

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX

****FILED****
23 JULY 2021
U.S. EPA - Region 9

IN THE MATTER OF:

Dole Packaged Foods, LLC
7916 Bellevue Road
Atwater, California

Respondent.

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Docket No.
CAA (112r)-09-2021-0043

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

CONSENT AGREEMENT

A. PRELIMINARY STATEMENT

1. This is a civil administrative enforcement action instituted pursuant to Section 113(a)(3)(A) and (d) of the Clean Air Act (“CAA”), as amended, 42 U.S.C. §§ 7413(a)(3)(A) and (d), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits, 40 C.F.R. Part 22. Complainant is the United States Environmental Protection Agency, Region IX (“EPA”). Respondent is Dole Packaged Foods, LLC (“Respondent”).

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

B. GENERAL ALLEGATIONS

3. Respondent owns and operates a facility located at 7916 Bellevue Road, Atwater, California (“Facility”). Respondent processes and packages fruit and vegetable products at the Facility.

4. Between June 5 and June 7, 2018, EPA performed an inspection of the Facility pursuant to Section 112(r) of the CAA, 42 U.S.C. § 7412(r), Sections 304–12 of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. §§ 11004–12, and Section 103 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9603(a) (“Inspection”). Based upon the information gathered during the Inspection and subsequent investigation, EPA determined that Respondent violated certain provisions of the CAA.

5. Pursuant to Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and its implementing regulations, owners and operators of stationary sources at which a regulated substance is present in more than a threshold quantity (“TQ”) must prepare and implement a risk management plan (“RMP”) to detect and prevent or minimize accidental releases 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.

6. Respondent is subject to the powers vested in the EPA Administrator by Section 113 of the CAA, 42 U.S.C. § 7413.

7. Section 113 of the CAA, 42 U.S.C. § 7413, authorizes EPA to assess civil penalties for any violation of Section 112(r) of the CAA, 42 U.S.C. § 7412(r).

8. The Administrator of EPA delegated the authority to sign consent agreements memorializing settlements of enforcement actions under the CAA to EPA Regional Administrators with EPA delegation 7-6-A, dated August 4, 1994. The Regional Administrator, EPA Region IX, in turn, redelegate this authority with respect to enforcement of Section 112(r) of the CAA, 42

U.S.C. § 7412(r), to the Director of the Enforcement and Compliance Assurance Division, Region IX, with delegation R9-7-6-A, dated February 11, 2013.

9. In a letter dated November 3, 2020, the United States Department of Justice granted EPA a waiver from the condition specified in Section 113(d) of the CAA, 42 U.S.C. § 7413(d), that the first alleged date of violation occurred no more than one year before the initiation of the administrative action, to allow EPA to pursue certain administrative actions for violations of 40 C.F.R. Part 68, promulgated pursuant to Section 112(r) of the CAA, 42 U.S.C. § 7412(r). This administrative action falls within the scope of that waiver.

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

11. At all times relevant to this CA/FO, the Facility has been a “stationary source” as defined by Sections 111(a)(3) and 112(a)(3) of the CAA, 42 U.S.C. §§ 7411(a)(3) and 7412(a)(3).

12. At all times relevant to this CA/FO, Respondent has been the “owner or operator” of the Facility as defined by Sections 111(a)(5) and 112(a)(9) of the CAA, 42 U.S.C. §§ 7411(a)(5) and 7412(a)(9).

13. Pursuant to Section 112(r) of the CAA, 42 U.S.C. § 7412(r), EPA established a TQ for each “regulated substance” at or above which a facility that has such substance in one or more processes shall be subject to the requirements of Section 112(r) of the CAA, 42 U.S.C. § 7412(r). For substances designated as “regulated toxic substances,” the TQs are specified at 40 C.F.R. § 68.130, Table 1.

14. Ammonia (anhydrous) (hereinafter “ammonia”) is a “regulated toxic substance” listed under Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), with a TQ of 10,000 pounds pursuant to 40 C.F.R. § 68.130, Table 1.

15. At all times relevant to this CA/FO, Respondent produced, used or stored more than 10,000 pounds or more of ammonia in one or more processes at the Facility.

C. ALLEGED VIOLATIONS

COUNT I

(Failure to Comply with Risk Management Plan Requirements)

16. Paragraphs 1 through 15, above, are incorporated herein by this reference as if they were set forth here in their entirety.

17. 40 C.F.R. § 68.15(a) requires owners or operators subject to Program 2 or Program 3 to develop a management system to oversee the implementation of the RMP elements.

18. 40 C.F.R. § 68.15(b) further requires the owner or operator to assign a qualified person or position with overall responsibility for the development, implementation, and integration of the RMP elements.

19. Pursuant to 40 C.F.R. § 68.15(c), when responsibility for implementing individual requirements of Part 68 is assigned to persons other than the person identified in 40 C.F.R. § 68.15(b), the names or positions of those other persons must be documented and the lines of authority defined through an organization chart or similar document.

20. At all relevant times, Respondent was subject to Program 3.

21. Respondent assigned responsibility for implementing individual requirements of Part 68 to persons other than the person identified under 40 C.F.R. § 68.15(b), but did not define the lines of authority of all such persons through an organization chart or similar document.

22. Accordingly, EPA alleges that Respondent violated 40 C.F.R. § 68.15(c).

COUNT II

(Failure to Comply with Process Safety Requirements)

23. Paragraphs 1 through 15, above, are incorporated herein by this reference as if they were set forth here in their entirety.

24. 40 C.F.R. § 68.65(a) requires owners or operators to complete a compilation of written process safety information before conducting any process hazard analysis, including information pertaining to the technology of the process and information pertaining to the equipment in the process.

25. 40 C.F.R. § 68.65(d) provides that the information pertaining to the equipment in the process must include, among other things, piping and instrument diagrams (“P&IDs”).

26. EPA identified discrepancies between the information contained in Respondent’s compilation of written process safety information—specifically, the P&IDs for the P1-RP10 Recirculator Package and the P1-IC01A Intercooler—and the equipment actually used in the ammonia process.

27. Accordingly, EPA alleges that Respondent violated 40 C.F.R. § 68.65(a).

COUNT III
(Failure to Comply with Process Hazard Analysis Requirements)

28. Paragraphs 1 through 15, above, are incorporated herein by this reference as if they were set forth here in their entirety.

29. 40 C.F.R. § 68.67(a) requires owners and operators to perform a process hazard analysis (“PHA”) for all covered processes that identifies, evaluates, and controls the hazards involved in the process. Additionally, pursuant to 40 C.F.R. § 68.67(c), the PHA must address engineering and administrative controls applicable to the hazards and their interrelationships.

30. The Facility’s 2014 PHA did not address engineering controls applicable to the hazard of liquid hammer/slugging in Item Nos. 8, 14, and 21 and did not address engineering controls applicable to the hazard of a vehicle impact in Item No. 10.

31. Additionally, in many cases the Facility’s 2014 PHA did not address administrative controls applicable to the specific hazards under consideration, relying instead on generic RMP

elements, such as operating procedures, training, pre-startup safety review, or management of change to administratively control hazards.

32. Accordingly, EPA alleges that Respondent violated 40 C.F.R. § 68.67.

COUNT IV

(Failure to Comply with Substantive Requirements for Written Operating Procedures)

33. Paragraphs 1 through 15, above, are incorporated herein by this reference as if they were set forth here in their entirety.

34. 40 C.F.R. § 68.69(a) requires owners or operators to 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. The written procedures must also address certain elements, including the consequences of deviation, the steps required to correct or avoid deviation, the properties of, and hazards presented by, the chemicals used in the process, and the precautions necessary to prevent exposure.

35. Respondent's written operating procedure for draining oil did not adequately address the consequences of deviation, the steps required to correct or avoid deviation, the properties of, and hazards presented by, the chemicals used in the process, or the precautions necessary to prevent exposure.

36. Accordingly, EPA alleges that Respondent violated 40 C.F.R. § 68.69(a).

COUNT V

(Failure to Develop and Implement Safe Work Practices)

37. Paragraphs 1 through 15, above, are incorporated herein by this reference as if they were set forth here in their entirety.

38. 40 C.F.R. § 68.69(d) requires owners or operators to develop and implement safe work practices to provide for the control of hazards during operations.

39. Respondent did not develop and implement safe work practices related to the sanitization and mechanical integrity of ammonia process piping.

40. Accordingly, EPA alleges that Respondent violated 40 C.F.R. § 68.69(d).

COUNT VI
(Failure to Properly Document Training)

41. Paragraphs 1 through 15, above, are incorporated herein by this reference as if they were set forth here in their entirety.

42. 40 C.F.R. § 68.71(a) requires each employee involved in operating a process to be trained in an overview of the process, the operating procedures specified in 40 C.F.R. § 68.69, and the specific safety and health hazards, emergency operations, and safe work practices applicable to the employee's job tasks.

43. 40 C.F.R. § 68.71(c) requires owners or operators to ascertain that each employee involved in operating a process has received and understood the requisite training and to prepare a record containing the employee's identity, the date of the training, and the means used to verify that the employee understood the training received.

44. Respondent did not prepare a record documenting the means Respondent used to verify that employees understood the training received.

45. Accordingly, EPA alleges that Respondent violated 40 C.F.R. § 68.71(c).

COUNT VII
(Failure to Correct Deficient Equipment)

46. Paragraphs 1 through 15, above, are incorporated herein by this reference as if they were set forth here in their entirety.

47. 40 C.F.R. § 68.73(e) requires owners or operators to correct deficiencies in equipment that are outside acceptable limits before further use or, if necessary means are taken to assure safe operation, in a safe and timely manner.

48. During the Inspection, EPA identified several pieces of equipment with deficiencies that were outside acceptable limits (collectively, “Deficient Equipment”).

49. Respondent did not correct the issues with the Deficient Equipment before putting it to further use and did not take necessary means to assure the Deficient Equipment’s safe operation.

50. Accordingly, EPA alleges that Respondent violated 40 C.F.R. § 68.73(e).

COUNT VIII
(Failure to Develop and Implement an Emergency Response Plan)

51. Paragraphs 1 through 15, above, are incorporated herein by this reference as if they were set forth here in their entirety.

52. 40 C.F.R. § 68.95(a) requires owners or operators to develop and implement an emergency response program for the purpose of protecting public health and the environment. The program must include: an emergency response plan; procedures for the use, inspection, testing, and maintenance of emergency response equipment; training for all employees in relevant procedures; and procedures to review and update, as appropriate, the emergency response plan to reflect changes at the Facility, and to ensure that employees are informed of changes.

53. Respondent did not develop and implement adequate procedures for the use, inspection, testing, or maintenance of certain emergency response equipment at the Facility.

54. Respondent did not implement Section 8.3 of its Emergency Response Plan (“Plan”), which required Respondent to prepare a written assessment of the Plan after each emergency response drill and to use such assessments to review and update the Plan accordingly.

55. Accordingly, EPA alleges that Respondent violated 40 C.F.R. § 68.95(a).

COUNT IX
(Failure to Correct Emergency Contact Information)

56. Paragraphs 1 through 15, above, are incorporated herein by this reference as if they were set forth here in their entirety.

57. Pursuant to 40 C.F.R. § 68.195, owners or operators of a stationary source for which an RMP was submitted are required to submit a plan correction with one month of any change in the emergency contact information required under 40 C.F.R. § 68.160(b)(6).

58. An RMP was submitted for the Facility.

59. Respondent did not submit a plan correction within one month of a change to the emergency contact information required under 40 C.F.R. § 68.160(b)(6).

60. Accordingly, EPA alleges that Respondent violated 40 C.F.R. § 68.195(b).

D. CIVIL PENALTY

61. The Complainant proposes that Respondent be assessed, and Respondent agrees to pay **TWO HUNDRED THREE THOUSAND FOUR HUNDRED FORTY-FIVE DOLLARS (\$203,445.00)**, as the civil penalty for the violations alleged herein.

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

E. ADMISSIONS AND WAIVERS OF RIGHTS

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

64. 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.

F. PARTIES BOUND

65. 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, the compliance tasks required under Section G have been completed, and any delays in performance and/or stipulated penalties have been resolved. At such time, this CA/FO shall automatically terminate.

66. 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.

67. 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.

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

G. COMPLIANCE TASKS

69. All submissions to EPA in this section shall be in writing and submitted to Cyntia Steiner at steiner.cyntia@epa.gov, with a copy to Nicolas Cardella at cardella.nicolas@epa.gov.

70. 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 grant or deny, in full or in part, the request for modification. If, after thirty (30) days from the date of EPA's receipt

of a written request for a modification, EPA takes no action on the request, then Respondent's request shall be deemed granted.

71. Progress Reports. Within three (3) months of the Effective Date of the CA/FO, and every six 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.

72. 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 the person assigned overall responsibility for the development, implementation, and integration of RMP elements pursuant to 40 C.F.R. § 68.15(b). 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.

73. Hydraulic Shock Evaluation. Within sixty days of the Effective Date, Respondent shall document and certify that it has evaluated the applicability of Section 6.0 (Lessons Learned) of the Chemical Safety Board's *Key Lessons for Preventing Hydraulic Shock in Industrial Refrigeration*

Systems to the Facility and, if applicable, updated its 2020 Process Hazard Analysis accordingly. Respondent's first Progress Report shall include a copy of the written evaluation of applicability and a copy of any modifications made to its 2020 Process Hazard Analysis pursuant to this Paragraph.

74. Operating Procedure Update. Respondent shall complete its update of all operating procedures and certify that the updated procedures are compliant with 40 C.F.R. § 68.69(a) in accordance with the following schedule:

- a. By December 31, 2021, Respondent shall complete its update of Evaporator and Air Purger operating procedures;
- b. By May 31, 2022, Respondent shall complete its update of Accumulator, Ammonia Pump, and Condenser operating procedures;
- c. By October 31, 2022, Respondent shall complete its update of Heat Exchanger, Compressor, Intercooler, Oil Pot, Recirculator, and Vessel operating procedures.

75. Updated Operating Procedure Training. By December 31, 2022, Respondent shall document and certify that it has trained all current (employed as of the Effective Date) operators on the updated operating procedures completed pursuant to Paragraph 74 in accordance with 40 C.F.R. § 68.71(c). Progress on operating procedure training shall be reported in each Progress Report.

76. Mechanical Integrity Report Findings. Within sixty days of the Effective Date, Respondent shall address all Safety Status #1 findings in the Mechanical Integrity Audit Report dated October 2, 2020 ("2020 MI Audit Report"). Respondent shall address all Safety Status #2 findings in the 2020 MI Audit Report in accordance with the following schedule:

- a. By December 31, 2021, Respondent shall complete non-destructive testing (“NDT”) for findings that prompt additional inspection and shall schedule work to address the NDT results; Respondent shall take appropriate action to address the NDT results as soon as reasonably practicable, but in no event later than June 30, 2023;
- b. By December 31, 2021, Respondent shall verify safety relief valve calculations listed in the 2020 MI Audit Report;
- c. By June 30, 2022, Respondent shall complete all work on findings that can be accomplished in-house, such as tubing, service valve installations, painting, guard installations;
- d. By December 31, 2022, Respondent shall complete findings that require support installations by contractors;
- e. By June 30, 2023, Respondent shall complete capital projects.

Until all Safety Status #1 and #2 findings have been addressed, Respondent shall include as an attachment to each Progress Report the current tracking tables for Plants 1 and 2.

77. Emergency Evacuation Training. By October 31, 2021, Respondent will document and certify that all current (employed as of the Effective date) employees have received training on how to properly evacuate in the event of emergency.

H. PAYMENT OF CIVIL PENALTY

78. Respondent consents to the assessment of and agrees to pay civil penalties of **TWO HUNDRED THREE THOUSAND FOUR HUNDRED FORTY-FIVE DOLLARS (\$203,445.00)** in settlement of the civil penalty claims made in this CA/FO.

79. Respondent shall pay the civil penalty within thirty (30) days of the Effective Date of this CA/FO.

80. All payments shall indicate the name of the Facility, EPA Facility identifier 1000 0014 1786, the Respondent's name and address, and the appropriate EPA docket number of this action. Payment shall be made by corporate, certified, or cashier's checks payable to "Treasurer of the United States" and sent as follows:

Regular Mail:

U.S. Environmental Protection Agency
P.O. Box 979077
St. Louis, MO 63197-9000

Overnight Mail:

U.S. Environmental Protection Agency
Government Lock Box 979077
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101
Contact: Natalie Pearson (314-418-4087)

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

Wire Transfers:

Wire transfers must be sent directly to the Federal Reserve Bank in New York City with the following information:
Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"

ACH (also known as REX or remittance express):

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

US Treasury REX/Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
Environmental Protection Agency
CTX Format Transaction Code 22-checking

Physical Location of US Treasury Facility
5700 Rivertech Court
Riverdale, MD 201737
On Line Payment:

This payment option can be accessed from the information below:
www.pav.gov
Enter "sfol.l" in the search field
Open form and complete required fields

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

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

and

Cyntia Steiner
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency - Region 9
Steiner.Cyntia@epa.gov.

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

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

I. DELAY IN PERFORMANCE/STIPULATED PENALTIES

83. In the event Respondent fails to meet any requirement set forth in this CA/FO, Respondent shall pay stipulated penalties as follows: TWO HUNDRED FIFTY DOLLARS (\$250) per day for the first to fifteenth day of delay, FIVE HUNDRED DOLLARS (\$500) per day for the sixteenth to thirtieth day of delay, and TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500) 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.

84. 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; provided, however, that stipulated penalties for non-compliance with the deadlines set forth in Section G shall not accrue during the pendency of a request for a deadline extension pursuant to Paragraph 70. Respondent shall pay stipulated penalties within fifteen (15) 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 H of this CA/FO.

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

86. 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

87. Except as addressed in this CA/FO, EPA hereby reserves all of its statutory and regulatory powers, authorities, rights, and remedies, both legal and equitable, including the right to require

that Respondent perform tasks in addition to those required by this CA/FO. EPA further reserves all of its statutory and regulatory powers, authorities, rights, and remedies, both legal and equitable, which may pertain to Respondent's failure to comply with any of the requirements of this CA/FO, including without limitation, the assessment of penalties under the CAA or any other statutory, regulatory, or common law enforcement authority of the United States. Except as otherwise provided herein, this CA/FO shall not be construed as a covenant not to sue, release, waiver, or limitation of any rights, remedies, powers, or authorities, civil or criminal, which EPA has under the CAA or any other statutory, regulatory, or common law enforcement authority of the United States.

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

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

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

K. MISCELLANEOUS

91. Except as set forth in Paragraph 70 of this agreement, this CA/FO may be amended or modified only by written agreement executed by both EPA and Respondent.

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

93. Each party to this action shall bear its own costs and attorneys' fees.

94. Respondent consents to entry of this CA/FO without further notice.

L. EFFECTIVE DATE

95. 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 ("Effective Date").

IT IS SO AGREED.

Respondent, Dole Packaged Foods, LLC

DATE: 5-27-2021

BY: 

Name:

Eric J. Salado

Title:

Director of Master Operations

Respondent, Dole Packaged Foods, LLC

DATE: 6/1/2021

BY: 

Name:

SUNIL PHABIANI

Title:

V.P. MFG & SUPPLY CHAIN

United States Environmental Protection Agency, Region IX

DATE: _____

BY: _____

Amy C. Miller-Bowen

Director, Enforcement and Compliance Assurance

Division

IT IS SO AGREED.

Respondent, Dole Packaged Foods, LLC

DATE: _____

BY: _____

Name:

Title:

Respondent, Dole Packaged Foods, LLC

DATE: _____

BY: _____

Name:

Title:

United States Environmental Protection Agency, Region IX

DATE: _____

BY: **AMY MILLER-
BOWEN**

Amy C. Miller-Bowen

Director, Enforcement and Compliance Assurance
Division

Digitally signed by AMY
MILLER-BOWEN
Date: 2021.07.16 06:29:43
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FINAL ORDER

IT IS HEREBY ORDERED that this Consent Agreement and Final Order (“CA/FO”) pursuant to 40 C.F.R. Sections 22.13 and 22.18 (Docket No. CAA (112r) 09-2021-0043) be entered and that Respondent pay a civil penalty of **TWO HUNDRED THREE THOUSAND FOUR HUNDRED FORTY-FIVE DOLLARS (\$203,445.00)** due within thirty (30) days from the Effective Date of this CA/FO, in accordance with all terms and conditions of this CA/FO.

STEVEN JAWGIEL

Digitally signed by STEVEN
JAWGIEL

Date: 2021.07.22 08:52:01 -07'00'

Date

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

CERTIFICATE OF SERVICE

This is to certify that the foregoing CONSENT AGREEMENT AND FINAL ORDER in the matter of *Dole Packaged Foods, LLC (CAA(112r)-09-2021-0043)*, signed by the Regional Judicial Officer, has been filed with the Regional Hearing Clerk and was served on Respondent, and Counsel for EPA, as indicated below:

VIA E-MAIL:

For Respondent:

Tim Oswald
General Counsel
Dole Packaged Foods, LLC
tim.oswald@doleintl.com

Krista K. McIntyre
Stoel Rives, LLP
krista.mcintyre@stoel.com

For Complainant:

Nicolas R. Cardella
Attorney Advisor
Office of Regional Counsel
Environmental Protection Agency, Region IX
cardella.nicolas@epa.gov


**Armsey,
Steven** Digitally signed by
Armsey, Steven
Date: 2021.07.23
21:55:17 -07'00'

Steven Armsey
Regional Hearing Clerk
Environmental Protection Agency, Region IX