

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)	DOCKET NO. EPCRA-10-2025-0077
)	
OREGON POTATO COMPANY,)	CONSENT AGREEMENT
D/B/A FREEZEPACK,)	
)	
Pasco, Washington,)	
)	
Respondent.)	

STATUTORY AUTHORITY

1.1. This Consent Agreement is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 325 of the Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. § 11045, and Section 109 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9609.

1.2. Pursuant to Section 325 of EPCRA, 42 U.S.C. § 11045, and Section 109 of CERCLA, 42 U.S.C. § 9609, and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties," 40 C.F.R. Part 22, EPA issues, and Oregon Potato Company ("Respondent") agrees to issuance of, the Final Order attached to this Consent Agreement ("Final Order").

PRELIMINARY STATEMENT

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

2.2. The Director of the Enforcement and Compliance Assurance Division, EPA Region 10 ("Complainant") has been delegated the authority pursuant to Section 325 of EPCRA, 42 U.S.C. § 11045, and Section 109 of CERCLA, 42 U.S.C. § 9609, to sign consent agreements between EPA and the party against whom an administrative penalty for violations of EPCRA and CERCLA are proposed to be assessed.

2.3. Part III of this Consent Agreement contains a concise statement of the factual and legal basis for the alleged violations of EPCRA and CERCLA together with the specific provisions of EPCRA and CERCLA and the implementing regulations that Respondent is alleged to have violated.

ALLEGATIONS

A. Statutory and Regulatory Background

3.1 Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), and 40 C.F.R. § 302.6 require the person in charge of a facility to immediately notify the National Response Center ("NRC") as soon as she has knowledge of a release of a hazardous substance from such facility in an amount equal to or greater than the reportable quantity over any 24-hour period, as listed in 40 C.F.R. § 302.4.

3.2 Under Section 304(a) and (b) of EPCRA, 42 U.S.C. § 11004(a) and (b), and 40 C.F.R. Part 355, if a release of an extremely hazardous substance in an amount equal to or greater than the reportable quantity occurs from a facility at which a hazardous chemical is produced, used, or stored, and the release requires, or occurred in a manner that would require, notice under Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), the owner or operator of the facility shall immediately notify the State Emergency Response Commission ("SERC") of any state likely to be affected by the release and the Local Emergency Planning Committee ("LEPC") for any area likely to be affected by the release.

3.3 Under Section 304(c) of EPCRA, 42 U.S.C. § 11004(c), and 40 C.F.R. Part 355, the owner or operator of the facility must provide a written follow-up emergency notice (or notices, as more information becomes available) to the SERC and LEPC as soon as practicable after a release which required notice under Section 304(a) of EPCRA, 42 U.S.C. § 11004(a).

3.4 Under Section 101(9) of CERCLA, 42 U.S.C. § 9601(9), "facility" means, among other things, any building, structure, installation, equipment, or any site or area where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located.

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

3.6 Under Section 101(20)(A)(ii) of CERCLA, 42 U.S.C. § 9601(20)(A)(ii), "owner or operator" is defined, in relevant part, to mean, "in the case of an onshore facility or an offshore facility, any person owning or operating such facility."

3.7 Under Section 101(21) of CERCLA, 42 U.S.C. § 9601(21), and Section 329(7) of EPCRA, 42 U.S.C. § 11049(7), "person" means, *inter alia*, any individual, corporation, or partnership.

3.8 Subject to certain exclusions not relevant here, Section 101(22) of CERCLA, 42 U.S.C. § 9601(22), defines "release" as any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment.

3.9 Under Section 329(8) of EPCRA, 42 U.S.C. § 11049(8), "release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles) of any hazardous chemical, extremely hazardous substance or toxic chemical.

3.10 Ammonia is an "extremely hazardous substance" listed in Appendices A and B of 40 C.F.R. Part 355 with a reportable quantity of 100 pounds over any continuous 24-hour period and is, therefore, an Extremely Hazardous Substance under 40 C.F.R. § 370.66.

B. General Allegations

3.11 Respondent a "person" as that term is defined under Section 101(21) of CERCLA, 42 U.S.C. § 9601(21) and Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

3.12 At all times relevant to the allegations set forth herein, Respondent was the owner and operator of a facility located at 302 North Venture Road, Pasco, Washington (“Facility”).

3.13 The Facility is a "facility" as that term is defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9) and Section 329(4) of EPCRA, 42 U.S.C. § 11049(4).

3.14 Respondent produced, used, or stored ammonia at the Facility and released a reportable quantity of an EHS, ammonia.

3.15 On or about August 31, 2022, a “release,” as that term is defined by Section 329(8) of EPCRA, 42 U.S.C. § 11049(8), of ammonia in excess of 100 pounds occurred at the Facility (the release).

3.16 At all times relevant to this Consent Agreement, and for the purposes of providing notice under Section 304(a) and (c) of EPCRA, 42 U.S.C. § 11004(a) and (c), the Washington State Department of Ecology was the SERC for Washington, and Franklin County Emergency Management was the LEPC for Franklin County.

3.17 As a result of the information obtained by EPA and subsequent investigation, Complainant has determined that Respondent has violated the reporting requirements of Section 304 of EPCRA, 42 U.S.C. § 11004 and Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

C. Violations

Count 1: Failure to immediately notify the NRC as required by CERCLA § 103.

3.18 On August 31, 2022, a release occurred from the Facility that resulted in approximately 305-350 pounds of ammonia emitted to the air over a 24-hour period.

3.19 The release was a “release” as that term is defined under Section 101(22) of CERCLA, 42 U.S.C. § 9601(22), and Section 329(8) of EPCRA, 42 U.S.C. § 11049(8).

3.20 The release surpassed the reportable quantity for ammonia.

3.21 Respondent had knowledge that the release surpassed the reportable quantity for ammonia on August 31, 2022, no later than 13:04 PT/16:04 ET.

3.22 The release required immediate notification under Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), thus requiring immediate notification under Section 304(a) of EPCRA, 42 U.S.C. 11004(a).

3.23 Respondent reported the release to the NRC on August 31, 2022, at 15:33 PT/18:33 ET.

3.24 By failing to immediately notify the NRC as soon as Respondent knew or should have known that the release was of an amount equal to or greater than the reportable quantity, Respondent violated Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), and 40 C.F.R. § 302.6.

Count 2: Failure to immediately notify the SERC as required by EPCRA § 304(a).

3.25 On August 31, 2022, a release occurred from the Facility that resulted in approximately 305-350 pounds of ammonia emitted to the air over a 24-hour period.

3.26 The release was a “release” as that term is defined under Section 101(22) of CERCLA, 42 U.S.C. § 9601(22), and Section 329(8) of EPCRA, 42 U.S.C. § 11049(8).

3.27 The release surpassed the reportable quantity for ammonia.

3.28 Respondent had knowledge that the release surpassed the reportable quantity for ammonia on August 31, 2022, no later than 13:04 PT/16:04 ET.

3.29 The release required immediate notification under Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), thus requiring immediate notification under Section 304(a) of EPCRA, 42 U.S.C. 11004(a).

3.30 Respondent did not immediately notify the SERC of the release.

3.31 By failing to immediately notify the SERC as soon as Respondent knew or should have known that the release was of an amount equal to or greater than the reportable quantity, Respondent violated Section 304(a) of EPCRA, 42 U.S.C. § 11004(a), and 40 C.F.R. §§ 355.42(a) and 355.43(a).

Count 3: Failure to immediately notify the LEPC as required by EPCRA § 304(a).

3.32 On August 31, 2022, a release occurred from the Facility that resulted in approximately 305-350 pounds of ammonia emitted to the air over a 24-hour period.

3.33 The release was a “release” as that term is defined under Section 101(22) of CERCLA, 42 U.S.C. § 9601(22), and Section 329(8) of EPCRA, 42 U.S.C. § 11049(8).

3.34 The release surpassed the reportable quantity for ammonia.

3.35 Respondent had knowledge that the release surpassed the reportable quantity for ammonia on August 31, 2022, no later than 13:04 PT/16:04 ET.

3.36 The release required immediate notification under Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), thus requiring immediate notification under Section 304(a) of EPCRA, 42 U.S.C. 11004(a).

3.37 Respondent did not immediately notify the LEPC of the release.

3.38 By failing to immediately notify the LEPC as soon as Respondent knew or should have known that the release was of an amount equal to or greater than the reportable quantity, Respondent violated Section 304(a) of EPCRA, 42 U.S.C. § 11004(a), and 40 C.F.R. §§ 355.42(a) and 355.43(a).

Count 4: Failure to timely submit the follow-up notice to the SERC as required by
EPCRA § 304(c).

3.39 On August 31, 2022, a release occurred from the Facility that resulted in approximately 305-350 pounds of ammonia emitted to the air over a 24-hour period.

3.40 The release was a “release” as that term is defined under Section 101(22) of CERCLA, 42 U.S.C. § 9601(22), and Section 329(8) of EPCRA, 42 U.S.C. § 11049(8).

3.41 The release surpassed the reportable quantity for ammonia.

3.42 Respondent had knowledge that the release surpassed the reportable quantity for ammonia on October 5, 2022, no later than 13:04 PT/16:04 ET.

3.43 Respondent was required to provide notice to the SERC under Section 304(a) of EPCRA, 42 U.S.C. § 11004(a), as a result of the release. Therefore, pursuant to Section 304(c) of EPCRA, 42 U.S.C. § 11004(c), Respondent was required to provide a written follow-up emergency notice to the SERC as soon as practicable after the release.

3.44 Respondent failed to timely provide a written follow-up emergency notice to the SERC. Respondent submitted the notice to the SERC on April 18, 2025.

3.45 Respondent's failure to provide a written follow-up emergency notice to the SERC as soon as practicable after the release is a violation of Section 304(c) of EPCRA, 42 U.S.C. § 11004(c).

Count 5: Failure to timely submit the follow-up notice to the LEPC as required by
EPCRA § 304(c).

3.46 On August 31, 2022, a release occurred from the Facility that resulted in approximately 305-350 pounds of ammonia emitted to the air over a 24-hour period.

3.47 The release was a “release” as that term is defined under Section 101(22) of CERCLA, 42 U.S.C. § 9601(22), and Section 329(8) of EPCRA, 42 U.S.C. § 11049(8).

3.48 The release surpassed the reportable quantity for ammonia.

3.49 Respondent had knowledge that the release surpassed the reportable quantity for ammonia on August 31, 2022, no later than 13:04 PT/16:04 ET.

3.50 Respondent was required to provide notice to the LEPC under Section 304(a) of EPCRA, 42 U.S.C. § 11004(a), as a result of the release. Therefore, pursuant to Section 304(c) of EPCRA, 42 U.S.C. § 11004(c), Respondent was required to provide a written follow-up emergency notice to the LEPC as soon as practicable after the release.

3.51 Respondent failed to timely provide a written follow-up emergency notice to the LEPC. Respondent submitted the notice to the LEPC on April 18, 2025.

3.52 Respondent's failure to provide a written follow-up emergency notice to the LEPC as soon as practicable after the release is a violation of Section 304(c) of EPCRA, 42 U.S.C. § 11004(c).

3.53 Under Section 325 of EPCRA, 42 U.S.C. § 11045, Section 109 of CERCLA, 42 U.S.C. § 9609, and 40 C.F.R. Part 19, EPA may assess a civil penalty of not more than \$69,733 per violation.

TERMS OF SETTLEMENT

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

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

4.3. In determining the amount of penalty to be assessed, EPA has taken into account the factors specified in Section 325(b) of EPCRA, 42 U.S.C. § 11045(b), and Section 109(a)(3) of CERCLA, 42 U.S.C. § 9609(a)(3). After considering these factors, EPA has determined and Respondent agrees that an appropriate penalty to settle this action is \$65,000 (the “Assessed Penalty”), \$13,000 of which reflects violations of CERCLA, and \$52,000 of which reflects violations of EPCRA.

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

4.5. Payments under this Consent Agreement and the Final Order may be paid by check (mail or overnight delivery), wire transfer, ACH, or online payment. Payment instructions are available at: www.epa.gov/financial/makepayment and www.epa.gov/financial/additional-instructions-making-payments-epa. Payments made by check must be payable to the order of “Treasurer, United States of America” and delivered to the following address:

*Address format for standard delivery
(no delivery confirmation requested):*

U.S. Environmental Protection Agency
P.O. Box 979078
St. Louis, MO 63197-9000

*Address format for signed receipt confirmation
(FedEx, DHL, UPS, USPS certified, registered,
etc):*

U.S. Environmental Protection Agency
Government Lockbox 979078
3180 Rider Trail S.
Earth City, MO 63045

Respondent must note on the check the title and docket number of this action. Respondent must also include a note with the payment indicating that \$13,000 is for the CERCLA penalty and \$52,000 is for the EPCRA penalty.

4.6. Concurrently with payment or within 24 hours of any payment, Respondent must serve photocopies of the check, or proof of other payment method, to the following persons:

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

Erin Williams
U.S. Environmental Protection Agency, Region 10
Via electronic mail to:
Williams.erin@epa.gov

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

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

4.7. If Respondent fails to pay any portion of the Assessed Penalty, the entire unpaid balance of the Assessed Penalty and accrued interest shall become immediately due and owing. If such a failure to pay occurs, Respondent may be subject to a civil action under Section 325(f)(1) of EPCRA, 42 U.S.C. § 11045(f)(1), and/or Section 109 of CERCLA, 42 U.S.C. § 9609, to collect any unpaid penalties, together with interest, handling charges, and nonpayment penalties, as set forth below.

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

a. Interest. To protect the interests of the United States, any unpaid portion of the Assessed Penalty shall bear interest at the rate set at the Internal Revenue Service (“IRS”) large corporate underpayment rate applicable on the effective date of the Final Order and non-variable throughout the period of nonpayment, provided, however, that no interest shall be payable on any portion of the Assessed Penalty that is paid within 30 days of the effective date of the Final Order contained herein.

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

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

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

4.10. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the IRS annually, a completed IRS Form 1098-F (“Fines, Penalties, and Other Amounts”) with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor’s violation of any law or the investigation or inquiry into the payor’s potential violation of any law, including amounts paid for “restitution or remediation of property” or to come “into compliance with a law.” EPA is further required to

furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number (“TIN”), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide EPA with sufficient information to enable it to fulfill these obligations, Respondent shall complete the following actions, as applicable.

- a. Respondent shall complete an IRS Form W-9 (“Request for Taxpayer Identification Number and Certification”), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>.
- b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent’s correct TIN or that Respondent has applied and is waiting for issuance of a TIN.
- c. Respondent shall email its completed Form W-9 to EPA’s Cincinnati Finance Division at Henderson.Jessica@epa.gov, within 30 days after the Final Order ratifying this Agreement is filed, and EPA recommends encrypting IRS Form W-9 email correspondence.
- d. In the event that Respondent has certified in its completed IRS Form W-9 that it does not yet have a TIN but has applied for a TIN, Respondent shall provide EPA’s Cincinnati Finance Division with Respondent’s TIN, via email, within five days of Respondent’s receipt of a TIN issued by the IRS.

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

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

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

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

4.15. By signing this consent agreement, Respondent waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the final order accompanying the consent agreement.

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

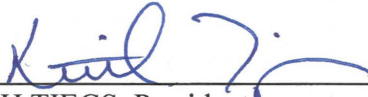
4.17. Respondent consents to the issuance of any specified compliance or corrective action order, to any conditions specified in this consent agreement, and to any stated permit action.

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

DATED:

5.14.25

FOR RESPONDENT:



KEITH TIEGS, President
Oregon Potato Company d/b/a FreezePack

FOR COMPLAINANT:

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

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)	DOCKET NO. EPCRA-Docket #
)	
OREGON POTATO COMPANY,)	FINAL ORDER
D/B/A FREEZEPACK,)	
)	
Pasco, Washington,)	
)	
Respondent.)	

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

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

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

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

IT IS SO ORDERED.

Regional Judicial Officer
EPA Region 10

Certificate of Service

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER, In the Matter of: Oregon Potato Company D/B/A FreezePack, Docket No.: EPCRA-10-2025-0077**, was filed with the Regional Hearing Clerk and that a true and correct copy was served on the date specified below to the following addressees via electronic mail:

Shannon Rebersak
U.S. Environmental Protection Agency
Region 10, Mail Stop11-C07
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101

rebersak.shannon@epa.gov

Keith Tiegs
President
Oregon Potato Company
6610 West Court Street, Suite B
P.O. Box 3110
Pasco, Washington 99302

keith@ftiegs.com

Regional Hearing Clerk
EPA Region 10