U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD
LENEXA, KANSAS 66219

BEFORE THE ADMINISTRATOR

In the Matter of	)	
	)	
Southwest Iowa Renewable Energy, LLC,	)	**Docket No. MM-07-2025-0194**
	)	
Respondent.	)	

CONSENT AGREEMENT AND FINAL ORDER

Preliminary Statement

The U.S. Environmental Protection Agency, Region 7 (EPA or Complainant), and Southwest Iowa Renewable Energy, LLC (Respondent) 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) 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).

Jurisdiction

1. This proceeding is an administrative action for the assessment of civil penalties initiated pursuant to Section 113(d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(d), and Section 325(c)(1) of the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. § 11045(c)(1). 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 first date of alleged violation occurred more than twelve months prior to the initiation of the administrative action, was appropriate for administrative penalty action.

2. This Consent Agreement and Final Order serves as notice that the EPA has reason to believe that Respondent has violated Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and Sections 311 and 312 of EPCRA, 42 U.S.C. §§ 11021-22. Furthermore, this Consent Agreement and Final Order serves as notice pursuant to Section 113(d)(2)(A) of the CAA, 42 U.S.C. § 7413(d)(2)(A), of the EPA's intent to issue an order assessing penalties for these violations.

Parties

3. Complainant is the Director of the Enforcement and Compliance Assurance Division, Region 7, as duly delegated by the Administrator of EPA.

4. Respondent is Southwest Iowa Renewable Energy, LLC, a limited liability corporation in good standing under the laws of the state of Iowa, which owns and operates the ethanol manufacturing facility located at 10868 189th Street in Council Bluffs, Iowa (Respondent's Facility).

Statutory and Regulatory Background

CAA

5. 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 chemical accident prevention regulations mandated by Section 112(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.

6. On June 20, 1996, the EPA promulgated a final rule known as the Risk Management Program, 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 prevention program, and coordination of emergency response activities.

7. The regulations at 40 C.F.R. Part 68, titled Chemical Accident Prevention Provisions, set forth the requirements of a risk management program that must be established at each stationary source. The risk management program is described in a Risk Management Plan ("RMP") that must be submitted to the EPA.

8. Pursuant to Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 C.F.R. § 68.150, an RMP 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.

9. The regulations at 40 C.F.R. § 68.10 set forth how the Chemical Accident Prevention Provisions apply to covered processes. Pursuant to 40 C.F.R. § 68.10(l), 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(j), and it either falls under a specified North American Industry Classification System code or is subject to the OSHA process safety management standard, 29 C.F.R. § 1910.119.

10. Section 113(d) of the CAA, 42 U.S.C. § 7413(d), states that the Administrator may issue an administrative order against any person assessing a civil administrative penalty of up to $25,000 per day of violation whenever, on the basis of any available information, the

Administrator finds that such person has violated or is violating any requirement or prohibition of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and its implementing regulations. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, as amended, and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, 28 U.S.C. § 2461, and implementing regulations at 40 C.F.R. Part 19, increased these statutory maximum penalties to $59,114 for violations that occur after November 2, 2015, and for which penalties are assessed on or after January 8, 2025.

EPCRA

11. Sections 311 and 312 of EPCRA, 42 U.S.C. § 11021-22, assist state commissions, local emergency planning committees, and fire departments in planning for emergencies and makes information on chemical presence and hazards available to the public. A delay in reporting could result in harm to human health and the environment.

12. Section 311(a) of EPCRA, 42 U.S.C. § 11021(a), and its implementing regulations at 40 C.F.R. Part 370, require the owner or operator of a facility which is required by OSHA to prepare or have available a material safety data sheet (SDS) for each hazardous chemical present on-site at or above the reporting threshold to submit the SDS, or list of such chemicals, pursuant to Section 311(a)(2), to the appropriate local emergency planning committee (LEPC), the State Emergency Response Commission (SERC), and the fire department with jurisdiction over the facility.

13. Section 312(a) of EPCRA, 42 U.S.C. § 11022(a), and its implementing regulations at 40 C.F.R. Part 370, require the owner or operator of a facility which is required by the Occupational Safety and Health Act of 1970 to prepare or have available an SDS for a hazardous chemical, to prepare and submit to the SERC, community emergency coordinator for the LEPC, and fire department with jurisdiction over the facility annually by March 1, an emergency and hazardous chemical inventory form ("Tier I or "Tier II" as described in 40 C.F.R. Part 370) for the previous calendar year. The form must contain the information required by Section 312(d) of EPCRA, covering all hazardous chemicals present at the facility at any one time during the preceding year in amounts equal to or exceeding 10,000 pounds and all extremely hazardous chemicals present at the facility at any one time in amounts equal to or greater than 500 pounds or the threshold planning quantity designated by EPA at 40 C.F.R. Part 355, Appendices A and B, whichever is lower.

14. Section 325(c)(1) of EPCRA, 42 U.S.C. § 11045(c)(1), authorizes the Administrator to assess a civil penalty of up to $25,000 per day of violation for violations of Section 312 of EPCRA. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, as amended, and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, 28 U.S.C. § 2461, and implementing regulations at 40 C.F.R. Part 19, increased these statutory maximum penalties to $71,545 for violations that occur after November 2, 2015, and for which penalties are assessed on or after January 8, 2025.

15. Section 325(c)(2) of EPCRA, 42 U.S.C. § 11045(c)(2), authorizes the Administrator to assess a civil penalty of up to $10,000 per day of violation for violations of

Section 311 of EPCRA. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, as amended, and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, 28 U.S.C. § 2461, and implementing regulations at 40 C.F.R. Part 19, increased these statutory maximum penalties to $28,619 for violations that occur after November 2, 2015, and for which penalties are assessed on or after January 8, 2025.

Definitions

CAA

16. 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.

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

18. 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.

19. The regulations at 40 C.F.R. § 68.3 define "regulated substance" as any substance listed pursuant to Section 112(r)(3) of the CAA, as amended, in 40 C.F.R. § 68.130.

20. 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, 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.

21. The regulations at 40 C.F.R. § 68.3 define "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 are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release, shall be considered a single process.

EPCRA

22. Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), defines "facility" as 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 and operated by the same person.

23. Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), which certain exceptions, defines the term "hazardous chemicals" as having the meaning giving such term by 29 C.F.R. § 1910.1200(c).

24. Under 29 C.F.R. § 1910.1200(c), a hazardous chemical is any chemical which is classified as a physical or health hazard, a simple asphyxiant, combustible dust, pyrophoric gas, or hazard not otherwise classified.

25. Section 329(7) of EPCRA, 42 U.S.C. § 11049(7), defines "person" as any individual, trust, firm, joint stock company, corporation, partnership association, State, municipality, commission, political subdivision of a State, or interstate body.

General Factual Allegations

26. Respondent is, and at all times referred to herein was, 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. § 1049(7).

27. Respondent is the owner and operator of the Facility referenced in Paragraph 4, above, which is a "stationary source" pursuant to Section 112(r)(2)(C) of the CAA and 40 C.F.R. § 68.3.

28. A mixture of hydrocarbon liquids butane, isopentane, and pentane is a "regulated substance" pursuant to 40 C.F.R. § 68.3. Pursuant to 40 C.F.R. § 68.115(b)(2)(i), the entire weight of the mixture shall be treated as the regulated substance when the concentration of each of the regulated substances is 1% or greater by weight of the total concentration of the flammable mixture. The threshold quantity for the flammable mixture of hydrocarbon liquids of butane, isopentane, and pentane, as listed in 40 C.F.R. § 68.130, is 10,000 pounds.

29. On or about August 13-14, 2024, representatives of the EPA conducted an inspection of Respondent's Facility to determine compliance with Section 112(r) of the CAA and 40 C.F.R. Part 68, and with the hazardous chemical reporting requirements of EPCRA.

30. Information gathered during the EPA inspection revealed that Respondent stores flammable mixtures of hydrocarbon liquids in a tank and piping, including a flammable mixture of butane, isopentane, and pentane, and therefore is engaged in a process at its facility.

31. Information gathered during the EPA inspection revealed that Respondent had greater than 10,000 pounds of a flammable mixture containing Butane, Isopentane [Butane, 2-methyl-], and Pentane in a process at its facility.

32. From the time Respondent first had onsite greater than 10,000 pounds of flammable mixture of hydrocarbon liquids in a process, Respondent was subject to the requirements of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and 40 C.F.R. Part 68 because it was an owner and operator of a stationary source that had more than a threshold quantity of a regulated substance in a process.

33. From the time Respondent first had onsite greater than 10,000 pounds of flammable mixture of hydrocarbon liquids in a process, Respondent was subject to Program 3 prevention program requirements because pursuant to 40 C.F.R. § 68.10(l), the covered process at its facility did not meet the eligibility requirements of Program 1 and was subject to the OSHA process safety management standard, 29 C.F.R. § 1910.119.

34. From the time Respondent first had onsite greater than 10,000 pounds of flammable mixture of hydrocarbon liquids in a process, Respondent was required under Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), to submit an RMP pursuant to 40 C.F.R. § 68.12(a) and comply with the Program 3 requirements provided at 40 C.F.R. § 68.12(d) and detailed in Subpart D.

35. Respondent's Facility consists of buildings, equipment structures, and other stationary items which are located on a single site or on contiguous or adjacent sites and are owned and operated by the same person, and therefore, are a "facility" as defined by Section 329(4) of EPCRA, 42 U.S.C. § 11049(4).

36. During at least one period of time during calendar years 2021, 2022, and 2023, the following chemicals and amounts were present at Respondent's Facility:

Chemical	Year	Maximum Known Quantity (Pounds)
XC-YB	2021	24,200
KX-8145	2021	11,335
	2022	11,335
	2023	11,335
Trimeta Phreedom	2021	16,591
	2022	22,122
	2023	22,122
CorrPro NT	2021	12,920
	2022	11,537
	2023	12,850
AMYL XT	2022	45,550
	2023	45,864
Strive Max	2022	45,908
	2023	45,930
XT-SR	2022	11,000
Fiberex F2X	2022	26,400
	2023	26,400
Trimeta Shield	2022	11,365
	2023	11,365

37. The chemicals identified in Paragraph 36, above, are each classified as a physical or health hazard, a simple asphyxiant, combustible gas, or hazard not otherwise classified and are therefore each a "hazardous chemical" within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e) and 29 C.F.R. § 19.1200(c), with a minimum threshold level of 10,000 pounds, as set forth in Section 312 of EPCRA and 40 C.F.R. § 370.10(a)(2).

38. OSHA requires Respondent to prepare, or have available, an SDS for each hazardous chemical listed in Paragraph 36, above.

Allegations of Violation

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

Count 1 – Hazard Assessment

40. The facts stated in Paragraphs 26 through 38 above are herein incorporated.

41. The regulation at 40 C.F.R. § 68.12(d)(2) requires the owner or operator of a stationary source subject to the Chemical Accident Prevention Provisions, 40 C.F.R. Part 68, with a process subject to Program 3, to conduct a hazard assessment as provided in 40 C.F.R. §§ 68.20 through 68.42.

42. The EPA inspection revealed that Respondent failed to conduct a hazard assessment as provided in 40 C.F.R. §§ 68.20 through 68.42. Specifically:

(a) Respondent failed to calculate the worst-case release quantity based on the greatest amount held in a single vessel, taking into account administrative controls that limit the maximum quantity, as required by 40 C.F.R. § 68.25(b)(1).

(b) Respondent failed to identify and analyze at least one alternative release scenario to represent all flammable substances held in a covered process, as required by 40 C.F.R. § 68.28(a).

43. Respondent's failures to comply with the hazard assessment requirements of 40 C.F.R. §§ 68.20 to 68.42, as required by 40 C.F.R. § 68.12(d)(2), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Count 2 – Program 3 Prevention Requirements

44. The facts stated in Paragraphs 26 through 38 above are herein incorporated.

45. The regulation at 40 C.F.R. § 68.12(d)(3) requires the owner or operator of a stationary source with a process subject to Program 3 to implement the Program 3 prevention requirements of 40 C.F.R. §§ 68.65 through 68.87.

46. The EPA inspection revealed that Respondent failed to implement the Program 3 prevention requirements of 40 C.F.R. §§ 68.65 through 68.87, as required by 40 C.F.R. § 68.12(d)(3). Specifically:

(a) Respondent failed to ensure and document that the process is designed and maintained in compliance with recognized and generally accepted good engineering practices, as required by 40 C.F.R. § 68.65(d)(2). Respondent did not have a hazard label on a denaturant tank containing flammable liquids, which is an industry standard identified by the National Fire Protection Association (NFPA) standard 704.

(b) Respondent failed to update and revalidate its Process Hazard Analysis at least every five (5) years, as required by 40 C.F.R. § 68.67(f). Respondent's most recent PHA was over ten (10) months late.

(c) Respondent failed to develop and implement written operating procedures that provide clear instructions for safely conducting activities involved in the covered process, including the steps for each operating phase, operating limits, safety and health considerations, and safety systems and their functions, as required by 40 C.F.R. § 68.69(a)(1)-(4). Respondent did not include each operating phase, operating limits, safety and health considerations, and safety systems and functions in its written operating procedures.

(d) Respondent failed to certify annually that the operating procedures of the covered process are current and accurate, as required by 40 C.F.R. § 68.69(c). Respondent did not certify annually the following:

i. Denaturant truck offloading operating procedures in 2020, 2021, and 2023;
ii. Ethanol tank car loading checklists in 2020, 2021, 2022, and 2023;
iii. Rail car loading of ethanol operating procedures in 2020, 2021, and 2022.

(e) Respondent failed to establish and implement written procedures to maintain the ongoing integrity of process equipment, as required by 40 C.F.R. § 68.73(b). Respondent's Mechanical Integrity Program requires annual inspection of Pressure Safety Valves (PSVs), but PSVs were not included in the most recent Mechanical Integrity inspection dated April 28, 2024.

(f) Respondent failed to perform and certify appropriate compliance audits at least every three years, as required by 40 C.F.R. § 68.79(a). Respondent failed to certify its 2022 compliance audit.

(g) Respondent failed to develop a report of the findings of the audit, as required by 40 C.F.R. § 68.79(c). Respondent failed to develop a report of the findings of its 2022 compliance audit.

(h) Respondent failed to promptly determine and document an appropriate response to each of the findings of the compliance audit, and document that deficiencies have been corrected, as required by 40 C.F.R. § 68.79(d). Respondent failed to determine and document an appropriate response to each of the findings of its 2022 compliance audit.

47. Respondent's failures to comply with Program 3 prevention requirements of 40 C.F.R. §§ 68.65 through 68.87, as required by 40 C.F.R. § 68.12(d)(3), violate Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Count 3 – Failure to Submit SDS or List

48. The facts stated in Paragraphs 26 through 38 above are herein incorporated.

49. Respondent was required to submit an SDS or list for four (4) chemicals in 2021 (XC-YB; KX-8145; Trimeta Phreedom; CorrPro NT) and five (5) chemicals in 2022 (AMYL XT; Strive Max; XT-SR; Fiberex F2X; Trimeta Shield), with the maximum known quantities listed in Paragraph 36, above, to the SERC, LEPC and local fire department, as required by Section 311(a) of EPCRA, 42 U.S.C. § 11021(a), and the implementing regulations at 40 C.F.R. Part 370.

50. The EPA inspection revealed the Respondent did not submit an SDS for the hazardous chemicals identified in Paragraph 49, above, for which an SDS is required under OSHA that was present at or above the threshold to the three response entities.

51. Respondent's failures to submit an SDS for any hazardous chemicals to the SERC, community emergency coordinator for the LEPC, and fire department with jurisdiction over the facility, as required by 40 C.F.R. § 370.30(a), are violations of Section 311(a) of EPCRA, 4 U.S.C. § 11021(a).

Count 4 – Failure to Submit Tier II Form

52. The facts stated in Paragraph 26 through 38 above are herein incorporated.

53. Respondent was required to submit to the SERC, LEPC, and local fire department, on or before March 1 of the subsequent year in which the chemical was present at or above the threshold quantity, a completed emergency and hazardous chemical inventory form including four (4) chemicals in 2021 (XC-YB; KX-8145; Trimeta Phreedom; CorrPro NT), eight (8) chemicals in 2022 (KX-8145; Trimeta Phreedom; CorrPro NT; AMYL XT; Strive Max; XT-SR; Fiberex F2X; Trimeta Shield), and seven (7) chemicals in 2023 (KX-8145; Trimeta Phreedom; CorrPro NT; AMYL XT; Strive Max; Fiberex F2X; Trimeta Shield), with maximum

known quantities listed in Paragraph 36, above, pursuant to Section 312(a) of EPCRA, 42 U.S.C. § 11022(a), and its implementing regulations at 40 C.F.R. Part 370.

54. The EPA inspection revealed that Respondent did not include the chemicals as identified in Paragraph 53, above, in its 2021, 2022, or 2023 emergency and hazardous chemical inventory forms to the three response entities.

55. Respondent's failures to submit emergency and hazardous chemical inventory forms to the SERC, community emergency coordinator for the LEPC, and fire department with jurisdiction over the facility for each of the chemicals identified in Paragraph 36, above, for calendar years 2021, 2022, and 2023 at its Facility, as required by 40 C.F.R. § 370.40(a), are violations of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

CONSENT AGREEMENT

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

(a) admits the jurisdictional allegations set forth herein;

(b) neither admits nor denies the specific factual allegations stated herein;

(c) consents to the assessment of a civil penalty, as stated herein;

(d) consents to the issuance of any specified compliance or corrective action order;

(e) consents to any conditions specified herein;

(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.

57. 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.

58. Respondent consents to the issuance of this Consent Agreement and Final Order and consents for the purposes of settlement to the payment of the civil penalty specified herein.

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

60. The parties consent to service of this Consent Agreement and Final Order electronically at the following e-mail addresses: *vetterick.kate@epa.gov* (for Complainant) and *ann.reis@sireethanol.com* and *mike.jerke@sireethanol.com* (for Respondent). Respondent understands that the Consent Agreement and Final Order will become publicly available upon filing.

Penalty Payment

61. Respondent agrees that, in settlement of the claims alleged herein, Respondent shall pay a civil penalty of One Hundred, Sixty-Nine Thousand, Six Hundred Thirty-Three dollars ($169,633).

62. Respondent shall pay the penalty within thirty (30) days of the effective date of the Final Order. Such payment shall identify Respondent by name and docket number and shall be by certified or cashier's check made payable to the "United States Treasury" and sent to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979078
St. Louis, Missouri 63197-9000

or by alternate payment method described at *http://www.epa.gov/financial/makepayment*.

63. A copy of the check or other information confirming payment shall simultaneously be sent to the following:

Regional Hearing Clerk
R7_Hearing_Clerk_Filings@epa.gov; and

Kate Vetterick, Attorney
vetterick.kate@epa.gov.

64. Respondent understands that its failure to timely pay any portion of the civil penalty may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest. In such case, interest shall begin to accrue on a civil or stipulated penalty from the date of delinquency until such civil or stipulated penalty and any accrued interest are paid in full. 31 C.F.R. § 901.9(b)(1). Interest will be assessed at a rate of the United States Treasury Tax and loan rates in accordance with 31 U.S.C. § 3717. Additionally, a charge will be assessed to cover the costs of debt collection including processing and handling costs, and a non-payment penalty charge on a per year, compounded annually basis will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. 31 U.S.C. § 3717(e)(2).

65. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service ("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). Respondent's failure to provide 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. To provide EPA with sufficient information to enable it to fulfill these obligations, Respondent herein agrees that:

(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 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 *sherrer.dana@epa.gov* within 30 days after the Final Order ratifying this Agreement is filed, and EPA recommends encrypting IRS Form W-9 email correspondence; and

(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 (5) days of Respondent's receipt of a TIN issued by the IRS.

Effect of Settlement and Reservation of Rights

66. Full payment of the penalty proposed in this Consent Agreement shall only resolve Respondent's liability for federal civil penalties for the violations alleged herein. Complainant reserves the right to take any enforcement action with respect to any other violations of the CAA or any other applicable law.

67. The effect of settlement described in the immediately preceding paragraph is conditioned upon the accuracy of Respondent's representations to the EPA, as memorialized in the paragraph directly below.

68. Respondent certifies by the signing of this Consent Agreement that it is presently in compliance with all requirements of the CAA and its implementing regulations.

69. 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 and Final Order does not waive, extinguish, or otherwise affect Respondent's obligation to comply with all applicable provisions of the CAA and regulations promulgated thereunder.

70. This Consent Agreement and Final Order constitutes an "enforcement response" as that term is used in EPA's *Clean Air Act Combined Enforcement Response Policy for Clean Air Act Sections 112(r)(1), 112(r)(7) and 40 C.F.R. Part 68* to determine Respondent's "full compliance history" under Section 113(e) of the CAA, 42 U.S.C. § 7413(e).

71. The EPCRA allegations in this Consent Agreement and Final Order constitute "prior violations" as that term is used in EPA's *Enforcement Response Policy for Sections 304, 311, and 312 of EPCRA and Section 103 of CERCLA* to determine Respondent's "prior enforcement history."

72. Complainant reserves the right to enforce the terms and conditions of this Consent Agreement and Final Order.

General Provisions

73. By signing this Consent Agreement, the undersigned representative of Respondent certifies that they are fully authorized to execute and enter into the terms and conditions of this Consent Agreement and have the legal capacity to bind the party they represent to this Consent Agreement.

74. This Consent Agreement shall not dispose of the proceeding without a final order from the Regional Judicial Officer or Regional Administrator ratifying the terms of this Consent Agreement. This Consent Agreement and Final Order shall be effective upon the filing of the Final Order by the Regional Hearing Clerk for EPA, Region 7. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

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

76. This Consent Agreement and Final Order 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 and Final Order.

RESPONDENT:
SOUTHWEST IOWA RENEWABLE ENERGY, LLC

Date: Aug 15, 2025

Signature

Mike Jerke

Name

CEO

Title

COMPLAINANT:
U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: _____

DAVID COZAD

Digitally signed by DAVID COZAD
Date: 2025.08.18 15:40:04 -05'00'

David Cozad
Director
Enforcement and Compliance Assurance Division

Date: _____

KATE VETTERICK

Digitally signed by KATE VETTERICK
Date: 2025.08.18 13:38:18 -05'00'

Kate Vetterick
Assistant Regional Counsel
U.S. Environmental Protection Agency, Region 7

FINAL ORDER

Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/ Termination or Suspension of Permits, 40 C.F.R. Part 22, the foregoing Consent Agreement resolving this matter is hereby ratified and incorporated by reference into this Final Order.

Respondent is ORDERED to comply with all of the terms of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(b), the effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

IT IS SO ORDERED.

KARINA BORROMEO
Digitally signed by KARINA BORROMEO
Date: 2025.08.19 11:42:26 -05'00'

Karina Borromeo
Regional Judicial Officer

Date

CERTIFICATE OF SERVICE

(to be completed by EPA)

I certify that that a true and correct copy of the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy via E-mail to Complainant:

Kate Vetterick, *vetterick.kate@epa.gov*,

Christina Gallick, *gallick.christina@epa.gov*,

Dave Hensley, *hensley.dave@epa.gov*,

Carrie Venerable, *venerable.carrie@epa.gov*.

Copy via E-mail to Respondent:

Ann Reis, *ann.reis@sireethanol.com,*

Mike Jerke, *mike.jerke@sireethanol.com.*

Dated this _____ day of _____, _____.

AMY GONZALES Digitally signed by AMY GONZALES
Date: 2025.08.20 08:09:24 -05'00'

_____

Signed