of flow.	<ul style="list-style-type: none"> <li>• ANSI/IIAR 9-2020, § 7.2.9.4 (specifying information that must be included in ammonia piping mains, headers, and branches, which includes “AMMONIA,” “physical state of the ammonia,” and “direction of flow”)</li> <li>• ANSI/IIAR 6-2019, § 11.1 (lists inspection, testing, and maintenance tasks for piping, which includes inspecting pipe labeling for “correct placement, accuracy, and degradation”)</li> <li>• ANSI/IIAR 2-2014, § 5.14.5 (same as ANSI/IIAR 9-2020 § 7.2.9.4)</li> </ul>
The door from the Control Room and the machine shop door into the Utilities Room lacked signage indicating the presence of ammonia in the Utilities Room, restricting entry to authorized personnel, and displaying an NFPA diamond.	<ul style="list-style-type: none"> <li>• ANSI/IIAR 9-2020: <ul style="list-style-type: none"> <li>◦ § 7.2.9.1(1) (“Buildings and facilities with refrigeration systems shall be provided with placards in accordance with NFPA 704”)</li> <li>◦ § 7.2.9.1(3) (requiring each machinery room entrance door to have a sign restricting entry to authorized personnel)</li> <li>◦ Appendix J (specifying the recommended signage for machinery room doors)</li> </ul> </li> <li>• ANSI/IIAR 2-2014, § 6.15.3 (requiring each machinery room entrance door to have a sign restricting entry to authorized personnel)</li> <li>• NFPA 704-2012: <ul style="list-style-type: none"> <li>◦ § 4.1.1 (specifying that the system of markings shall identify the hazards of a material into the following categories: 1) health, 2) flammability, 3) instability)</li> <li>◦ § 4.3(2) (signs shall at a minimum be posted at each access to a room or area)</li> </ul> </li> </ul>
The doors from the Utilities Room to the adjacent control room, the electrical room, and the machine shop were not airtight and thus the Utilities Room was not appropriately	<ul style="list-style-type: none"> <li>• ANSI/IIAR 9-2020: <ul style="list-style-type: none"> <li>◦ § 7.3.2.1 (“The machinery room shall be separated from the remainder of the building by tight-fitting construction”)</li> <li>◦ § 7.3.9.2 (“Machinery room doors shall be self-closing and tight fitting”)</li> </ul> </li> </ul>

IN THE MATTER OF ANHEUSER-BUSCH, LLC  
Docket No. CAA/EPCRA-HQ-2022-5006

<b>Facility/Count/Findings</b>	<b>Examples of Relevant RAGAGEP</b>
isolated.	<ul style="list-style-type: none"> <li>• ANSI/IIAR 2-2014: <ul style="list-style-type: none"> <li>○ § 6.2.1 (“The machinery room shall be separated from the remainder of the building by tight-fitting construction with a one-hour fire-resistance rating. Doors shall comply with Section 6.10”)</li> <li>○ § 6.10.2 (same as ANSI/IIAR 9-2020 § 7.3.9.2)</li> </ul> </li> </ul>
Lack of audible/visual alarm above the door from the machine shop to the Utilities Room	<ul style="list-style-type: none"> <li>• ANSI/IIAR 9-2020, § 7.3.12.1(3) (requiring audible and visual alarms inside the machinery room and outside each of its entrances)</li> <li>• ANSI/IIAR 2-2014, § 6.13.1(3) (same as ANSI/IIAR 9-2020, § 7.3.12.1(3))</li> </ul>
A pressure relief valve (“PRV”) header on the roof of Building 7 is attached to the building wall, it does not extend at least 7.25 feet above the adjoining roof. Additionally, a PRV header on the roof of Building 5 discharges less than twenty feet from a door to Building 4.	<ul style="list-style-type: none"> <li>• ANSI/IIAR 9-2020: <ul style="list-style-type: none"> <li>○ § 7.4.2.1 (“The termination of pressure relief device discharge piping relieving to the atmosphere shall not be . . . less than 20 ft (6.1 m) from windows, ventilation intakes, or exits”)</li> <li>○ § 7.4.2.2 (“The discharge termination from pressure relief devices relieving to atmosphere shall not be less than 7.25 ft (2.2 m) above a roof that is occupied solely during service and inspection. Where a higher adjacent roof level is within 20 ft (6.1 m) horizontal distance from the relief discharge, the discharge termination shall not be less than 7.25 ft (2.2 m) above the height of the higher adjacent roof”)</li> </ul> </li> <li>• ANSI/IIAR 2-2014: <ul style="list-style-type: none"> <li>○ § 15.5.1.2 (same as ANSI/IIAR 9-2020 § 7.4.2.1)</li> <li>○ § 15.5.1.3 (same as ANSI/IIAR 9-2020 § 7.4.2.2)</li> </ul> </li> </ul>
Areas of the Utilities Room were cluttered with combustible cardboard boxes.	<ul style="list-style-type: none"> <li>• ANSI/IIAR 9-2020, § 7.3.4 (“Combustible materials shall not be stored in machinery rooms outside of approved fire-rated storage containers”)</li> <li>• ANSI/IIAR 2-2014, § 6.4 (same as ANSI/IIAR 9-2020, § 7.3.4)</li> </ul>
There was neither an	<ul style="list-style-type: none"> <li>• ANSI/IIAR 9-2020:</li> </ul>

IN THE MATTER OF ANHEUSER-BUSCH, LLC  
Docket No. CAA/EPCRA-HQ-2022-5006

Facility/Count/Findings	Examples of Relevant RAGAGEP
emergency shut-off switch for ammonia refrigeration equipment nor an emergency ventilation switch installed immediately outside the principal Utilities Room door.	<ul style="list-style-type: none"> <li>○ § 7.3.11.1 (“A clearly identified emergency shut-off switch with a tamper-resistant cover shall be located outside and adjacent to the designated principal machinery room door”)</li> <li>○ § 7.3.11.2 (“A clearly identified control switch for emergency ventilation with a tamper-resistant cover shall be located outside the machinery room and adjacent to the designated principal machinery room door . . . .”)</li> <li>● ANSI/IIAR 2-2014: <ul style="list-style-type: none"> <li>○ § 6.12.1 (same as ANSI/IIAR 9-2020, § 7.3.11.1)</li> <li>○ § 6.12.2 (same as ANSI/IIAR 9-2020, § 7.3.11.2)</li> </ul> </li> </ul>
Several sections of ammonia piping did not have bump protection, including in the Utilities Room near the receivers and the oil pot on Chiller #1, and in the CIP Annex, Starting Cellar, and Schoene Cooler areas.	<ul style="list-style-type: none"> <li>● ANSI/IIAR 9-2020, § 7.2.12.1 (“Where ammonia-containing equipment is installed in a location subject to physical damage, guarding or barricading shall be provided”)</li> <li>● ANSI/IIAR 2-2014: <ul style="list-style-type: none"> <li>○ § 5.17.1 (“Where ammonia-containing equipment is installed in a location subject to physical damage, guarding or barricading shall be provided”)</li> <li>○ § 13.4.2 (“Refrigerant piping shall be isolated and supported to prevent damage from vibration, stress, corrosion, and physical impact”)</li> </ul> </li> </ul>
Multiple oil pots, including one in the Cold Room in Building 6 and another on the AC Chiller in the Utilities Room did not have self-closing (“dead-man”) valves that automatically close when released on valves that were not locked out.	<ul style="list-style-type: none"> <li>● ANSI/IIAR 9-2020, § 7.2.5.3 (specifying that unless a vessel has a rigid-piped oil return or transfer system, it must have “a shut-off valve in series with a self-closing shut-off valve”)</li> <li>● ANSI/IIAR 2-2014, § 5.9.3 (same as ANSI/IIAR 9-2020, § 7.2.5.3)</li> </ul>
Critical isolation valves were	<ul style="list-style-type: none"> <li>● ANSI/IIAR 9-2020, § 7.3.3.3(2) (“Manually operated isolation valves identified as being</li> </ul>

IN THE MATTER OF ANHEUSER-BUSCH, LLC  
Docket No. CAA/EPCRA-HQ-2022-5006

<b>Facility/Count/Findings</b>	<b>Examples of Relevant RAGAGEP</b>
not directly operable from the floor or chain-operated from a permanent work surface.	<p>part of the system emergency shutdown procedure shall be directly operable from the floor or chain operated from a permanent work surface”)</p> <ul style="list-style-type: none"> <li>• ANSI/IIAR 2-2014, § 6.3.3.2 (same as ANSI/IIAR 9-2020, § 7.3.3.3(2))</li> </ul>
<b>Count 2</b>	<b>40 C.F.R. § 68.73(e)</b>
Some insulation and vapor barrier were breached, resulting in frost and ice build-up on ammonia piping and equipment in the Utilities Room and the Cold Room in Building 6, as well as on associated piping, valves, and sight glasses.	<ul style="list-style-type: none"> <li>• ANSI/IIAR 9-2020, § 5.1 (specifying that “[a]ll equipment and system components shall be inspected, tested, and maintained in accordance with ANSI/IIAR 6 (2019)”) </li> <li>• ANSI/IIAR 6-2019: <ul style="list-style-type: none"> <li>◦ § 5.6.8 (“Equipment and piping shall be kept free from excessive ice buildup”)</li> <li>◦ § 9.1 (listing inspection, testing, and maintenance tasks for evaporators, which includes verifying that the evaporator is free from excessive ice buildup)</li> <li>◦ § 11.1 (listing inspection, testing, and maintenance tasks for piping, which includes inspecting for damage or moisture incursion in insulation, including ice buildup)</li> <li>◦ § 11.1.6 (same as § 11.1, but for ammonia refrigeration valves)</li> </ul> </li> </ul>
<b>Fort Collins Facility (Fort Collins, CO)</b>	
<b>Count 3</b>	<b>40 C.F.R. § 68.65(d)(2) &amp; (3)</b>
Failure to label portions of ammonia piping over Busch Court and within the Powerhouse by identifying the piping’s contents, physical state, or direction of flow.	<ul style="list-style-type: none"> <li>• IIAR 9-2020, § 7.2.9.4 (specifying information that must be included in ammonia piping mains, headers, and branches, which includes “AMMONIA,” “physical state of the ammonia,” and “direction of flow”)</li> <li>• ANSI/IIAR 6-2019, § 11.1 (lists inspection, testing, and maintenance tasks for piping, which includes inspecting pipe labeling for “correct placement, accuracy, and degradation”)</li> <li>• ANSI/IIAR 2-2014, § 5.14.5 (same as ANSI/IIAR 9-2020 § 7.2.9.4)</li> </ul>
Failure to either duct	<ul style="list-style-type: none"> <li>• ANSI/IIAR 9-2020:</li> </ul>

IN THE MATTER OF ANHEUSER-BUSCH, LLC  
Docket No. CAA/EPCRA-HQ-2022-5006

Facility/Count/Findings	Examples of Relevant RAGAGEP
combustion air to the boiler in the Powerhouse from outside of the machinery room or install an ammonia detector that will shut off the boiler.	<ul style="list-style-type: none"> <li>○ § 7.3.5.1 (Fuel-burning appliances and equipment with temperatures exceeding 800°F (427°C) may only be installed in a machinery room “where combustion air to the fuel-burning appliance is ducted from outside of the machinery room and sealed to prevent ammonia leakage from reaching the combustion chamber”)</li> <li>○ § 7.3.5.2 (Fuel-burning appliances and equipment with temperatures exceeding 800°F (427°C) may only be installed in a machinery room “where an ammonia detector is in accordance with Section 7.3.12 and automatically shuts off the combustion process upon detection of ammonia”)</li> <li>• ANSI/IIAR 2-2014: <ul style="list-style-type: none"> <li>○ § 6.5(1) (same as ANSI/IIAR 9-2020, § 7.3.5.1)</li> <li>○ § 6.5(2) (same as ANSI/IIAR 9-2020, § 7.3.5.2)</li> </ul> </li> </ul>
Failure to install an operational emergency stop switch and emergency ventilation control switch located outside of the Powerhouse.	<ul style="list-style-type: none"> <li>• ANSI/IIAR 9-2020: <ul style="list-style-type: none"> <li>○ § 7.3.11.1 (“A clearly identified emergency shut-off switch with a tamper-resistant cover shall be located outside and adjacent to the designated principal machinery room door”)</li> <li>○ § 7.3.11.2 (“A clearly identified control switch for emergency ventilation with a tamper-resistant cover shall be located outside the machinery room and adjacent to the designated principal machinery room door”)</li> </ul> </li> <li>• ANSI/IIAR 2-2014: <ul style="list-style-type: none"> <li>○ § 6.12.1 (same as ANSI/IIAR 9-2020 § 7.3.11.1)</li> <li>○ § 6.12.2 (same as ANSI/IIAR 9-2020 § 7.3.11.2)</li> </ul> </li> </ul>
<b>Fairfield Facility (Fairfield, CA)</b>	
<b>Count 8</b>	<b>40 C.F.R. § 68.65(d)(2) &amp; (3)</b>

IN THE MATTER OF ANHEUSER-BUSCH, LLC  
Docket No. CAA/EPCRA-HQ-2022-5006

<b>Facility/Count/Findings</b>	<b>Examples of Relevant RAGAGEP</b>
Several sections of ammonia piping, including piping runs located between the Powerhouse and other areas of the Facility and within the Powerhouse between ammonia refrigeration vessels, were not labeled to indicate contents, direction of flow, physical state (i.e., liquid or vapor).	<ul style="list-style-type: none"> <li>• ANSI/IIAR 9-2020, § 7.2.9.4 (specifying information that must be included in ammonia piping mains, headers, and branches, which includes “AMMONIA,” “physical state of the ammonia,” and “direction of flow”)</li> <li>• ANSI/IIAR 6-2019, § 11.1 (lists inspection, testing, and maintenance tasks for piping, which includes inspecting pipe labeling for “correct placement, accuracy, and degradation”)</li> <li>• ANSI/IIAR 2-2014, § 5.14.5 (same as ANSI/IIAR 9-2020 § 7.2.9.4)</li> </ul>
Several ammonia refrigeration equipment oil drain lines through the Powerhouse were missing self-closing valves and were not rigid-piped to the centralized return system. In addition, one of the oil-drain lines and connected valve on the first floor of the Stockhouse was lacking a plug and open to the atmosphere.	<ul style="list-style-type: none"> <li>• ANSI/IIAR 9-2020, § 7.2.5.3 (for a valve and piping assembly at the drain point where oil is removed from the system, shall have “at a minimum, a shut-off valve in series with a self-closing shut-off valve”)</li> <li>• ANSI/IIAR 2-2014, § 5.9.3(3) (same as ANSI/IIAR 9-2020 § 7.2.5.3)</li> </ul>
Several entry doors (person doors and garage doors) to the Powerhouse adjacent to ammonia refrigeration equipment were observed to be propped open or otherwise left open. In addition, windows are open along the wall separating	<ul style="list-style-type: none"> <li>• ANSI.IIAR 9-2020, § 7.3.9.2 (“Machinery room doors shall be self-closing and tight fitting”)</li> <li>• ANSI/IIAR 2-2014, § 6.10.2 (same as ANSI.IIAR 9-2020, § 7.3.9.2)</li> </ul>

IN THE MATTER OF ANHEUSER-BUSCH, LLC  
Docket No. CAA/EPCRA-HQ-2022-5006

<b>Facility/Count/Findings</b>	<b>Examples of Relevant RAGAGEP</b>
the water treatment room and the Powerhouse, allowing for free flow of ammonia into this area in the event of an ammonia release.	
Ammonia sensors in the Powerhouse had not been calibrated between December 2017 and September 2019 (manufacturer recommend calibration every six months).	<ul style="list-style-type: none"> <li>• ANSI/IIAR 2-2014, § 17.3 (ammonia detectors shall be tested at least annually, or more frequently in accordance with manufacturers' recommendations or based on documented experience)</li> <li>• ANSI/ASHRAE 15-2013, § 11.6.3 ("Detector(s), alarm(s) and mechanical ventilating systems shall be tested in accordance with manufacturers' specifications")</li> <li>• ANSI/IIAR 6-2019, Table 12.3 ("Calibrate all ammonia detector sensors")</li> </ul>
Several windows between the water treatment room and the Powerhouse are not one-hour fire-rated.	<ul style="list-style-type: none"> <li>• ANSI/IIAR 2-2014, § 6.2.1 ("The machinery room shall be separated from the remainder of the building by tight-fitting construction with a one-hour fire-resistance rating")</li> </ul>
The machinery room door and alarms were not adequately labeled: <ul style="list-style-type: none"> <li>○ The visual alarms located at each of the entrances to the Powerhouse are not properly labeled.</li> <li>○ NFPA diamonds present adjacent to the entry doors to the Powerhouse are</li> </ul>	<ul style="list-style-type: none"> <li>• ANSI/IIAR 9-2020:               <ul style="list-style-type: none"> <li>○ § 7.2.9.1(2) ("The meaning of each alarm shall be clearly marked by signage near the visual and audible alarms")</li> <li>○ § 7.2.9.1(1) ("Buildings and facilities with refrigeration systems shall be provided with placards in accordance with NFPA 704.")</li> </ul> </li> <li>• ANSI/IIAR 2-2014:               <ul style="list-style-type: none"> <li>○ § 6.15.1 ("Buildings and facilities with refrigeration systems shall be provided with placards [in] accordance with NFPA 704 and the Mechanical Code")</li> <li>○ § 6.15.2 ("Alarm signage shall be provided in accordance with Section 17.6")</li> <li>○ § 17.6 ("Ammonia leak detection alarms shall be identified by signage adjacent to</li> </ul> </li> </ul>

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Facility/Count/Findings	Examples of Relevant RAGAGEP
numbered “3-1-0” rather than “3-3-0.” In addition, entry doors to the Powerhouse located on the western and eastern building walls are not labeled with NFPA diamond.	<p>visual and audible alarm devices”)</p> <ul style="list-style-type: none"> <li>○ Appendix J.7 (specifying that that NFPA diamonds for indoor ammonia refrigeration equipment is 3-3-0)</li> <li>● NFPA 704-2012: <ul style="list-style-type: none"> <li>○ § 4.1.1 (specifying that the system of markings shall identify the hazards of a material into the following categories: 1) health, 2) flammability, 3) instability)</li> <li>○ § 4.3(2) (signs shall at a minimum be posted at each access to a room or area)</li> </ul> </li> </ul>
<b>Count 9</b>	<b>40 C.F.R. § 68.73(e)</b>
Corrosion and degradation observed on: 1) Unit No. 20-213-1 ammonia oil drain receiver; and 2) an ammonia receiver exterior of the Stockhouses. Heavy corrosion and pitting are present on 1) the Keg Room Cooler, and 2) the Unit No. 22-301-2 Ammonia Accumulator (located in the Powerhouse).	<ul style="list-style-type: none"> <li>● ANSI/IIAR 9-2020, § 5.1 (“All equipment and system components shall be inspected, tested, and maintained in accordance with ANSI/IIAR 6 (2019)”)</li> <li>● ANSI/IIAR 6-2019, § 11.1 (lists inspection, testing, and maintenance tasks for piping, which includes inspecting metal surfaces for pitting or surface damage)</li> </ul>
Frost and ice build-up observed on: 1) Ammonia piping associated with ammonia receivers in the Powerhouse; 2) an ammonia receiver on the first floor of the Stockhouses; and 3) ammonia vessel and piping associated	<ul style="list-style-type: none"> <li>● ANSI/IIAR 9-2020, § 5.1 (“All equipment and system components shall be inspected, tested, and maintained in accordance with ANSI/IIAR 6 (2019)”)</li> <li>● ANSI/IIAR 6-2019: <ul style="list-style-type: none"> <li>○ § 5.6.8 (“Equipment and piping shall be kept free from excessive ice buildup”)</li> <li>○ § 11.1 (lists inspection, testing, and maintenance tasks for piping, which includes inspecting for damage or moisture incursion in insulation—e.g., ice buildup)</li> </ul> </li> </ul>

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Facility/Count/Findings	Examples of Relevant RAGAGEP
with the Kathene Cooler of the Stockhouses.	<ul style="list-style-type: none"><li data-bbox="540 635 1237 667">○ § 11.1.6 (same as § 11.1 except for ammonia refrigeration valves)</li></ul>

## **APPENDIX B**

### **Requirements for Third-Party Expert Review**

#### **I. General**

1. Anheuser-Busch will retain at least one third-party Expert meeting the qualifications specified in Paragraph 4 to lead a review of each of Anheuser-Busch's covered processes at the eleven RMP facilities specified in Paragraph 3.
2. The reviews shall include a minimum system safety evaluation in accordance with IIAR 9-2020 and an evaluation to determine conformity with IIAR 6-2019.
3. The reviews of the covered processes shall be conducted at the following facilities: Merrimack, NH; Fairfield, CA; Fort Collins, CO; Los Angeles, CA; Houston, TX; Columbus, OH; Jacksonville, FL; Baldwinsville, NY; Williamsburg, VA; Cartersville, GA; and St. Louis, MO.

#### **II. Third-Party Expert Review of Facilities**

4. Within 30 days of the effective date of this CAFO, Anheuser-Busch shall retain at least one individual who is qualified to serve as a third-party Expert and meets the following criteria:
  - a. The Expert is experienced, including appropriate training in ammonia refrigeration and ammonia emergency response, applicable recognized and generally accepted good engineering practices, and audit methodology;
  - b. The Expert has conducted at least ten audits of ammonia refrigeration systems;
  - c. The Expert is not evaluating any aspect of the facility's design, engineering, or mechanical integrity he/she developed or implemented within three years preceding the initiation of the facility review; and
  - d. Nothing in this Agreement shall disqualify the Expert from performing any future work for or on behalf of Anheuser-Busch.
5. The Expert leading the review shall be responsible for the following:
  - a. Certifying that he/she satisfies the requirements specified in Paragraph 4;
  - b. Certifying that the review team conducted facility-specific evaluations of minimum system safety specifications compliant with IIAR 9-2020, and of inspection, testing, and maintenance practices outlined in IIAR 6-2019;

- c. Certifying that he/she used the IIAR 9 and IIAR 6 template evaluation checklists attached in Appendix C to conduct the review at each facility (the “Checklists”). The Checklists shall be used to evaluate each specific facility identified in Paragraph 3 and shall, for each relevant aspect of the facility or applicable piece of equipment, indicate whether: it is compliant with the requirement, document/verify that compliance, and identify any applicable recommendations.
  - d. Certifying that the review team verified that the safety interlocks and controls for each piece of equipment that must be tested per IIAR 6-2019 according to a specified schedule (*e.g.*, annually) were last tested or will be tested within that specified schedule and that the documentation of such testing is properly retained in Anheuser-Busch’s tracking system;
  - e. Preparing the Facility Report for each facility. Any Anheuser-Busch facility personnel that participated in the review team shall not draft the Facility Report but shall be permitted to provide factual information to the Expert and review drafts of the Facility Report for accuracy; and
  - f. Providing a copy of each final Facility Report to Anheuser-Busch and EPA.
6. Each final Facility Report shall:
- a. Identify the date(s) of the review and describe how the review was conducted;
  - b. Identify the names of all participants of the review team, including names, titles, employers and/or affiliations, and summaries of qualifications;
  - c. Describe all the types of information and records reviewed, and the equipment, processes, practices, structures, and other items reviewed, observed, or evaluated;
  - d. Document the Expert’s evaluation and findings as to each covered process’s conformity with each applicable provision in IIAR 9-2020 and IIAR 6-2019 and describe the basis of those findings; and
  - e. Provide a specific recommendation as to how each deviation from the provision should be corrected to achieve conformity with the requirements of either IIAR 9-2020 or IIAR 6-2019, as applicable.

### **III. Corrective Action Plan**

7. Within 60 days after receiving each final Facility Report, Anheuser-Busch shall prepare and submit to EPA a written Corrective Action Plan (“CAP”) for addressing

the recommendations from the third-party expert regarding any instances of non-compliance or non-conformance.

8. The CAP shall identify the facility, the identified non-conformance, the proposed Corrective Measure, and an implementation schedule for the identified Corrective Measure, including those that may have already been completed. Additionally, Anheuser-Busch shall identify and explain any deviations from the Expert's recommendations.

#### **IV. Schedule and Stipulated Penalties**

9. Anheuser-Busch shall ensure that at least six of the final Facility Reports for the facilities specified in Paragraph 6 are submitted to EPA by December 31, 2023, and that the final Facility Reports for all remaining facilities specified in Paragraph 6 are submitted to EPA by December 31, 2024. Stipulated penalties shall be assessed for missing the deadlines specified in Paragraphs 7 and 9. Anheuser-Busch may request an extension in writing to EPA to the deadline(s) for cause at any point.
10. Stipulated Penalties for Compliance Milestones: The following stipulated penalties accrue per day for missing the deadlines specified in Paragraphs 7 and 9:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$1,000	1st through 14th Day
\$2,500	15th through 30th Day
\$5,000	31st Day and beyond

#### **V. Record Keeping**

11. Anheuser-Busch shall maintain the final Facility Reports, completed Checklists, and the Corrective Action Plans for five (5) years. Anheuser-Busch will also retain any documents required by IIAR 6-2019 in accordance with the schedules provided in IIAR 6-2019 Table 5.3.7.

## **CERTIFICATE OF SERVICE**

I certify that copies of the foregoing “Consent Agreement” and “Final Order,” in the matter of Anheuser-Busch, LLC, Docket No. CAA/EPCRA-HQ-2022-5006, were sent to the following persons in the manner indicated:

**By E-mail:**

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Dated: June 2, 2023

*Emilio Cortes*

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Emilio Cortes  
Clerk of the Board