

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX



IN THE MATTER OF:)
)
)
)
AMPAC Fine Chemicals, LLC)
Highway 50 and Hazel Road)
Rancho Cordova, CA 95741-1718)
)
)
Respondent.)

Docket No.
CAA(112r)-09-2022-0031.

**CONSENT AGREEMENT
AND FINAL ORDER**
40 C.F.R. §§ 22.13 and 22.18

CONSENT AGREEMENT

A. PRELIMINARY STATEMENT

1. This is a civil administrative enforcement action instituted pursuant to Section 113(a)(3)(A) and (d) of the Clean Air Act (“CAA”), as amended, 42 U.S.C. §§ 7413(a)(3)(A) and (d), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (“Consolidated Rules”), 40 C.F.R. Part 22.
2. Complainant is the United States Environmental Protection Agency, Region IX (“EPA”).
3. Respondent is AMPAC Fine Chemicals, LLC.
4. The Administrator of EPA has delegated to the Regional Administrators the authority to sign consent agreements memorializing settlements of enforcement actions under the CAA. Delegation 7-6-A, dated August 4, 1994. The Regional Administrator, EPA Region IX, in turn, has re-delegated this authority to the Director of the Enforcement and Compliance Assurance Division. Regional Delegation R9-7-6-A, dated February 11, 2013. On EPA’s behalf, the Director of the Enforcement and Compliance Assurance Division is therefore delegated the authority to

settle civil administrative penalty proceedings under Section 113(d) of the CAA, 42 U.S.C. § 7413(d).

5. This Consent Agreement and Final Order (“CA/FO”), pursuant to 40 C.F.R. §§ 22.13 and 22.18, simultaneously commences and concludes this proceeding, wherein EPA alleges that Respondent violated Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and its implementing regulations.

6. EPA and Respondent, having agreed that settlement of this action is in the public interest, consent to the entry of this CA/FO. Respondent agrees to comply with the terms of this CA/FO.

B. GENERAL ALLEGATIONS

7. Respondent owns and operates a manufacturing plant located at Highway 50 and Hazel Road in Rancho Cordova, California (“Facility”). Respondent manufactures active pharmaceutical ingredients and registered intermediates on 16 batch production lines (77 reactors) that range in scale from producing a few grams to multiple tons.

8. On January 28, 2020, EPA performed an inspection of the Facility pursuant to Section 112(r) of the CAA, 42 U.S.C. § 7412(r), Sections 304-312 of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. §§ 11004-12, and Section 103 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9603(a). Based upon the information gathered during this inspection and subsequent investigation, EPA asserts that Respondent violated certain provisions of the CAA.

9. At all times relevant to this CA/FO, Respondent has been a “person” as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

10. At all times relevant to this CA/FO, the Facility has been a “stationary source” as defined by Sections 111(a)(3), 112(a)(3), and 112(r)(2)(C) of the CAA, 42 U.S.C. §§ 7411(a)(3), 7412(a)(3), and 7412(r)(2)(C).
11. At all times relevant to this CA/FO, Respondent has been the “owner or operator” of the Facility as defined by Sections 111(a)(5) and 112(a)(9) of the CAA, 42 U.S.C. §§ 7411(a)(5) and 7412(a)(9).
12. Respondent is subject to the powers vested in the EPA Administrator by Section 113 of the CAA, 42 U.S.C. § 7413.
13. Section 113 of the CAA, 42 U.S.C. § 7413, authorizes EPA to assess civil penalties for any violation of Section 112(r) of the CAA, 42 U.S.C. § 7412(r).
14. Pursuant to Section 112(r) of the CAA, 42 U.S.C. § 7412(r), EPA established a threshold quantity (“TQ”) for each “regulated substance” at or above which a facility that has such substance in one or more processes shall be subject to the requirements of Section 112(r) of the CAA, 42 U.S.C. § 7412(r). For substances designated as “regulated toxic substances,” the TQs are specified at 40 C.F.R. § 68.130, Table 1.
15. A stationary source that has a regulated substance in an amount equal to or in excess of the applicable TQ in a “process,” as defined by 40 C.F.R. § 68.3, is subject to the Program 3 Risk Management Plan (“RMP”) requirements. Program 3 requires owners or operators to develop a management system to oversee the implementation of the RMP elements as described in 40 C.F.R. § 68.12(d).
16. At all times relevant to this CA/FO, Respondent has been the “owner or operator” of a stationary source that has a regulated substance in an amount equal to or in excess of the applicable

TQ in a “process” as defined by 40 C.F.R. § 68.3 and is subject to the Program 3 RMP requirements.

17. Pursuant to Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and its implementing regulations, owners and operators of stationary sources at which a regulated substance is present in more than a TQ must prepare and implement a RMP to detect and prevent or minimize accidental releases of such substances from the stationary sources in order to protect human health and the environment.

18. Hydrochloric acid (“HCl”), concentration of 37% or greater, is a “regulated toxic substance” listed under Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), with a TQ of 15,000 pounds, 42 C.F.R. § 68.130, Table 1.

19. Pursuant to Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), and its implementing regulations, owners and operators of stationary sources producing, processing, handling or storing a chemical listed in 40 C.F.R. Part 68, or any other extremely hazardous substance, have a general duty to identify hazards which may result from releases using appropriate hazard assessment techniques; to design and maintain a safe facility taking such steps as are necessary to prevent releases, and to minimize the consequences of accidental releases which do occur.

20. As used herein, the term “extremely hazardous substance” shall mean an extremely hazardous substance within the meaning of Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1). Such substances include any chemical which may, as a result of short-term exposures because of releases to the air, cause death, injury, or property damage because of its toxicity, reactivity, flammability, volatility, or corrosivity.

21. Diethyl ether is extremely flammable in liquid and vapor form, and isopropyl alcohol and acetone are highly flammable. Diethyl ether may form peroxides and may form explosive mixtures with air. Diethyl ether, isopropyl alcohol, and acetone are harmful if swallowed or inhaled.

22. At all times relevant to this CA/FO, Respondent has produced, processed, handled, or stored diethyl ether, isopropyl alcohol, acetone, and other substances that are extremely hazardous substances within the meaning of Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), at the Facility.

C. ALLEGED VIOLATIONS

COUNT I

(Failure to comply with risk management plan requirements)

23. Paragraphs 1 through 22, above, are incorporated herein by this reference as if they were set forth here in their entirety.

24. Pursuant to Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), owners and operators of stationary sources at which a regulated substance is present in more than a TQ must prepare and implement a RMP to detect and prevent or minimize accidental releases of such substances from the stationary sources in order to protect human health and the environment. Additionally, 40 C.F.R. § 68.150(b) requires owners or operators of a stationary source to submit to EPA the 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.

25. Respondent did not submit an RMP prior to storing over the TQ (15,000 pounds) of 37% HCl in September 2019.

26. By failing to comply with the RMP submittal requirement, Respondent violated Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 C.F.R. § 68.150(b).

COUNT II

(General Duty Clause – identify hazards which may result in a release)

27. Paragraphs 1 through 22, above, are incorporated herein by this reference as if they were set forth here in their entirety.

28. Pursuant to Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), owners and operators of stationary sources producing, handling, or storing any substance listed under Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance, have a general duty to use appropriate hazard assessment techniques to identify hazards which may result from releases of those extremely hazardous substances. An appropriate part of any hazard assessment technique includes developing and implementing an adequate system to track the progress of related recommendations.

29. Based on EPA's inspection and information gathered during EPA's investigation, Respondent failed to develop and implement an adequate system to track the progress of recommendations from the hazard identification.

30. By failing to comply with the general duty clause ("GDC") for identifying and addressing hazards which may result from a release of an extremely hazardous substances, Respondent violated Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1).

COUNT III

(General Duty Clause – failure to design and maintain a safe facility – illegible piping labels)

31. Paragraphs 1 through 22, above, are incorporated herein by this reference as if they were set forth here in their entirety.

32. Pursuant to Section 7412(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), owners and operators of stationary sources producing, handling, or storing any substance listed under Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(1), or any other extremely hazardous substance, have a general duty to design and maintain a safe facility by taking such steps as are necessary to prevent releases. A recognized and generally accepted good engineering practice (“RAGAGEP”) is maintaining piping system labeling. For example, American Society of Mechanical Engineers (“ASME”) A13.1-2015 Section 3.1 requires that “the positive identification of the contents of a piping system shall be by lettered legend, giving the name of the contents in full or abbreviated form. Arrows shall be used to indicate direction of flow.”

33. Based on EPA’s inspection and information gathered during EPA’s investigation, Respondent failed to maintain its piping system labeling consistent with industry standards. The labeling was not legible.

34. By failing to comply with the GDC for designing and maintaining a safe facility, including maintaining its piping system with legible labels, Respondent violated Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1).

COUNT IV

(General Duty Clause – failure to design and maintain a safe facility – unsafe discharge release location)

35. Paragraphs 1 through 22, above, are incorporated herein by this reference as if they were set forth here in their entirety.

36. Pursuant to Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), owners and operators of stationary sources producing, handling, or storing any substance listed under Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance, have a general duty to design and maintain a safe facility by taking such steps as are necessary to prevent releases. A

RAGAGEP design requirement is designing safe discharge release locations. For example, ASME Boiler and Pressure Vessel Code (“BPVC”) Section VIII: Rules for Construction of Pressure Vessels; Division 1 – 2011 Section UG-135(f) states that, “Discharge lines from pressure relief devices shall be designed . . . [in such a way that] such lines shall lead to a safe place of discharge.”

37. Based on EPA’s inspection and information gathered during EPA’s investigation, Respondent failed to design the V-936 discharge piping consistent with industry standards. The discharge piping for V-936, an emergency vent collection vessel in the 05-148 production facility, does not release to a safe location.

38. By failing to comply with the GDC for designing and maintaining a safe facility, including designing a safe release location for the V-936 discharge piping, Respondent violated Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1).

COUNT V

(General Duty Clause – failure to design and maintain a safe facility – missing vent collection vessel capacity information)

39. Paragraphs 1 through 22, above, are incorporated herein by this reference as if they were set forth here in their entirety.

40. Pursuant to Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), owners and operators of stationary sources producing, handling, or storing any substance listed under Section 112(r)(3), or any other extremely hazardous substance, have a general duty to, among other things, design and maintain a safe facility by taking such steps as are necessary to prevent releases. This general duty includes maintaining capacity calculations for the emergency vent collection vessel.

41. Based on EPA's inspection and information gathered during EPA's investigation, at the time of the inspection, Respondent failed to provide design calculations for the V-936 emergency vent collection vessel to show that it has adequate capacity.

42. By failing to comply with the GDC for designing and maintaining a safe facility, including maintaining capacity calculations for the emergency vent collection vessel, Respondent violated Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1).

COUNT VI

(General Duty Clause – failure to design and maintain a safe facility – inaccurate or missing design calculation)

43. Paragraphs 1 through 22, above, are incorporated herein by this reference as if they were set forth here in their entirety.

44. Pursuant to Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), owners and operators of stationary sources producing, handling, or storing any substance listed under Section 112(r)(3), or any other extremely hazardous substance, have a general duty to design and maintain a safe facility by taking such steps as are necessary to prevent releases. This general duty includes making adequate and accurate overpressure protection device design calculations.

45. Based on EPA's inspection and information gathered during EPA's investigation, Respondent failed to maintain adequate and accurate design calculations for the R-925 and R-915 reactors consistent with industry standards. For example, ASME BPVC Section VIII: Rules for Construction of Pressure Vessels; Section UG-134(a) states, "when a single pressure relief device is used, the set pressure marked on the device shall not exceed the [maximum allowable working pressure or "MAWP"] of the vessel." Additionally, American Petroleum Institute ("API") 521-2007 Section 3.47 states, "the MAWP is the basis for the pressure setting of the pressure-relief devices that protect the vessel"; and ASME BPVC – 2007 Section UG-125(a)(2) states, "[i]t is the

responsibility of the user or his/her designated agent to size and select the pressure relief device(s) based on its intended service.”

46. By failing to comply with the GDC for designing and maintaining a safe facility, including maintaining adequate and accurate design calculations for the R-925 and R-915 reactors, Respondent violated Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1).

COUNT VII

(General Duty Clause – failure to design and maintain a safe facility – incomplete or missing relief device records)

47. Paragraphs 1 through 22, above, are incorporated herein by this reference as if they were set forth here in their entirety.

48. Pursuant to Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), owners and operators of stationary sources producing, handling, or storing any substance listed under Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance, have a general duty to design and maintain a safe facility, taking such steps as are necessary to prevent releases. This general duty includes maintaining adequate overpressure protection device replacement records.

49. Based on EPA’s inspection and information gathered during EPA’s investigation, Respondent failed to maintain overpressure protection device replacement records for numerous reactors consistent with industry standards. For example, Center for Chemical Process Safety (“CCPS”) Guidelines for Process Safety Documentation, 1995, Chapter 5, Section 5.2.2, states, “[c]omprehensive documentation of the design and design basis should be developed and maintained for each relief system.” CCPS Guidelines for Mechanical Integrity Systems, 2006, Chapter 4, states, “[t]o select the [Inspection Testing and Preventative Maintenance] tasks and their intervals efficiently, the following types of information about the equipment and its operation should be compiled prior to task selection. . . . engineering data, such as design specifications and

as-built drawings . . . maintenance and inspection history, including current ITPM tasks and schedule, and inspection and repair history.” API 576 – 2009 Section 5.7 states, “[t]o assist in the identification of valves and to provide information necessary for correct repairs and installation, a comprehensive set of specification and historical records should be maintained and referred to when valves are removed for inspection and repair.” Additionally, API 576 -2009 Section 7.2.1 states, “[f]or each pressure-relieving device in service, a complete, permanent record should be kept. The record of each device should include its specification data, including sizing calculations and a continuously accumulating history of inspection and test results.”; and CCPS Guidelines for Process Safety Documentation, 1995, Chapter 5, Section 5.2.2, states, “[c]omprehensive documentation of the design and design basis should be developed and maintained for each relief system.”

50. By failing to comply with the GDC for designing and maintaining a safe facility, including by maintaining accurate overpressure protection device replacement records, Respondent violated Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1).

COUNT VIII

(General Duty Clause – failure to design and maintain a safe facility –inaccurate piping and instrumentation diagrams)

51. Paragraphs 1 through 22, above, are incorporated herein by this reference as if they were set forth here in their entirety.

52. Pursuant to Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), owners and operators of stationary sources producing, handling, or storing any substance listed under Section 112(r)(3), or any other extremely hazardous substance, have a general duty to design and maintain a safe facility, taking such steps as are necessary to prevent releases. This general duty includes maintaining accurate piping and instrumentation diagrams (“P&IDs”).

53. For example, CCPS Guidelines for Process Safety Documentation, 1995, Chapter 5, Section 5.2.2, states, “[a] comprehensive compilation of documented information on the process and related safety information enables employers and employees involved in operating the process to identify, understand and avoid potential hazards. Documentation described in this section includes . . . piping and instrumentation diagrams . . .”, and “P&IDs are the major controlling documents for design and construction of a process unit . . .since P&IDs can undergo many changes in the life cycle of a process, it is essential that they be kept up to date with revisions traceable via revision letters and/or numbers and dates.”

54. Based on EPA’s inspection and information gathered during EPA’s investigation, Respondent failed to maintain accurate P&IDs consistent with industry standards for AFC-PID-00780, AFC-PID-00772, AFC-PID-00768, AFC-PID-00762, AFC-PID-00764, AFC-PID-00766, AFC-PID-00770, AFC-PID-00772, AFC-PID-00679, AFC-PID-00681, AFC-PID-00696, P&ID AFC-PID-00681 (revision 22), and P&ID AFC-PID-00696 (revision 23).

55. By failing to comply with the GDC for designing and maintaining a safe facility, including maintaining accurate P&IDs, Respondent violated Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1).

COUNT IX

(General Duty Clause – failure to design and maintain a safe facility – overpressure protection device sizing standard)

56. Paragraphs 1 through 22, above, are incorporated herein by this reference as if they were set forth here in their entirety.

57. Pursuant to Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), owners and operators of stationary sources producing, handling, or storing any substance listed under Section 112(r)(3), 42

U.S.C. § 7412(r)(3), or any other extremely hazardous substance, have a general duty to design and maintain a safe facility, taking such steps as are necessary to prevent releases. This general duty includes maintaining accurate overpressure protection device sizing, using appropriate standards.

58. Based on EPA's inspection and information gathered during EPA's investigation, Respondent failed to use an appropriate standard to size overpressure protection devices for R-900, R-910, R-915, R-920, and R-925. The overpressure protection devices are sized based on National Fire Protection Association ("NFPA") 30, Flammable and Combustible Liquids Code, which is for non-pressurized tanks. However, the reactors have MAWP of 150 pounds per square inch gauge ("psig") and 100 psig and are therefore considered pressure vessels under NFPA 30.

59. By failing to comply with the GDC for designing and maintaining a safe facility, including maintaining correct overpressure protection device sizing standards, Respondent violated Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1).

D. CIVIL ADMINISTRATIVE PENALTY

60. EPA proposes that Respondent be assessed, and Respondent agrees to pay **FIFTY-FIVE THOUSAND THREE HUNDRED SIXTEEN DOLLARS (\$55,316)**, as the civil administrative penalty for the violations alleged herein.

61. The proposed penalty was calculated in accordance with the "Combined Enforcement Policy for Clean Air Act Sections 112(r)(1), 112(r)(7), and 40 C.F.R. Part 68" dated June 2012, and was adjusted for inflation by the Federal Civil Penalties Inflation Adjustment Act, as amended, and the Civil Monetary Inflation Adjustment Rule, 40 C.F.R. Part 19.

E. ADMISSIONS AND WAIVER OF RIGHTS

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

63. EPA and Respondent agree that settlement of this matter is in the public interest and that entry of this CA/FO without further litigation is the most appropriate means of resolving this matter.

F. PARTIES BOUND

64. This CA/FO shall apply to and be binding upon Respondent, and its successors and assigns, until such time as the civil penalty required under Section D (and any additional civil penalty required under Section I) have been paid, and any delays in performance and/or stipulated penalties have been resolved.

65. No change in ownership or legal status relating to the Facility will in way alter Respondent's obligations and responsibilities under this CA/FO.

66. Until all the requirements of this CA/FO are satisfied, Respondent shall give notice of this CA/FO to any successor in interest prior to transfer of ownership or operation of the Facility and shall notify EPA within seven (7) days prior to such transfer.

67. The undersigned representative hereby certifies that he or she is fully authorized by Respondent to enter into and execute this CA/FO, and to legally bind Respondent to it.

G. CERTIFICATION OF COMPLIANCE

68. Respondent certifies to EPA that as of the Effective Date, it has fully complied with the requirements of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), that formed the basis for the violations alleged in this CA/FO.

69. The signatory for Respondent certifies under penalty of law that this certification of compliance is based upon true, accurate and complete information, which the signatory can verify personally or regarding which the signatory has inquired of the person or persons directly responsible for gathering the information.

H. PAYMENT OF CIVIL PENALTY

70. Respondent consents to the assessment of and agrees to pay civil administrative penalties of **FIFTY-FIVE THOUSAND THREE HUNDRED SIXTEEN DOLLARS (\$55,316.00)** in settlement of the civil penalty claims made in this CA/FO. This CA/FO constitutes a settlement of all claims for the violations of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), alleged in Section C above.

71. Respondent shall pay the civil penalty within thirty (30) days of the Effective Date of this CA/FO, as established in Section K of this CA/FO.

72. All payments shall indicate the name of the Facility, EPA identification number of the Facility, the Respondent's name and address, and the appropriate EPA docket number of this action. Payment shall be made by corporate, certified, or cashier's checks payable to "Treasurer of the United States" and sent as follows:

Regular Mail:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

Overnight Mail:

U.S. Environmental Protection Agency
Government Lock Box 979077
1005 Convention Plaza
SL-MO-C2GL
St. Louis, MO 63101
Contact: Craig Steffen, (513) 487-2091, steffen.craig@epa.gov

Alternatively, payment may be made by electronic transfer as provided below:

Wire Transfers:

Wire transfers must be sent directly to the Federal Reserve Bank of New York using the following information:

ABA: 021030004
Account Number: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, NY 10045

Beneficiary: US Environmental Protection Agency Automated Clearinghouse:

Automated Clearinghouse payments to EPA can be made through the US Treasury using the following information:

US Treasury REX/Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking
Physical location of the US Treasury Facility:
5700 Rivertech Court
Riverdale, MD 20737
Remittance Express (REX): 1-866-234-5681

Online Payment through Pay.gov:

Credit or debit cards, as well as checking accounts, can be used to make payments using the information below:

Visit www.pay.gov.

Enter “SFO 1.1” in the search box on the top left side of the screen.
Open the form and follow the on-screen instructions.

A copy of each check, or notification that the payment has been made by one of the other methods listed above, including proof of the date payment was made, shall be sent with a transmittal letter via email, indicating Respondent's name, the case title, and docket number, to both:

Regional Hearing Clerk (RC-1)
U.S. Environmental Protection Agency - Region 9
R9HearingClerk@epa.gov

And

Don Nixon
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency - Region 9
Nixon.Donald@epa.gov

73. In accordance with the Debt Collection Act of 1982 and U.S. Treasury directive (TFRM 6-8000), failure to pay the penalty so that it is received by the due date will result in imposition of interest from the Effective Date of this CA/FO at the current interest rate published by the U.S. Treasury, as described at 40 C.F.R. §13.11. In addition, a six percent (6%) per annum penalty that will be assessed monthly will be applied on any principal amount not paid within ninety (90) days of the due date.

74. The penalties specified in this CA/FO shall represent civil administrative penalties assessed by EPA and shall not be deducted by Respondent or any other person or entity for federal, state or local taxation purposes.

H. DELAY IN PERFORMANCE/STIPULATED PENALTIES

75. In the event that Respondent fails to meet any requirement set forth in this CA/FO, Respondent shall pay stipulated penalties as follows: FIVE HUNDRED DOLLARS (\$500) per day for the first to fifteenth day of delay, ONE THOUSAND DOLLARS (\$1,000) per day for the sixteenth to thirtieth day of delay, and FIVE THOUSAND DOLLARS (\$5,000) per day for each day of delay thereafter. Compliance by Respondent shall include completion of any activity under

this CA/FO in a manner acceptable to EPA and within the specified time schedules in and approved under this CA/FO.

76. Stipulated penalties shall begin to accrue on the day after performance is due and shall continue to accrue through the final day until performance is complete. Respondent shall pay stipulated penalties within fifteen (15) days of receipt of a written demand by EPA for such penalties. Payment of stipulated penalties shall be made in accordance with the procedure set forth for payment of penalties in Section G of the CA/FO.

77. If a stipulated penalty is not paid in full, interest shall begin to accrue on the unpaid balance at the end of the fifteen-day period at the current rate published by the United States Treasury, as described at 40 C.F.R. § 13.11. EPA reserves the right to take any additional action, including but not limited to, the imposition of civil penalties, to enforce compliance with this CA/FO or with the CAA and its implementing regulations.

78. The payment of stipulated penalties specified in this Section shall not be deducted by Respondent or any other person or entity for federal, state, or local taxation purposes.

79. Notwithstanding any other provision of this section, EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this CA/FO.

I. RESERVATION OF RIGHTS

80. Except as addressed in this CA/FO, EPA hereby reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, including the right to require that Respondent perform tasks in addition to those required by this CA/FO. EPA further reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, which may pertain to Respondent's failure to comply with any of the requirements of this CA/FO, including without limitation, the assessment of penalties under the CAA or any other statutory,

regulatory, or common law enforcement authority of the United States. This CA/FO shall not be construed as a covenant not to sue, release, waiver or limitation of any rights, remedies, powers or authorities, civil or criminal, which EPA has under the CAA, or any other statutory, regulatory, or common law enforcement authority in the United States.

81. Compliance by Respondent with the terms of this CAFO shall not relieve Respondent of its obligations to comply with the CAA, or any other applicable local, state, tribal, or federal laws and regulations. This CA/FO is not intended to be nor shall it be construed as a permit. This CA/FO does not relieve Respondent of any obligation to obtain and comply with any local, state, tribal, or federal permits nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, tribal, state, or local permit.

82. The entry of this CA/FO and Respondent's consent to comply shall not limit or otherwise preclude EPA from taking additional enforcement action should EPA determine that such actions are warranted except as it relates to those matters resolved by this CA/FO. Respondent's full compliance with this CA/FO shall only resolve Respondent's liability for federal civil penalties for the violations and facts alleged in this CA/FO.

83. EPA reserves its right to seek reimbursement from Respondent for such additional costs as may be incurred by the United States in the event of delay of performance as provided by this CA/FO.

J. MISCELLANEOUS

84. This CA/FO may be amended or modified only by written agreement executed by both EPA and Respondent.

85. The headings in this CA/FO are for convenience of reference only and shall not affect interpretation of this CA/FO.

86. Each party to this action shall bear its own costs and attorneys' fees.
87. Respondent consents to entry of this CA/FO without further notice.

K. EFFECTIVE DATE

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

IT IS SO AGREED

Respondent AMPAC Fine Chemicals, LLC

DATE: 3/11/2021

BY: 
Ella Iott
Executive Director, Safety, Health & Environmental

In the Matter of AMPAC Fine Chemicals, LLC
Consent Agreement and Final Order

United States Environmental Protection Agency, Region 9

BY: **AMY MILLER-
BOWEN**


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

Digitally signed by AMY MILLER-
BOWEN
Date: 2022.04.19 12:29:58 -07'00'

FINAL ORDER

IT IS HEREBY ORDERED that this Consent Agreement and Final Order (“CA/FO”) in the Matter of AMPAC Fine Chemicals, LLC (Docket No. CAA (112r)-09-2022-0031) be entered and that Respondent pay a civil penalty in the amount of FIFTY-FIVE THOUSAND THREE HUNDRED SIXTEEN DOLLARS (\$55,316.00) in accordance with the terms of this CA/FO.

**STEVEN
JAWGIEL**

 Digitally signed by STEVEN
JAWGIEL
Date: 2022.04.25 12:53:18
-07'00'

Steven L. Jawgiel
Regional Judicial Officer
U.S. EPA, Region IX

CERTIFICATE OF SERVICE

This is to certify that the original of the fully executed Consent Agreement and Final Order in the matter of AMPAC Fine Chemicals, LLC (Docket No. CAA(112r)-09-2022-0031) was filed with the Regional Hearing Clerk and that a true and correct copy of the same was sent to the following parties.

RESPONDENT:
(Via Electronic Mail)

Chris Conley
Vice President
AMPCA Fine Chemicals, LLC
chris.conley@apfc.com

Darrin Gambelin
Downey Brand
dgambelin@downeybrand.com

COMPLAINANT:
(Via Electronic Mail)

Ylan Nguyen, Esq.
Office of Regional Counsel
U.S. EPA, Region IX
nguyen.ylan@epa.gov

Ponly Tu
Regional Hearing Clerk
Office of Regional Counsel
U.S. EPA, Region IX