

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3
Philadelphia, Pennsylvania 19103

FILED

Sep 29, 2025

2:57 pm

U.S. EPA REGION 3
HEARING CLERK

In the Matter of:	:
	:
Four Seasons Produce, Inc.	:
400 Wabash Road	: U.S. EPA Docket No. CWA-03-2025-0126
Ephrata, Pennsylvania 17522	:
	: Proceeding under Sections 309(g) and 311(b)(6)
Respondent.	: of the Clean Water Act, 33 U.S.C. §§ 1319(g) and
	: 1321(b)(6)
	:
	:
Four Seasons Produce, Inc.	:
400 Wabash Road	:
Ephrata, Pennsylvania 17522	:
	:
Facility.	:
	:
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CONSENT AGREEMENT

PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency ("EPA"), Region 3 ("Complainant") and Four Seasons Produce, Inc. (hereinafter, "Respondent" or "Four Seasons Produce") (collectively the "Parties"), pursuant to Sections 309(g) and 311(b)(6) of the Clean Water Act, 33 U.S.C. §§ 1319(g), 1321(b)(6), of the Clean Water Act ("CWA" or "Act") and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. Sections 309(g) and 311(b)(6) of the CWA, 33 U.S.C. §§ 1319(g) and 1321(b)(6), authorize the Administrator of the EPA to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated the authority to enter into agreements concerning administrative penalties to the Complainant. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the "Consent Agreement and Final Order") resolve Complainant's civil penalty claims against Respondent under the CWA for the violations alleged herein.

2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

JURISDICTION

3. The EPA has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.
4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.50(a)(1).
5. Pursuant to Section 309(g)(1)(A) of the CWA, 33 U.S.C. § 1319(g)(1)(A), the EPA has consulted with the Commonwealth of Pennsylvania's Department of the Environment ("PADEP") regarding this action, and, subsequent to the Effective Date of this Consent Agreement and Final Order, the EPA will mail a copy of this fully executed Consent Agreement and Final Order to the appropriate PADEP representative.

GENERAL PROVISIONS

6. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.
7. Except as provided in Paragraph 6, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.
8. Except as provided in Paragraph 6 above, Respondent neither admits nor denies the alleged violations of law set forth in this Consent Agreement.
9. Respondent agrees not to contest the jurisdiction of the EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this Consent Agreement and Final Order.
10. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and Final Order and waives its right to appeal the accompanying Final Order.
11. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.

12. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.
13. Pursuant to Section 309(g)(4)(A) of the CWA, 33 U.S.C. § 1319(g)(4)(A), and 40 C.F.R. § 22.45(b), the EPA is providing public notice and an opportunity to comment on the Consent Agreement prior to issuing the Final Order.
14. 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.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

15. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.
16. Section 311(b)(1) of the CWA, 33 U.S.C. § 1321(b)(1), states that it is the policy of the United States that there should be no discharge of oil or hazardous substances into or upon the navigable waters of the United States.
17. Section 311(a)(1) of the Act, 33 U.S.C. § 1321(a)(1), defines "oil" as "oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil."
18. In Section 311(j)(1)(C) of the CWA, 33 U.S.C. § 1321(j)(1)(C), Congress required the President to promulgate regulations which would, among other things, establish procedures, methods, and other requirements for preventing discharges of oil from onshore facilities into navigable waters and for containing such discharges.
19. By Executive Order 12777, the President delegated the authority to promulgate regulations under Section 311(j) of the CWA to the EPA for non-transportation-related onshore and offshore facilities.
20. The EPA promulgated the Oil Pollution Prevention Regulations at 40 C.F.R. Part 112. Pursuant to 40 C.F.R. § 112.1(b), the Oil Pollution Prevention Regulations apply to any owner or operator of a non-transportation-related onshore or offshore facility engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing, using, or consuming oil or oil products, which due to its location, could reasonably be expected to discharge oil in quantities that may be harmful into or upon the navigable waters of the United States or adjoining shorelines. Pursuant to 40 C.F.R. § 112.1(d), the

Regulations do not apply to any owner or operator of a facility with an aggregate aboveground oil storage capacity of 1,320 gallons or less.

21. Pursuant to 40 C.F.R. § 110.3, discharges of oil in such quantities that the Administrator has determined may be harmful to the public health or welfare or the environment of the United States include discharges of oil that cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or adjoining shoreline.
22. Respondent is a corporation organized under the laws of the Commonwealth of Pennsylvania.
23. Respondent is a person within the meaning of Sections 311(a)(7) and 502(5) of the CWA, 33 U.S.C. §§ 1321(a)(7) and 1362(5), and 40 C.F.R. § 112.2.
24. Respondent is, and, at all times relevant to the violations alleged herein, was the owner and operator of a produce storage and distribution facility located at 400 Wabash Road, Ephrata, Pennsylvania 17522 (the "Facility").
25. The Facility has a total oil storage capacity of approximately 4,976 gallons.
26. The Facility's drainage is designed to flow southeast, into the Facility's two stormwater retention ponds.
27. The retention ponds drain into one outfall, which proceeds southeast across Reading Road and into Cocalico Creek approximately 700 feet away.
28. Cocalico Creek is a navigable water of the United States within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7).
29. The Facility is an onshore facility within the meaning of Section 311(a)(10) of the CWA, 33 U.S.C. § 1321(a)(10), and 40 C.F.R. § 112.2.
30. The Facility is a non-transportation-related facility within the meaning of 40 C.F.R. § 112.2 and Appendix A of 40 C.F.R. Part 112, as incorporated by reference within 40 C.F.R. § 112.2.
31. Due to its location, the Facility could reasonably be expected to discharge oil in harmful quantities, as defined by 40 C.F.R. § 110.3, into or upon navigable waters of the United States or adjoining shorelines.

32. Pursuant to 40 C.F.R. § 112.1, Respondent, as the owner and operator of the Facility, is subject to the Oil Pollution Prevention Regulations codified at 40 C.F.R. Part 112.
33. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant (other than dredged or fill material) from a point source into waters of the United States except in compliance with, among other things, a permit issued pursuant to the National Pollutant Discharge Elimination System ("NPDES") program under Section 402 of the Act, 33 U.S.C. § 1342.
34. Section 402(a) of the Act, 33 U.S.C. § 1342(a), provides that the Administrator of EPA may issue permits under the National Pollutant Discharge Elimination System ("NPDES") program for the discharge of pollutants from point sources to waters of the United States. The discharges are subject to specific terms and conditions as prescribed in the permit. Section 402(b) of the Act, 33 U.S.C. § 1342(b), provides for the authorization of state programs to issue NPDES permits.
35. "Pollutant" is defined as "dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water." 40 C.F.R. § 122.2. See also 33 U.S.C. § 1362(6).
36. "Discharge of a pollutant" means "[a]ny addition of any 'pollutant' or combination of pollutants to 'waters of the United States' from any 'point source.'" 40 C.F.R. § 122.2. See also 33 U.S.C. § 1362(12).
37. "Stormwater" is defined as "storm water runoff, snow melt runoff, and surface runoff and drainage." 40 C.F.R. § 122.26(b)(13).
38. "Stormwater discharge associated with industrial activity" is defined as "the discharge from any conveyance that is used for collecting and conveying storm water and that is directly related to manufacturing, processing, or raw materials storage areas at an industrial plant" 40 C.F.R. § 122.26(b)(14).
39. Section 402(p) of the CWA, 33 U.S.C. § 1342(p), and implementing regulation at 40 C.F.R. § 122.26(a)(1)(ii), require facilities discharging stormwater associated with industrial activity to obtain a permit. Under 40 C.F.R. § 122.26(c)(1), dischargers of stormwater associated with industrial activity must apply for an individual permit or seek coverage under a general permit.
40. Pursuant to Section 402(b) of the Act, 33 U.S.C. § 1342(b), the Commonwealth of Pennsylvania, through PADEP, is authorized by the EPA to administer the NPDES program in Pennsylvania.

41. Pennsylvania, through PADEP, has incorporated the NPDES Permit program requirements of Section 402 of the CWA, 33 U.S.C. § 1342, into its state law.
42. Pursuant to the authority of the CWA, PADEP issued the NPDES Permit "Authorization to Discharge Under the National Pollutant Discharge Elimination System Discharge Requirements for Industrial Wastewater Facilities" (Permit No. PA0247537) ("Permit"), which authorizes certain discharges from the Facility into the Cocalico Creek.
43. The Permit authorizes the discharge of stormwater and noncontact cooling water in accordance with the provisions of the Permit.
44. A violation of the Permit is also a violation of the CWA and may be subject to penalties established under that statute.
45. Respondent applied for and was granted coverage under the Permit to discharge stormwater and noncontact cooling water from the Facility, effective from March 1, 2020, through February 28, 2025.
46. Pursuant to Section 402(i) of the CWA, 33 U.S.C. § 1342(i), the EPA retains its authority to take enforcement action within Pennsylvania for NPDES permit violations.
47. Section 309(g) of the CWA, 33 U.S.C. § 1319(g), authorizes the assessment of administrative penalties against any person who violates any NPDES permit condition or limitation.
48. Four Seasons Produce is, and at all times relevant to this Consent Agreement and Final Order was, the permittee under the Permit.
49. Four Seasons Produce is a company organized and existing under the laws of the Commonwealth of Pennsylvania and is a "person" within the meaning of Section 502(5) of the Act, 33 U.S.C. § 1362(5), and is subject to the assessment of civil penalties for the violations alleged herein.
50. Respondent is, and at all times relevant to this Consent Agreement and Final Order was, engaging in "industrial activity" at the Facility, within the meaning of 40 C.F.R. § 122.26(a)(1)(ii).
51. The Facility discharges, and at all times relevant to this Consent Agreement and Final Order discharged, stormwater and noncontact cooling water through an outfall identified in its Permit into Cocalico Creek which is a "water of the United States" within the meaning of Section 502(7) of the Act, 33 U.S.C. § 1362(7).

52. On December 6, 2023, EPA conducted an inspection of the Facility to determine Respondent's compliance with the CWA and the corresponding federal environmental regulations (the "Inspection").
53. On December 26, 2023, as a result of the Inspection, the EPA requested additional information from the Respondent.
54. Based on the Inspection, the EPA has identified the following violations of Section 311(j) of the CWA, 33 U.S.C. §1321(j), its implementing regulations codified at 40 C.F.R. Part 112, the NPDES Permit, and Section 301 of the CWA, 33 U.S.C. § 1311, described in the Paragraphs below.

Count 1

**Failure to Prepare and Implement a Spill Prevention, Control,
and Countermeasure Plan**

55. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
56. Pursuant to 40 C.F.R. § 112.3, any owner or operator of an onshore or offshore facility subject to the Oil Pollution Prevention Regulations must prepare in writing and implement a Spill Prevention, Control, and Countermeasure ("SPCC") plan, in accordance with 40 C.F.R. § 112.7 and any other applicable section.
57. At the time of the Inspection, Respondent's operations at the Facility included, but were not limited to, gasoline and diesel refueling areas, storage of refrigeration oil and motor oil in 55-gallon drums, storage of waste oil in 275-gallon totes, and three 1,347-gallon generators. The Facility's total oil storage capacity was approximately 4,976 gallons.
58. Respondent, an owner and operator of the non-transportation facility that stored more than 1,320 gallons of oil, was subject to the Oil Pollution Prevention Regulations at the Facility.
59. Pursuant to 40 C.F.R. § 112.3, Respondent was required to prepare in writing and implement an SPCC plan at the Facility, in accordance with 40 C.F.R. § 112.7 and any other applicable section.
60. Before the Inspection, EPA Inspectors requested Respondent's SPCC plan for the Facility. The Respondent did not provide an SPCC Plan. The EPA again requested Respondent's SPCC plan during the Inspection, and no plan was provided.
61. Pursuant to 40 C.F.R. § 112.7, if an owner or operator does not prepare an SPCC plan that follows the sequence for the Plan specified in the Regulations for the SPCC plan, the

owner or operator must prepare an "equivalent plan acceptable to the Regional Administrator that meets all of the applicable requirements listed in this part" which must include "section cross-referencing the location of requirements listed in this part and the equivalent requirements in the other prevention plan."

62. During the Inspection, the Facility representative stated that the Facility had an Emergency Action Plan ("EAP") plan. The EAP did not include the cross-reference for SPCC requirements.
63. Because the Facility's EAP did not cross-reference SPCC requirements, it did not qualify as an equivalent plan to the SPCC plan under 40 C.F.R. § 112.7.
64. At the time of the Inspection, Respondent failed to comply with 40 C.F.R. § 112.3 by not having an SPCC plan.
65. By failing to comply with 40 C.F.R. § 112.3, Respondent is subject to the assessment of penalties under Section 311(b)(6) of the CWA, 33 U.S.C. § 1321(b)(6).

Count 2
Failure to Provide Secondary Containment

66. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
67. Section 112.7(c) of the Oil Pollution Prevention Regulations requires that an owner or operator of a regulated facility provide appropriate containment and/or diversionary structures or equipment to prevent a discharge, which "must be capable of containing oil and must be constructed so that any discharge from a primary containment system, such as a tank, will not escape the containment system before cleanup occurs." Secondary containment may be active or passive in design.
68. During the Inspection, the EPA observed that secondary containment was lacking for the 55-gallon drums located near the generators, as well as the 55-gallon drums and 275-gallon totes stored in the truck shop.
69. At the time of the Inspection, Respondent failed to comply with 40 C.F.R. § 112.7(c) by not providing a secondary containment system for the 55-gallon drums and 275-gallon totes capable of containing oil and constructed so that any discharge from a primary containment system will not escape the containment system before cleanup occurs.
70. By failing to comply with 40 C.F.R. § 112.7(c), Respondent is subject to the assessment of penalties under Section 311(b)(6) of the CWA, 33 U.S.C. § 1321(b)(6).

Count 3
Failure to Comply with Permit by Not Installing Best Management Practices to Inlets

71. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
72. Pursuant to the NPDES Permit, Part C.III.C.1.a, permittees must use best management practices ("BMPs") such as "grading, berming or curbing to prevent runoff of polluted stormwater and divert run-on away from areas that contain polluted stormwater."
73. During the Inspection, the EPA observed several inlets without stormwater BMPs. Several inlets in the parking lot did not contain any inlet protection. Some inlets drained to the stormwater basins on site, and others discharged directly into the East Cocalico Township Municipal Separate Storm Sewer System.
74. Pursuant to Part C.III.C.1.b of the NPDES Permit, the permittee shall "locate materials, equipment, and activities so that potential leaks and spills are contained or able to be contained or diverted before discharge to surface waters."
75. During the Inspection, the EPA observed vehicles parked directly over an inlet. Potential leaks and spills from vehicles parked on top of the inlet would not be contained or diverted before discharge to surface waters.
76. At the time of the Inspection, Respondent failed to comply with the requirements of the NPDES Permit, Part C.III.C.1.a, by failing to use BMPs at several inlets.
77. At the time of the Inspection, Respondent failed to comply with the requirements of the NPDES Permit, Part C.III.C.1.b, by allowing vehicles to be parked over an inlet.
78. By failing to comply with Part C.III.C.1.a and Part C.III.C.1.b of the NPDES permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, Respondent is subject to the assessment of penalties under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

Count 4
Failure to Comply with Permit by Not Implementing Best Management Practices to Clean Up Spills and Leaks

79. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.

80. Pursuant to Part C.III.C.1.c of the NPDES Permit, permittees must “[c]lean up spills and leaks promptly using dry methods (e.g., absorbents) to prevent the discharge of pollutants to surface waters.”
81. During the Inspection, the EPA observed areas of petroleum staining in sections of the parking lot and staining on concrete pads that held the generators.
82. Respondent failed to comply with the requirements of Part C.III.C.1.c of the NPDES Permit by failing to promptly clean up spills.
83. By failing to comply with Part C.III.C.1.c of the NPDES Permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, Respondent is subject to the assessment of penalties under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

Count 5

**Failure to Comply with Permit by Failing to Develop and Implement
a Preparedness, Prevention and Contingency (PCC) Plan**

84. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
85. Pursuant to Part C.III.E.1 of the NPDES Permit, “[t]he permittee shall develop and implement a PPC Plan in accordance with 25 Pa. Code § 91.34 following the guidance contained in DEP’s ‘Guidelines for the Development and Implementation of Environmental Emergency Response Plans’ (DEP ID 400-2200-001), its NPDES-specific addendum, and the minimum requirements [set forth in the Permit].”
86. During the Inspection, the EPA requested from Respondent a copy of the Facility’s PPC Plan. On December 26, 2023, the EPA sent a follow-up email to Respondent again requesting the Facility’s PPC plan and other documents. The Respondent responded to the EPA by email on December 27, 2023, stating that there was no PPC Plan, Stormwater Pollution Prevention Plan, or Storm Water Management Plan for the Facility.
87. On February 6, 2024, the Respondent informed the EPA that the “PPC Plan is being developed and will be implemented in the next 30-60 days.”
88. At the time of the Inspection, Respondent failed to comply with Part C.III.E.1 of the Permit by failing to have a PPC plan.
89. By failing to comply with Part C.III.E.1 of the Permit, issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, Respondent is subject to the assessment of penalties under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

CIVIL PENALTY

90. In settlement of the EPA's claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of **twenty-eight thousand five hundred dollars (\$28,500)**, which Respondent shall be liable to pay in accordance with the terms set forth below.
- a. Twelve thousand five hundred dollars (\$12,500) of the civil penalty is assessed for the SPCC-related violations, Counts 1 and 2 described in this Consent Agreement.
 - b. Sixteen thousand dollars (\$16,000) of the civil penalty is assessed for the NPDES-related violations, Counts 3, 4 and 5 described in this Consent Agreement.
91. In determining the amount of the civil penalty to be assessed, EPA has taken into account the factors specified in Section 311(b)(8) of the CWA, 33 U.S.C. § 1321(b)(8), as well as the factors specified in Section 309(g) of the CWA, 33 U.S.C. § 1319(g). After considering these factors, EPA has determined that an appropriate penalty to settle this action is **\$28,500**.
92. Respondent agrees to pay a civil penalty in the amount of **twenty-eight thousand five hundred dollars (\$28,500)**, ("Assessed Penalty") within thirty (30) days of the Effective Date of this Consent Agreement and Final Order.
93. 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>. Any checks should be made payable to "Treasurer, United States of America." For penalties of CWA Section 311, **checks must also reference the "Oil Spill Liability Trust Fund – 311" or "OSLTF – 311."** However, for any payments made after September 30, 2025, and in accordance with the March 25, 2025 Executive Order on Modernizing Payments To and From America's Bank Account, Respondent shall pay using one of the electronic payments methods listed on EPA's How to Make a Payment website and will not pay with a paper check.
94. When making a payment, Respondent shall:
- a. Identify every payment with Respondent's name and the docket number of this Consent Agreement, **CWA-03-2025-0126**,
 - b. Make separate payments for the Assessed Penalty as follows:

- A \$12,500 payment for violations of Section 311 of the CWA, which must reference the “Oil Spill Liability Trust Fund – 311” or “OSLTF – 311.”
 - A \$16,000 payment for NPDES-related violations.
- c. Concurrently with payment or within 24 hours of payment, Respondent shall serve Proof of Payment simultaneously **by email** to the following person(s):

Lauren E. Ziegler
Assistant Regional Counsel
Ziegler.Lauren@epa.gov,

U.S. Environmental Protection Agency
Cincinnati Finance Center
CINWD_AcctsReceivable@epa.gov

and

U.S. EPA Region 3 Regional Hearing Clerk
R3_Hearing_Clerk@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 payment has been made according to the EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent’s name.

95. Interest, Charges, and Penalties on Late Payments. Pursuant to 33 U.S.C. §§ 1319(g)(9) 1321(b)(6)(H), 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay any portion of the Assessed Penalty per this Consent Agreement, the entire unpaid balance of the Assessed Penalty and all accrued interest shall become immediately due and owing, and the EPA is authorized to recover the following amounts.
- a. Interest. Interest begins to accrue from the Effective Date of this Consent Agreement. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, 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. Interest will be assessed at prevailing rates, per 33 U.S.C. §§ 1319(g)(9) and 1321(b)(6)(H). The rate of interest is the IRS standard corporate underpayment rate.
 - b. Handling Charges. The United States’ enforcement expenses including, but not limited to, attorneys’ fees and costs of collection proceedings.

- c. Late Payment Penalty. A twenty percent (20%) quarterly non-payment penalty.
96. 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 Consent Agreement, the EPA may take additional actions. Such actions the 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 the EPA or engaging in programs the EPA sponsors or funds, per 40 C.F.R. § 13.17.
 - d. Request that the Attorney General bring a civil action in the appropriate district court to recover the full remaining balance of the Assessed Penalty, in addition to interest and the amounts described above, pursuant to 33 U.S.C. § 1321(b)(6)(H) and 33 U.S.C. § 1319(g)(9). In any such action, the validity, amount, and appropriateness of the Assessed Penalty shall not be subject to review.
97. 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.
98. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Consent Agreement shall not be deductible for purposes of federal taxes.
99. Payment of the civil penalty is due and payable immediately upon the Effective Date of this Consent Agreement and Final Order. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed as of the effective date of this Consent Agreement and Final Order by Respondent in accordance with 40 C.F.R. § 13.9(a).

100. The Parties consent to service of the Final Order by e-mail at the following valid e-mail addresses: ziegler.lauren@epa.gov (for Complainant), and SGould@mcneeslaw.com (for Respondent).

GENERAL SETTLEMENT CONDITIONS

101. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement and Final Order will be available to the public and represents that, to the best of Respondent's knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.
102. Respondent certifies that any information or representation it has supplied or made to the EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. The EPA shall have the right to institute further actions to recover appropriate relief if the EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Consent Agreement and Final Order, including information about Respondent's ability to pay a penalty, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that the EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

CERTIFICATION OF COMPLIANCE

103. Respondent certifies to the EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is in compliance with regard to the violations alleged in this Consent Agreement.

OTHER APPLICABLE LAWS

104. Nothing in this Consent Agreement and Final Order shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This Consent Agreement and Final Order does not constitute a waiver, suspension or modification of the requirements of the CWA, or any regulations promulgated thereunder.

RESERVATION OF RIGHTS

105. This Consent Agreement and Final Order resolves only the EPA's claims for civil penalties for the specific violations alleged against Respondent in this Consent Agreement and Final Order. The EPA reserves the right to commence action against any person, including Respondent, in response to any condition which the EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. This settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice, 40 C.F.R. § 22.18(c). The EPA reserves any rights and remedies available to it under the CWA, the regulations promulgated thereunder, and any other federal law or regulation to enforce the terms of this Consent Agreement and Final Order after its effective date.

EXECUTION /PARTIES BOUND

106. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents and assigns of Respondent. By their signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that the person signing is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and Final Order.

EFFECTIVE DATE

107. Pursuant to 40 C.F.R. § 22.45(b), this Consent Agreement and Final Order shall be issued only after a 40-day public notice and comment period is concluded.
108. This Consent Agreement and Final Order will become final and effective ("Effective Date") thirty (30) days after having been signed by the Regional Administrator or her delegate, the Regional Judicial Officer, and filed with the Regional Hearing Clerk.

ENTIRE AGREEMENT

109. This Consent Agreement and Final Order constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this Consent Agreement and Final Order.

In the Matter of: Four Seasons Produce, Inc.

EPA Docket No. CWA-03-2025-0126

For Respondent:

Four Seasons Produce, Inc.

Date: 8/5/25

By:

Title] DIRECTOR OF FACILITIES

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Acting Director of the Enforcement & Compliance Assurance Division of the United States Environmental Protection Agency, Region 3, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or the Regional Administrator's designee, the Regional Judicial Officer, issue the attached Final Order.

By: **ANDREA BAIN**
Digitally signed by ANDREA BAIN
Date: 2025.09.29 12:08:52 -04'00'
[Digital Signature and Date]
Andrea Bain, Acting Division Director
Enforcement & Compliance Assurance Division
U.S. EPA – Region 3
Complainant

Attorney for Complainant:

By: **Lauren Ziegler**
Digitally signed by Lauren Ziegler
Date: 2025.09.24 13:35:52 -04'00'
[Digital Signature and Date]
Lauren E. Ziegler
Assistant Regional Counsel
U.S. EPA – Region 3

This Final Order constitutes the final Agency action in this proceeding. This Final Order 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 the law. This Final Order resolves only those causes of action alleged in the Consent Agreement and does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of the Clean Water Act and the regulations promulgated thereunder.

The effective date of the foregoing Consent Agreement and this Final Order is thirty (30) days after having been signed by the Regional Administrator or her delegate, the Regional Judicial Officer, and filed with the Regional Hearing Clerk.

By:

**DONZETTA
THOMAS**

Digitally signed by DONZETTA
THOMAS
Date: 2025.09.29 14:20:55
-04'00'

[Digital Signature and Date]

Regional Judicial and Presiding Officer
U.S. EPA Region 3

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3
Philadelphia, Pennsylvania 19103

In the Matter of:	:
	:
Four Seasons Produce, Inc.	:
400 Wabash Road	: U.S. EPA Docket No. CWA-03-2025-0126
Ephrata, Pennsylvania 17522	:
	: Proceeding under Sections 309(g) and 311(b)(6)
Respondent.	: of the Clean Water Act, 33 U.S.C. §§ 1919(g) and
	: 1321(b)(6)
	:
	:
Four Seasons Produce, Inc.	:
400 Wabash Road	:
Ephrata, Pennsylvania 17522	:
	:
Facility.	:
	:
	:
	:

CERTIFICATE OF SERVICE

I certify that the foregoing ***Consent Agreement and Final Order*** was filed with the EPA Region 3 Regional Hearing Clerk on the date that has been electronically stamped on the ***Consent Agreement and Final Order***. I further certify that on the date set forth below, I caused to be served a true and correct copy of the foregoing to each of the following persons, in the manner specified below, at the following addresses:

Copies served via email to:

Scott A. Gould
McNees Wallace & Nurick LLC
SGould@mcneeslaw.com
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166

In the Matter of: Four Seasons Produce, Inc.

EPA Docket No. CWA-03-2024-0126

Lauren E. Ziegler
Assistant Regional Counsel
U.S. EPA, Region 3
ziegler.lauren@epa.gov

Peter Gold
NPDES Inspector
U.S. EPA, Region 3
Gold.Peter@epa.gov

Benjamin Evick
Life Scientist – Oil Inspector
U.S. EPA, Region 3
Evick.Benjamin@epa.gov

BEVIN
ESPOSITO

Digitally signed by BEVIN ESPOSITO
Date: 2025.09.29 15:01:04 -04'00'

[Digital Signature and Date]

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 3