

FILED
Sep 24, 2025
11:28 am
U.S. EPA REGION IX
HEARING CLERK

Docket No.
MM-09-2025-0069

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

CONSENT AGREEMENT

1. This is a civil administrative enforcement action instituted pursuant to Section 325 of the Emergency Planning and Community Right-to-Know Act of 1986 ("EPCRA"), 42 U.S.C. § 11045, and Sections 113(a)(3)(A) and (d) of the Clean Air Act ("CAA"), as amended, 42 U.S.C. §§ 7413(a)(3)(A), (d), 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.

2. Pursuant to EPCRA Section 325, 42 U.S.C. § 11045, the Administrator of EPA is authorized to take enforcement actions against persons who violate EPCRA Section 312, 42 U.S.C. § 11022. The Administrator delegated this authority to the EPA Regional Administrators by Delegation 22-3A, dated May 11, 1994 (last revised July 20, 2016). The Regional Administrator of EPA Region IX, redelegated this authority to the Director of the Enforcement

Division (now the Enforcement and Compliance Assurance Division or "ECAD") by Delegation R9-22-3-B, dated February 11, 2013.

3. Pursuant to CAA Section 113(d), 42 U.S.C. § 7413(d), the Administrator of EPA is authorized to sign consent agreements memorializing settlements of enforcement actions against persons who violate CAA Section 112(r), 42 U.S.C. § 7412(r). The Administrator delegated this authority to the EPA Regional Administrators by Delegation 7-6-A, dated August 4, 1994. The Regional Administrator of EPA Region IX redelegated this authority to the Director of ECAD by Delegation R9-7-6-A, dated February 11, 2013.

4. Complainant is the Director of ECAD.

5. Respondent is Delta Packing Company of Lodi, Inc. ("Respondent"), a California corporation licensed to conduct business in California whose principal offices are located at 6021 East Kettleman Lane, Lodi, California.

6. This Consent Agreement and Final Order ("CA/FO"), which contains the elements of a complaint required by 40 C.F.R. § 22.14(a)(1)-(3), (8), simultaneously commences and concludes this penalty proceeding, as authorized by 40 C.F.R. §§ 22.13(b), 22.18(b)(2) - (3).

7. Complainant 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.

B. GENERAL ALLEGATIONS

8. At all times relevant to this CA/FO, Respondent is/was an incorporated company and therefore a "person" as defined in in EPCRA Section 329(7), 42 U.S.C. § 11049(7) and CAA Section 302(e), 42 U.S.C. § 7602(e).

9. At all times relevant to this CA/FO, Respondent operated a facility (the “Facility”) located at 6021 East Kettleman Lane, Lodi, California, that utilizes anhydrous ammonia to provide cooling capabilities to package, refrigerate, store, and ship cherries and grapes.

10. On September 16, 2021, EPA performed an inspection of the Facility to evaluate compliance with the Comprehensive Environmental Response, Compensation and Liability Act Section 103, 42 U.S.C. § 9603, EPCRA Sections 304-312, 42 U.S.C. §§ 11004-12, and CAA Section 112(r), 42 U.S.C. § 7412(r) (the “Inspection”). Based upon the information gathered during the Inspection and subsequent investigation, EPA determined that Respondent violated certain provisions EPCRA and the CAA.

I. EPCRA Section 312

11. EPCRA Section 312, 42 U.S.C. § 11022, requires the owner or operator of a facility to submit an annual emergency and hazardous chemical inventory form (“inventory form”) containing information on hazardous chemicals present at the facility during the preceding calendar year above threshold levels established in 40 C.F.R. § 355, Appendices A and B.

12. The inventory form must be submitted by March 1 of each year to the State Emergency Response Commission (“SERC”), the Local Emergency Planning Committee (“LEPC”), and the fire department with jurisdiction over the facility. 40 C.F.R. §§ 370.44 and 470.45.

13. Ammonia is a “hazardous chemical” as defined in Sections 311(e) and 312(c) of EPCRA, 42 U.S.C. §§ 11021(e) and 11022(c), with a threshold planning quantity of 500 pounds. 40 C.F.R. Part 355, App. A & B.

14. At all times relevant to this CA/FO, Respondent exceeded 500 pounds or more of

ammonia (anhydrous) in one or more processes at the Facility and is required to submit a material safety data sheet for anhydrous ammonia. 42 U.S.C. §§ 11021(a) and (e).

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

II. CAA Section 112(r)

16. Pursuant to the General Duty Clause in CAA Section 112(r)(1), 42 U.S.C. § 7412(r)(1), owners and operators of stationary sources producing, processing, handling, or storing substances listed pursuant to CAA Section 112(r)(3), 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance ("EHS"), have a general duty, in the same manner and to the same extent as under Occupational Safety and Health Act ("OSHA") Section 654, 29 U.S.C. § 654, to identify hazards which may result from accidental releases of such substances using appropriate hazard assessment techniques, to design and maintain a safe facility taking such steps as necessary to prevent releases, and to minimize the consequences of accidental releases which do occur.

17. Methyl bromide is a EHS listed under CAA Section 112(r)(3), 42 U.S.C. § 7412(r)(3).

18. At all times relevant to this CA/FO, Respondent had a general duty to identify hazards that may result from accidental releases of methyl bromide under CAA Section 112(r)(1), 42 U.S.C. § 7412(r)(1).

19. Pursuant to CAA Section 112(r)(7), 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 threshold quantity ("TQ") must prepare and implement a risk management plan ("RMP") to detect and prevent or minimize accidental release of such

substances from the stationary source, and to provide a prompt emergency response to any such releases in order to protect human health and the environment.

20. CAA Section 112(r)(2)(C), 42 U.S.C. § 7412(r)(2)(C), defines “stationary source” as “any buildings, structures, equipment, installations or substance emitting stationary activities (i) which belong to the same industrial group, (ii) which are located on one or more contiguous properties, (iii) which are under the control of the same person (or persons under common control), and (iv) from which an accidental release may occur.”

21. CAA Section 302(g), 42 U.S.C. § 7602(g), defines “air pollutant” as “any air pollution agent or combination of such agents, including any physical, chemical, biological, radioactive (including source material, special nuclear material, and byproduct material) substance or matter which is emitted into or otherwise enters the ambient air.”

22. Ammonia (anhydrous) is a “regulated toxic substance” listed under CAA Section 112(r)(3), 42 U.S.C. § 7412(r)(3), with a TQ of 10,000 pounds. *See* 40 C.F.R. § 68.130, Tables 1 and 2.

23. Under CAA Section 112(r)(7), 42 U.S.C. § 7412(r)(7), and 40 C.F.R. § 68.10(i), the owner or operator of a covered stationary source with a process in a North American Industry Classification System code listed in 40 C.F.R. § 68.10(i)(1) or subject to the OSHA process safety management standard set forth in 29 C.F.R. § 1910.119 is subject to the “Program 3” requirements set forth in 40 C.F.R. § 68.12(d).

24. Under CAA Section 112(r)(7), 42 U.S.C. § 7412(r)(7), and 40 C.F.R. § 68.12(d), facilities

subject to the Program 3 requirements are required to implement the prevention requirements set forth in 40 C.F.R. §§ 68.65 through 68.87 and the emergency response program requirements set forth in 40 C.F.R. §§ 68.90 through 68.96.

25. At all times relevant to this CA/FO, Respondent has been the owner or operator of the Facility.

26. At all times relevant to this CA/FO, the real property and improvements thereto located at the Facility are a “stationary source” as defined by CAA Sections 112(r)(2)(C), 42 U.S.C. § 7412(r)(2)(C).

27. At all times relevant to this CA/FO, Respondent produced, used or stored more than 10,000 pounds of ammonia (anhydrous) at the Facility.

28. At all times relevant to this CA/FO, Respondent was subject to Program 3 requirements because there are public receptors within the distance to the endpoint for the worst-case release from its Facility and was subject to the OSHA process safety management standard set forth in 29 C.F.R. § 1910.119.

C. ALLEGED VIOLATIONS

COUNT I

(Failure to Comply with Tier II Inventory Reporting Requirements)

29. Paragraphs 1 through 28 above are incorporated herein by this reference as if they were set forth here in their entirety.

30. Under 40 C.F.R. § 370.40, the owner or operator must annually submit inventory information regarding any hazardous chemical present at its facility at any time during the previous calendar year in an amount equal to or in excess of its threshold level.

31. Based upon the Inspection and subsequent investigation, EPA determined that Respondent failed to submit its Tier II annual hazardous materials inventory forms for all three of its refrigeration systems in 2018 and 2019.

32. Accordingly, EPA alleges that by failing to submit Tier II annual hazardous materials inventory forms, Respondent violated EPCRA § 312, Tier II Inventory, 40 C.F.R. § 370.40.

COUNT II

(Failure to Comply with RMP Applicability, Submission, and Updates Requirements)

33. Paragraphs 1 through 28 above are incorporated herein by this reference as if they were set forth here in their entirety.

34. Under 40 C.F.R. § 68.10(a)(3), the owner or operator of a stationary source that has more than a TQ of a regulated substance in a process, shall comply with the requirements of 40 C.F.R. Part 68 no later than the date on which a regulated substance is first present above a TQ in a process.

35. Under 40 C.F.R. § 68.150(b)(3), the owner or operator shall submit a single RMP for all covered processes on the date which a regulated substance is first present above a TQ in a process.

36. Based upon the Inspection and subsequent investigation, EPA determined that the North Refrigeration System contained more than 10,000 pounds of ammonia since at least 2013, but Respondent failed to submit an RMP to EPA prior to August 20, 2018.

37. Under 40 C.F.R. § 68.190(b)(4), the owner or operator of a stationary source is required to revise and update the RMP submitted under § 68.150 no later than the date which a regulated substance is first present above a TQ in a new process.

38. Based upon the Inspection and subsequent investigation, EPA determined that Respondent failed to update its RMP to include the Southwest Refrigeration System RMP-covered process, despite having calculations indicating that its Southwest Refrigeration System contained more than the TQ of 10,000 pounds of anhydrous ammonia.

39. Accordingly, EPA alleges that by failing to submit an RMP to EPA on the date which a regulated substance was first present above a threshold quantity in its North Refrigeration System and its Southwest Refrigeration System, Respondent violated CAA Section 112(r)(7), 42 U.S.C. § 7412(r)(7), 40 C.F.R. §§ 68.10(a)(3), 68.150(b)(3), and 68.190(b)(4).

COUNT III

(Failure to Comply with Documentation Requirements)

40. Paragraphs 1 through 28 above are incorporated herein by this reference as if they were set forth here in their entirety.

41. Under 40 C.F.R. § 68.39(b), the owner or operator must maintain the records on offsite consequence analyses, including alternative release scenarios, which requires a description of the scenarios identified, assumptions and parameters used, and the rationale for the selection of specific scenarios.

42. Based upon the Inspection and subsequent investigation, EPA determined that Respondent failed to document the rationale for its selection of the specified alternative release scenarios.

43. Accordingly, EPA alleges that by failing to properly maintain records documenting its selection of the specified alternative release scenarios, Respondent violated CAA Section 112(r)(7), 42 U.S.C. § 7412(r)(7), 40 C.F.R. § 68.39(b).

COUNT IV

(Failure to Comply with Process Safety Information Requirements)

44. Paragraphs 1 through 28 above are incorporated herein by this reference as if they were set forth here in their entirety.
45. Under 40 C.F.R. § 68.65(d)(1), the owner or operator must compile and maintain Process Safety Information (“PSI”) concerning equipment in the process, which must include the following: (i) Materials of construction; (ii) Piping and instrument diagrams (“P&IDs”); (iii) Electrical classification; (iv) Relief system design and design basis; (v) Ventilation system design; (vi) Design codes and standards employed; (vii) Material and energy balances for processes built after June 21, 1999; and (viii) Safety systems (e.g., interlocks, detection or suppression systems).
46. Based upon the Inspection and subsequent investigation, EPA determined that Respondent failed to compile PSI for ammonia refrigeration piping installed before April 13, 2021, relief valve discharge piping, and ventilation system in its ammonia machinery rooms (“AMR”).
47. Under 40 C.F.R. § 68.65(d)(2), the owner or operator of a facility must document that equipment complies with recognized and generally accepted good engineering practices (“RAGAGEP”).
48. Based upon the Inspection and subsequent investigation, EPA determined that the Respondent failed to document that its equipment associated with the covered process complies with RAGAGEP.
49. For existing equipment designed and constructed in accordance with codes, standards,

or practices that are no longer in general use, under 40 C.F.R. § 68.65(d)(3), the owner or operator must determine and document that the equipment is designed, maintained, inspected, tested, and operating in a safe manner.

50. Based on evidence gathered during the investigation, EPA determined that the Respondent did not document that the deviations from RAGAGEP were designed, maintained, inspected, tested, and operating in a safe manner.

51. Accordingly, EPA alleges that by failing to include accurate information concerning the equipment of a process, and by failing to comply with RAGAGEP or document that its existing equipment was safe, Respondent violated the process safety information requirements set forth at CAA Section 112(r)(7), 42 U.S.C. § 7412(r)(7), and 40 C.F.R. §§ 68.65(c)(1), 68.65(d)(2) and 68.65(d)(3).

COUNT V

(Failure to Comply with Process Hazard Analysis Requirements)

52. Paragraphs 1 through 28 above are incorporated herein by this reference as if they were set forth here in their entirety.

53. Under 40 C.F.R. § 68.67(a), the owner or operator of a facility must perform a Process Hazard Analysis ("PHA") on processes covered by CAA Section 112(r), 42 U.S.C. § 7412(r), to identify, evaluate, and control the hazards involved in the process. The PHA shall be conducted as soon as possible and shall be updated and revalidated based on their completion date.

54. Based on evidence gathered during the investigation, EPA determined that the

Respondent failed to conduct an initial PHA for its North Refrigeration System until 2018, despite self-reporting to the CERS that it had over 10,000 pounds of anhydrous ammonia since at least 2013.

55. Under 40 C.F.R. § 68.67(c), the owner or operator is required to address engineering and administrative controls applicable to the hazards and their interrelationships such as appropriate application of detection methodologies to provide early warning of releases and standby or emergency power systems in its PHA.

56. Based on evidence gathered during the investigation, EPA determined that the Respondent relied on invalid engineering and administrative controls (i.e., safeguards) for its 2018 PHA, including describing controls that were not accurate to the covered process.

57. Under 40 C.F.R. § 68.67(e), the owner or operator must establish a system to promptly address the findings and recommendations of a PHA; assure that the recommendations are resolved in a timely manner and that the resolution is documented; document what actions are to be taken; complete actions as soon as possible; develop a written schedule of when these actions are to be completed; and communicate the actions to operating, maintenance and other employees who may be affected by the recommendations or actions.

58. Based on evidence gathered during the investigation, EPA determined that Respondent's PHA was insufficient as follows:

- a. Respondent failed to assign timely deadlines to recommendations in its first PHA, which were undated.
- b. The Respondent failed to track the recommendation to completion.

59. Under 40 C.F.R. § 68.67(g), the owner or operator is required to retain PHAs and

updates or revalidations for each process covered, as well as the documented resolution of the recommendations for the life of the process.

60. Based on evidence gathered during the investigation, EPA determined that Respondent failed to retain the PHA for its Southwest Refrigeration System for the life of the process.

61. Accordingly, EPA alleges that by failing to: timely perform its initial PHA for the North Refrigeration System, rely on valid engineering and administrative controls, have sufficient documentation for its PHA, and retain the PHA for its Southwest Refrigeration System, Respondent violated the process hazard analysis requirements set forth at CAA Section 112(r)(7), 42 U.S.C. § 7412(r)(7), and 40 C.F.R. §§ 68.67(a), (c), (e), and (f).

COUNT VI

(Failure to Develop and Implement Adequate Operating Procedures)

62. Paragraphs 1 through 28 above are incorporated herein by this reference as if they were set forth here in their entirety.

63. Under 40 C.F.R. § 68.69(a), the owner or operator must develop and implement written operating procedures that provide clear instructions for safely conducting activities involved in each covered process consistent with the process safety information, including steps for standard operating procedures ("SOP"), emergency shutdown, operating limits, and safety and health considerations.

64. Based on evidence gathered during the investigation, EPA determined that Respondent failed to develop and implement adequate written operating procedures for the following:

- a. The Respondent's SOP did not provide clear instructions for safely conducting the following activities:

- i. SOP 001 and SOP 008 did not provide clear instructions for normal shutdown of hose connections and for checking leaks before opening valves.
 - ii. SOP 001 did not provide clear instructions for valve positions.
- b. The Respondent's emergency shutdown procedures failed to include conditions where emergency shutdown is required and did not assign shutdown responsibility to qualified operators.
- c. The Respondent's SOP, including SOP 009, failed to identify operating limits determined to be safe for the process, consequences of deviating from those limits, or steps that employees are required to take if a deviation from those safe operating limits is observed.
- d. The Respondent's SOP for "Draining Oil Out of a Pressure Vessel Drop Leg," failed to state which personal protective equipment ("PPE") must be worn by employees executing a procedure and failed to describe the precautions necessary to prevent exposure.
- e. The Respondent's Line Break procedure had the following deficiencies:
 - i. References to the Line Break procedure in other SOPs was confusing because it stated multiple times that it "will be developed as a separate document," which indicated that the procedure may not have been developed yet.
 - ii. The Line Break procedure failed to specify that PPE should be used in the event of a line break, which is often different than the PPE that should be used during normal operating conditions.

iii. The Line break procedure failed to document Safeguard #28 from the 2018

PHA, which stated, "Delta Packing refrigeration personnel are not allowed to engage in line-break activities."

65. Accordingly, EPA alleges that by failing to adequately develop and implement written operating procedures that provide clear instructions for safely conducting activities involved in each covered process including steps for SOPs, emergency shutdown, operating limits, and safety and health considerations, Respondent violated the operating procedure requirements set forth at CAA Section 112(r)(7), 42 U.S.C. § 7412(r)(7), and 40 C.F.R. § 68.69(a).

Count VII

(Failure to Ensure Mechanical Integrity)

66. Paragraphs 1 through 28 above are incorporated herein by this reference as if they were set forth here in their entirety.

67. Under 40 C.F.R. § 68.73(b), the owner or operator is required to establish and implement written procedures to maintain the on-going integrity of process equipment.

68. Based on evidence gathered during the investigation, EPA determined that Respondent failed to perform annual vibrational analyses for its compressors until 2021.

69. Under 40 C.F.R. § 68.73(d), the owner or operator of a facility must ensure that inspection and testing procedures follow RAGAGEP and must ensure that the frequency of inspections and tests of process equipment are consistent with applicable manufacturers' recommendations and good engineering practices, and more frequently if determined to be necessary by prior operating experience.

70. Based on evidence gathered during the investigation, EPA determined that Respondent

failed to follow the mechanical integrity inspection and testing requirements for the following:

- a. Manual override, testing to verify functionality, and loss of power of the emergency ventilation;
- b. Power loss for ammonia detection and alarm systems;
- c. Eyewash stations and safety showers;
- d. The 2019 non-destructive evaluation ultrasonic thickness testing results did not include a calculation of the corrosion rate and the remaining life for each vessel, the next inspection interval, and the recommendations based on the completed evaluation; and
- e. There was no documentation on whether the frequency of inspections and tests of process equipment were consistent with RAGAGEP.

71. Under 40 C.F.R. § 68.73(e), the owner or operator of a facility must correct deficiencies in covered equipment that are outside acceptable limits before further use or in a safe and timely manner when necessary means are taken to assure safe operation.

72. Based on evidence gathered during the investigation, EPA determined that there were mechanical integrity deficiencies outside acceptable limits for the following pieces of equipment:

- a. Ten pressure vessels in operation lacked sufficient safety documentation, including material data sheets, Maximum Allowable Working Pressure, and legible nameplates with National Board Numbers;
- b. Severe corrosion was not addressed in Suction Accumulator 1-1;

- c. The emergency ventilation in the North Refrigeration System was not set to activate at an ammonia concentration of 25 ppm;
- d. The pressure relief valve on a liquid transfer vessel was not timely replaced;
- e. The concerns identified in the 5-year Mechanical Integrity Audit in 2018 were not timely addressed, including the undersized relief valve termination piping, a fan with unknown ventilation design, and a non-functioning ventilation system in the North AMR;
- f. The pressure relief valve for North Room 3 Accumulator was not replaced within five years; and
- g. Compressor 3 in the Southwest System had an illegible nameplate.

73. Accordingly, EPA alleges that by failing to establish and implement written procedures to maintain on-going integrity of process equipment, to ensure that inspection and testing procedures follow RAGAGEP, and to correct deficient equipment that are outside acceptable limits before further use, or in a safe and timely manner when necessary means are taken to assure safe operation, Respondent violated the mechanical integrity requirements set forth at CAA Section 112(r)(7), 42 U.S.C. § 7412(r)(7), and 40 C.F.R. §§ 68.73(b), (d), and (e).

Count VIII

(Failure to Coordinate with Local Authorities for Emergency Response)

74. Paragraphs 1 through 28 above are incorporated herein by this reference as if they were set forth here in their entirety.
75. Under 40 C.F.R. § 68.93(a), owners and operators of a stationary source are required to

coordinate response needs with local emergency planning and response organizations at least annually, and more frequently if necessary, to address changes at the stationary source, in the stationary source's emergency response or action plan, or in the community emergency response plan. Owners and operators are required to provide the LEPC and fire departments with: the stationary source's emergency response plan if one exists; emergency action plan; updated emergency contact information; and other information necessary for developing and implementing the local emergency response plan under 40 C.F.R. § 68.93(b). Additionally, 40 C.F.R. § 68.93(c) requires that the owner or operator document coordination with local authorities.

76. Based on evidence gathered during the investigation, EPA determined that Respondent failed to coordinate its emergency action plan with the local fire department in 2019 and failed to submit its emergency procedures to the CERS to coordinate with the LEPC in 2018 and 2019.

77. Accordingly, EPA alleges that by failing to coordinate with local emergency planning and response organizations and document any coordination with such organizations, and by failing to have the information available for local emergency planning and response organizations, Respondent violated the emergency response plan requirements set forth at CAA Section 112(r)(7), 42 U.S.C. § 7412(r)(7), 40 C.F.R. § 68.93.

Count IX

(Failure to Identify Hazards Under the General Duty Clause)

78. Paragraphs 1 through 28 above are incorporated herein by this reference as if they were set forth here in their entirety.

79. Pursuant to 42 U.S.C. § 7412(r)(1), owners and operators of stationary sources

producing, handling, or storing any substance listed pursuant to Section 112(r)(3), or any other extremely hazardous substance, have a general duty to identify hazards which may result from releases of those extremely hazardous substances using appropriate hazard assessment techniques. An appropriate part of any hazard assessment technique includes developing and implementing an adequate system to track the progress of related recommendations.

80. Based on evidence gathered during the investigation, EPA determined that Respondent's Hazard Assessment for methyl bromide was inadequate because the recommendations for the scenarios not specific to the scenarios and did not include any engineering controls or safeguards.

81. Accordingly, EPA alleges that by failing to comply with the general duty clause for identifying and addressing hazards which may result in a release for methyl bromide, Respondent violated 42 U.S.C. § 7412(r)(1).

D. CIVIL ADMINISTRATIVE PENALTY

82. Respondent agrees to pay a civil penalty in the amount of **TWO-HUNDRED SIXTY-TWO THOUSAND, NINE HUNDRED SEVENTY-ONE DOLLARS (\$262,971)** ("Assessed Penalty").

a. The EPCRA portion of the penalty totals **THREE THOUSAND, TWO-HUNDRED NINETY-THREE DOLLARS (\$3,293)**.

b. The CAA portion of the penalty totals **TWO-HUNDRED FIFTY-NINE THOUSAND, SIX HUNDRED SEVENTY-EIGHT DOLLARS (\$259,678)**.

83. Respondent shall pay the assessed penalty according to the terms of this CA/FO and Attachment 1, attached hereto, which specifies an installment payment plan. This installment payment plan is based on Respondent's certification of its current financial condition explaining

why it cannot pay the entire penalty within 30 days of the effective date without experiencing undue financial hardship. Any false statement made in the certified statement may result in voiding the payment schedule, require immediate payment of the full penalty amount, and subject Respondent to further penalties.

84. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>. The Assessed Penalty shall be paid pursuant to the Civil Penalties instructions. If clarification regarding a particular method of payment remittance is needed, contact Craig Steffen in the EPA Cincinnati Finance Center at (513) 487-2091 or steffen.craig@epa.gov.

85. When making a payment, Respondent shall:

- a. Identify every payment with Respondent's name and the docket number of this Agreement, MM-09-2025-0069;
- b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of such payment to the following person(s):

Regional Hearing Clerk
U.S. Environmental Protection Agency, EPA Region 9
R9HearingClerk@epa.gov

and

Bridget Johnson

Enforcement Division
U.S. Environmental Protection Agency - Region 9
Johnson.Bridget@epa.gov

and

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, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that Regional Hearing Clerk payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent’s name.

86. Interest, Charges, and Penalties on Late Payments. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay the full amount of the Assessed Penalty per this Agreement, EPA is authorized to recover, in addition to the amount of the unpaid Assessed Penalty, the following amounts:

- a. Interest. Interest begins to accrue from the Filing Date. If the Assessed Penalty is paid in full pursuant to the installment payment plan in Attachment 1, interest accrued is waived. If the Assessed Penalty is not paid in full pursuant to the installment payment plan in Attachment 1, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. To protect the interests of the United States the rate of

interest is set at the IRS standard underpayment rate, any lower rate would fail to provide Respondent adequate incentive for timely payment.

- b. Handling Charges. Respondent will be assessed monthly a charge to cover EPA's costs of processing and handling overdue debts. If Respondent fails to pay the Assessed Penalty in accordance with this Agreement, EPA will assess a charge to cover the costs of handling any unpaid amounts for the first thirty (30) day period after the Filing Date. Additional handling charges will be assessed every thirty (30) days, or any portion thereof, until the unpaid portion of the Assessed Penalty as well as any accrued interest, penalties, and other charges are paid in full.
- c. Payment Penalty. A late payment penalty of six percent (6%) per annum, will be assessed monthly on all debts, including any unpaid portion of the Assessed Penalty, interest, penalties, and other charges, that remain delinquent more than ninety (90) days. Any such amounts will accrue from the Filing Date. 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.

87. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Agreement, EPA may take additional actions. Such actions EPA may take include, but are not limited to, the following:

- a. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.

- b. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.
- c. Suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, per 40 C.F.R. § 13.17.
- d. Refer this matter to the United States Department of Justice for litigation and collection, per 40 C.F.R. § 13.33.

88. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.

89. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Agreement shall not be deductible for purposes of federal taxes.

90. 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). 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. 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 Jessica Chalifoux in EPA’s Cincinnati Finance Department at chalifoux.jessica@epa.gov, on or before the date the Respondent’s initial penalty payment is due, pursuant to Paragraph 82, or within 7 days should the order become effective between December 15 and December 31 of the calendar year. 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.

E. COMPLIANCE TASKS

91. All submissions to EPA in this section shall be submitted to Bridget Johnson at EPA at Johnson.Bridget@epa.gov.

92. If Respondent is unable to complete any of the compliance tasks required in this Section within the associated schedule, Respondent shall submit a written request for a modification, including the basis for the request, to EPA. Respondent shall submit this request within seven (7) days of identifying a need for a modification. Based on this request, EPA may in its sole discretion grant or deny, in full or in part, the request for modification.

93. Quarterly Progress Reports. Within three (3) months of the Effective Date of the CA/FO, and every three months thereafter until completion of all requirements of this CA/FO, Respondent shall submit a progress report to EPA ("Progress Report"). Each Progress Report shall describe all significant developments during the preceding reporting period, including the actions performed and any problems encountered, all significant developments during the current reporting period, and the developments anticipated during the next reporting period, including a schedule of actions to be performed, anticipated problems, and planned resolutions of past or anticipated problems.

94. Certifications. If a compliance task directs Respondent to certify facts to EPA, Respondent shall submit a written statement containing the following language: "The undersigned hereby certifies under penalty of law, and based on information and belief formed after reasonable inquiry, that the statements and information herein and all supporting documentation are true, accurate, and complete." The certification shall describe the tasks completed, cite to the relevant provisions of this Agreement, and be signed and dated by Respondent's Director of Operations. If the certification is required to include photographs,

Respondent shall ensure all photographs are organized and clearly labeled. Any certification submitted other than in compliance with this Agreement shall be ineffective and, if not cured prior to the applicable deadline, may trigger stipulated penalties.

95. Relief System Design Recommendations. Within 180 days of the Effective Date, Respondent shall provide documentation showing that the deficiencies in the relief system design that were identified in the December 4, 2024 report from contractor Refrigerated Mechanical Solutions (RMS) are resolved (see DELTA_000835). This includes ensuring that the relief valve discharge piping is properly sized.

96. Ventilation System Recommendations. Within 180 days of the Effective Date, Respondent shall provide documentation showing that the ventilation system and the new computer control system are in compliance with RAGAGEP. This includes documentation demonstrating that the ventilation system deficiencies identified in the February 8, 2021 report have been resolved; the ammonia alarm setpoints are 25 ppm; and all the ammonia alarms are connected to the central programmable logic controller.

F. RESPONDENT'S ADMISSIONS AND WAIVERS OF RIGHTS

97. In accordance with 40 C.F.R. § 22.18(b)(2), for the purpose of this proceeding, Respondent: (i) admits that jurisdictional allegations of this CA/FO; (ii) neither admits nor denies the specific factual allegations contained in the CA/FO; (iii) consents to the assessment of any stated civil penalty, to the issuance of any specified compliance or corrective action order, and to any conditions specified in this CA/FO; and (iv) waives, any right to contest the allegations and its right to appeal the proposed final order accompanying this consent agreement. 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.

G. PARTIES BOUND

98. 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 has been paid, and any delays in performance and/or stipulated penalties have been resolved. At such time as those matters are concluded, this CA/FO shall terminate and constitute full settlement of civil penalty liability for the violations alleged herein.

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

100. Until all 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.

101. The undersigned representative of Respondent hereby certifies that they are fully authorized by Respondent to enter into and execute this CA/FO, and to legally bind Respondent to it.

102. The determination of whether Respondent has satisfactorily complied with the terms of this CA/FO and the determination of whether Respondent has made a good faith, timely effort to complete the tasks required by this CA/FO are within the sole discretion of the Complainant.

H. CERTIFICATION OF COMPLIANCE

103. In executing this CAFO, Respondent certifies that under penalty of law to EPA that it has taken all steps necessary to return to full compliance with EPCRA Sections 304-312, 42 U.S.C. §§ 11004-12 and CAA Section 112(r), 42 U.S.C. § 7412(r), and its implementing regulations, that formed the basis for the violations alleged in this CA/FO.

104. 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.

I. DELAY IN PERFORMANCE/STIPULATED PENALTIES

105. The determination of whether Respondent has satisfactorily complied with the terms of this CA/FO and the determination of whether Respondent has made a good faith, timely effort to complete the tasks required by this CA/FO are within the sole discretion of the Complainant.

106. 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 first to fifteenth day of delay; ONE THOUSAND DOLLARS (\$1,000) per day for the sixteenth to thirtieth day of delay; and ONE THOUSAND FIVE HUNDRED DOLLARS (\$1,500) 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.

107. 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 thirty (30) days of receipt of a written demand by Complainant for such penalties. Payment of stipulated penalties shall be made in accordance with the procedure set forth for payment of penalties in Section D of this CAFO.

108. If a stipulated penalty is not paid in full, interest shall begin to accrue on the unpaid balance at the end of the thirty-day period at the current rate published by the United States Treasury, as described at 40 C.F.R. §13.11. Complainant 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.

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

110. 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.

J. RESERVATION OF RIGHTS

111. In accordance with 40 C.F.R. § 22.18(c), Respondent's full compliance with this Consent Agreement shall only resolve Respondent's liability for federal civil penalties for the violations specifically alleged herein and does not in any case affect the right of EPA to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

112. This CA/FO is not a permit or modification of any existing permit issued pursuant to any federal, state, or local laws or regulations. This CA/FO does not exempt, relieve, modify, or affect in any way Respondent's duty to comply with all applicable federal, state, and local laws, regulations, rules, ordinances, and permits.

K. MISCELLANEOUS

113. This CA/FO may be amended or modified only by written agreement executed by both EPA and Respondent.
114. The headings in this CA/FO are for convenience of reference only and shall not affect interpretation of this CA/FO.
115. By signing this CA/FO, Respondent acknowledges that this CA/FO will be available to the public and agrees that this CA/FO does not contain any confidential business information or personally identifiable information.
116. Each party to this action shall bear its own costs and attorneys' fees.
117. This CA/FO can be signed in counterparts.
118. Respondent consents to entry of this CA/FO without further notice.

L. EFFECTIVE DATE

119. 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.

FOR RESPONDENT, Delta Packing Company of Lodi, Inc.:

8/26/25
DATE


NAME: Annamaria Costanagna Reaves
TITLE: Officer

In the Delta Packing Company of Lodi, Inc.
Consent Agreement and Final Order

FOR COMPLAINANT, EPA REGION IX:

**AMY MILLER-
BOWEN**

Digitally signed by AMY MILLER-
BOWEN
Date: 2025.09.17 10:10:30 -07'00'

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

FINAL ORDER

IT IS HEREBY ORDERED that this Consent Agreement and Final Order (CA/FO) in the matter of Delta Packing Company (EPA Docket No. MM-09-2025-0069) be entered and that Respondent will pay a civil penalty in the amount of TWO HUNDRED SIXTY-TWO THOUSAND, NINE HUNDRED SEVENTY-ONE DOLLARS (\$262,971) as set forth herein and will comply with any other terms and conditions stated in this CA/FO.

Beatrice
Wong

Digitally signed by
Beatrice Wong
Date: 2025.09.24
10:13:35 -07'00'

Beatrice Wong
Regional Judicial Officer
U.S. EPA, Region IX

ATTACHMENT 1

INSTALLMENT PAYMENT

DOCKET NO. MM-09-2025-0069

Installment	Days	Interest Payment	Principal Payment	Installment Payment
1	180	\$6,574	\$ 131,485.50	\$138,059.50
2	360	\$6,574	\$ 131,485.50	\$138,059.50
			Total	\$ 276,119

1st Installment: \$ 138,059.50 (Due within 180 days of the effective date of the CA/FO)

2nd Installment: \$ 138,059.50 (Due within 360 days of the effective date of the CA/FO)

Total Payment: \$ 276,119

CERTIFICATE OF SERVICE

I certify that the original of the fully executed Consent Agreement and Final Order in the matter of Delta Packing Company (Docket No. MM-09-2025-0069) was filed with Regional Hearing Clerk, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, and that a true and correct copy of the same was served on the parties, via electronic mail, as indicated below:

RESPONDENT: Jim Stout
Operations Manager
Delta Packing Company
6021 East Kettleman Lane
Lodi, CA 95240
Jstout@deltapacking.com

COMPLAINANT: Ylan Nguyen
Assistant Regional Counsel
U.S. EPA – Region IX
Hazardous Waste Section III (ORC-3-3)
75 Hawthorne Street
San Francisco, CA 94105
Nguyen.Ylan@epa.gov

Tu, Ponly Digitally signed by Tu,
Ponly
Date: 2025.09.24
10:24:55 -07'00'

Ponly Tu
Regional Hearing Clerk
U.S. EPA – Region IX