

FILED

Mar 30, 2026

12:57 pm

U.S. EPA REGION 5
HEARING CLERK

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:) Docket No. CAA-05-2026-0019
)
Echo Lake Foods – Huntington) Proceeding to Assess a Civil Penalty
Huntington, Indiana,) Under Section 113(d) of the Clean Air Act,
) 42 U.S.C. § 7413(d)
Respondent.)
_____)

Consent Agreement and Final Order

A. Preliminary Statement

1. This is an administrative penalty assessment proceeding commenced and concluded under Section 113(d) of the Clean Air Act (the CAA), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b) and 22.18(b) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. §§ 22.1(a)(2), 22.13(b) and 22.18(b).
2. Complainant is the U.S. Environmental Protection Agency (EPA). The EPA Administrator has delegated the authority to settle civil administrative penalty proceedings under Section 113(d) of the CAA to the Division Director of the Region 5 Enforcement and Compliance Assurance Division.
3. Respondent is Echo Lake Foods – Huntington (Echo Lake), a corporation doing business in Indiana. Respondent is a “person,” as defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
4. The EPA and Respondent agree that settling this action is in the public interest and consent to the entry of this Consent Agreement and Final Order (CAFO) pursuant to 40 C.F.R. § 22.18(b)(2) and (3) without the adjudication of any issues of law or fact.
5. Respondent agrees to comply with the terms of this CAFO.

B. Jurisdiction

6. The alleged violations in this CAFO are pursuant to Section 113(a)(3)(A) of the CAA.

7. The EPA and the United States Department of Justice have jointly determined that this matter, although it involves alleged violations that occurred more than one year before the initiation of this proceeding, is appropriate for an administrative penalty assessment. 42 U.S.C. § 7413(d); 40 C.F.R. § 19.4.

8. On June 14, 2024, the EPA issued to Respondent a Finding of Violation (FOV) and provided a copy of the FOV to Indiana Department of Environmental Management (IDEM), providing notice to Respondent and IDEM that the EPA found Respondent committed the alleged violations described in Section E of this CAFO and providing Respondent an opportunity to confer with the EPA. On July 31, 2024, representatives of Respondent and the EPA conferred regarding the July 31, 2024, FOV.

9. The Regional Judicial Officer of Region 5 is authorized to ratify the Consent Agreement memorializing the settlement between the EPA and Respondent and to issue the attached Final Order. 40 C.F.R. §§ 22.4(b) and 22.18(b).

C. Statutory and Regulatory Background

Clean Air Act, Subsection 112(r)

10. Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), provides that it shall be the objective of the regulations and programs authorized under this subsection to prevent the accidental release and to minimize the consequences of any such release of any substance listed pursuant to Section 112(r)(3), or any other extremely hazardous substance. The owners and operators of stationary sources producing, processing, handling or storing such substances have a general duty in the same manner and to the same extent as Section 654, Title 29 of the United States Code, to identify hazards

which may result from such releases using appropriate hazard assessment techniques, to design and maintain a safe facility taking such steps as are necessary to prevent releases, and to minimize the consequences of accidental releases which do occur.

11. Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), provides that the Administrator shall promulgate, not later than 24 months after November 15, 1990, an initial list of 100 substances which, in the case of an accidental release, are known to cause or may reasonably be anticipated to cause death, injury, or serious adverse effects to human health or the environment.

12. Section 112(r)(7)(A) of the CAA, 42 U.S.C. § 7412(r)(7)(A), provides that in order to prevent accidental releases of regulated substances, the Administrator is authorized to promulgate release prevention, detection, and correction requirements which may include monitoring, record-keeping, reporting, training, vapor recovery, secondary containment, and other design, equipment, work practice, and operational requirements.

13. Section 112(r)(7)(B)(i) of the CAA, 42 U.S.C. § 7412(r)(7)(B)(i), provides that within 3 years after November 15, 1990, the Administrator shall promulgate reasonable regulations and appropriate guidance to provide, to the greatest extent practicable, for the prevention and detection of accidental releases of regulated substances and for response to such releases by the owners or operators of the sources of such releases.

14. Section 112(r)(7)(B)(ii) of the CAA, 42 U.S.C. § 7412(r)(7)(B)(ii), provides that the regulations under this subparagraph shall require the owner or operator of stationary sources at which a regulated substance is present in more than a threshold quantity to 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.

15. Pursuant to Section 112(r) of the CAA, 42 U.S.C. § 7412(r), the Administrator initially promulgated a list of regulated substances, with threshold quantities for applicability, at 59 Fed. Reg. 4493 (Jan. 31, 1994), which is codified, as amended, at 40 C.F.R. § 68.130.

Chemical Accident Prevention Provisions

16. Pursuant to Section 112(r) of the CAA, 42 U.S.C. § 7412(r), the Administrator promulgated “Accidental Release Prevention Requirements: Risk Management Programs Under Clean Air Act Section 112(r)(7),” 61 Fed. Reg. 31668 (June 20, 1996), which is codified, as amended, at 40 C.F.R. Part 68 (Chemical Accident Prevention Provisions or CAPP). The Administrator promulgated the most recent amendment to the CAPP on May 10, 2024. 89 Fed. Reg. 17622 (March 11, 2024).

17. The CAPP seeks to prevent accidental releases of regulated substances and minimize the consequences of those releases that do occur, by requiring owners and operators of certain stationary sources to, among other things: (1) develop and implement a management system to oversee the implementation of the RMP elements; (2) develop and implement an RMP that includes, but is not limited to, a hazard assessment, a prevention program, and an emergency response program; and (3) submit to EPA an RMP describing the risk management program for the source. See 40 C.F.R. Part 68, Subparts A-G, 40 C.F.R. §§ 68.1-68.195.

18. Section 112(r)(7)(E) of the CAA, 42 U.S.C. § 7412(r)(7)(E), provides that after the effective date of any regulation or requirement promulgated pursuant to Section 112(r) of the CAA, it shall be unlawful for any person to operate any stationary source in violation of such regulation or requirement.

CAPP Applicability

19. Section 68.10(a) of the CAPP provides, in part, that the owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process, as determined under 40 C.F.R. § 68.115, shall comply with the requirements of the CAPP no later than the date on which a regulated substance is first present above a threshold quantity in a process. See 40 C.F.R. § 68.10(a)(3).

20. Section 68.3 of the CAPP provides that “regulated substance” means any substance listed pursuant to Section 112(r)(3) of the CAA at 40 C.F.R. § 68.130.

21. Section 68.3 of the CAPP provides that “process” means “any activity involving a regulated substance including any use, storage, manufacturing, handling, or on-site movement of such substances, or combination of these activities.” For the purposes of this definition, “any group of vessels that are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release,” shall be considered a single process.

22. Section 68.3 of the CAPP provides that “covered process” means “a process that has a regulated substance present in more than a threshold quantity as determined under 40 C.F.R. § 68.155.”

23. Section 68.3 of the CAPP states “public receptor” means “offsite residences, institutions (e.g., schools, hospitals), industrial, commercial, and office buildings, parks, or recreational areas inhabited or occupied by the public at any time without restriction by the stationary source where members of the public could be exposed to toxic concentrations, radiant heat, or overpressure, as a result of an accidental release.”

24. Table 1 at Section 68.130(a) of the CAPP lists anhydrous ammonia as a regulated toxic substance with a threshold quantity of 10,000 pounds.

25. Section 68.10(j) of the CAPP provides, in part, that a covered process is subject to “Program 1” requirements if the distance to a toxic or flammable endpoint for a worst-case release assessment conducted under CAPP Subpart B and 40 C.F.R. § 68.25 is less than the distance to any public receptor, as defined in 40 C.F.R. § 68.3.

26. Section 68.10(l) of the CAPP provides, in part, that a covered process is subject to “Program 3” requirements if the process does not meet the Program 1 eligibility requirements at 40 C.F.R. § 68.10(j) and if either of the following conditions is met: (1) the process is in NAICS code 32211, 32411, 32511, 325181, 325188, 325192, 325199, 325211, 325311, or 32532; or (2) the process is subject to the U.S. Occupational Safety and Health Administration (OSHA) process safety management standard, 29 C.F.R. § 1910.119.

27. Sections 68.12(a) and (d) of the CAPP identify the CAPP requirements that the owner or operator of a stationary source with a process subject to Program 3 must meet, which include, among other provisions, to conduct a hazard assessment as provided in Sections 68.20 through 68.42; implement the prevention requirements of Sections 68.65 through 68.87; coordinate response actions with local emergency planning and response agencies as provided in Section 68.93; develop and implement an emergency response program, as provided in Sections 68.90 through 68.96; submit a single RMP, as provided in Sections 68.150 to 68.185, that includes a registration that reflects all covered processes; and submit as part of the RMP the data on prevention program elements for Program 3 processes as provided in Section 68.175.

Off-site Consequence Analysis (OCA)

28. Sections 68.20 through 68.39 of the CAPP require an owner or operator to develop an OCA that models a toxic release and determines a distance to endpoint that the modeled release would affect.

29. Sections 68.30(a) and (b) of the CAPP require the owner or operator to note in the RMP the presence of institutions (schools, hospitals, prisons), parks and recreational areas, and major commercial, office, and industrial buildings within a circle with its center at the point of the release and a radius determined by the distance to the endpoint.

30. Section 68.33(a) of the CAPP requires the owner or operator to list in the RMP environmental receptors within a circle with its center at the point of the release and a radius determined by the distance to the endpoint.

Process Safety information (PSI)

31. Section 68.65(a) of the CAPP requires the owner or operator of a stationary source with a process subject to Program 3 to complete a compilation of written process safety information before conducting any process hazard analysis required by the rule. It requires process safety information to include information pertaining to the hazards of the regulated substances used or produced by the process, information on the technology of the process, and information pertaining to the equipment in the process.

32. Section 68.65(d)(1)(i) of the CAPP requires the owner or operator to maintain information regarding the equipment used in the process including materials of construction.

33. Section 68.65(d)(1)(vii) of the CAPP requires the owner or operator to maintain information regarding the material and energy balances for processes built after June 21, 1999.

34. Section 68.65(d)(2) of the CAPP requires the owner or operator to document that equipment complies with recognized and generally accepted good engineering practices.

Process Hazard Analysis (PHA)

35. Sections 68.67(a) and 68.67(f) of the CAPP require, in relevant parts, the owner or operator to perform an initial PHA as soon as possible, as well as a revalidation and update of the PHA every 5 years.

36. Section 68.67(a) of the CAPP requires the PHA to be appropriate to the complexity of the process and shall identify, evaluate, and control the hazards involved in the process.

37. Section 68.67(c)(1) of the CAPP requires the PHA to address the hazards of the process.

Operating procedures

38. Section 68.69(a)(4) of the CAPP requires the owner or operator 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 and shall address safety systems and their functions.

39. Section 68.69(c) of the CAPP requires, in relevant part, the owner or operator to certify annually that operating procedures are current and accurate.

Training

40. Section 68.71 of the CAPP requires the owner or operator to have initial training, refresher training, and documentation to ascertain that each employee involved in operating a process has received and understood the training.

41. Section 68.71(b) of the CAPP requires refresher training to be provided at least every three years, and more often if necessary, to each employee involved in operating a process to assure that the employee understands and adheres to the current operating procedures of the process. The owner or operator, in consultation with the employees involved in operating the process, must determine the appropriate frequency of refresher training.

Mechanical Integrity

42. Section 68.73 of the CAPP requires the owner or operator to have a Mechanical Integrity program including written procedures, training, inspections and testing, corrections of equipment deficiencies, and quality assurance for all equipment listed under Section 68.73 for the covered process.

43. Section 68.73(e) of the CAPP requires the owner or operator to correct deficiencies in equipment that were outside acceptable limits defined by the process safety information before further use or in a safe and timely manner when necessary means were taken to assure safe operation.

Incident Investigation

44. Section 68.81(a) of the CAPP requires the owner or operator to investigate each incident which resulted in or could reasonably have resulted in a catastrophic release.

45. Section 68.81(b) of the CAPP requires the owner or operator to initiate an incident investigation as promptly as possible, but not later than 48 hours following the incident.

46. Section 68.81(d) of the CAPP requires the owner or operator to prepare a report at the conclusion of the investigation which includes at a minimum: date of incident, date investigation began, a description of the incident, the factors that contributed to the incident, and any recommendations resulting from the investigation.

Emergency Response

47. Section 68.93 of the CAPP requires the owner or operator of a stationary source to coordinate response needs with local emergency planning and response organizations to determine how the stationary source is addressed in the community emergency response plan and to ensure that local response organizations are aware of the regulated substances at the stationary source, their

quantities, the risks presented by covered processes, and the resources and capabilities at the stationary source to respond to an accidental release of a regulated substance.

48. Section 68.93(a) of the CAPP states that coordination shall occur at least annually, and more frequently if necessary, to address changes: at the stationary source; in the stationary source's emergency response and/or emergency action plan; and/or in the community emergency response plan.

49. Section 68.93(b) of the CAPP requires coordination to include providing to the local emergency planning and response organizations: 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. For responding stationary sources, coordination must also include consulting with local emergency response officials to establish appropriate schedules and plans for field and tabletop exercises required under Section 68.96(b). The owner or operator must request an opportunity to meet with the local emergency planning committee (or equivalent) and/or local fire department as appropriate to review and discuss those materials.

50. Section 68.93(c) of the CAPP requires the owner or operator to document coordination with local authorities, including: the names of individuals involved and their contact information (phone number, email address, and organizational affiliations); dates of coordination activities; and nature of coordination activities.

Risk Management Plan

51. Section 68.195(b) of the CAPP requires the owner or operator to submit a correction of the emergency contact information within one month of any change in the emergency contact information required under Section 68.160(b)(6).

Recognized And Generally Accepted Good Engineering Practices

International Institute of Ammonia Refrigeration (IIAR)

52. IIAR-6 is the Standard for Inspection, Testing, and Maintenance of Closed-Circuit Ammonia Refrigeration Systems.

53. IIAR-6 Section 5.1.1.1 states that the frequency of inspection and testing shall be consistent with applicable manufacturers' recommendations and operating history.

54. IIAR-6 Section 5.4.2 states equipment inspections shall be performed by a qualified inspector(s). Every fifth (5th) year, at a minimum, the annual inspections shall be conducted by a qualified inspector who shall not be influenced by the facility's record keeping, operations, maintenance, or management. This person shall not present a conflict of interest and shall report instances of deficiencies.

55. IIAR-6 Section 5.6.8 states that equipment and piping shall be kept free from excessive ice buildup.

56. IIAR-6 Section 13.1.1 states that all pressure relief valves (PRVs) that relieve pressure to the atmosphere shall be recertified or replaced on the 5-year time-based frequency.

57. IIAR-6 Section 13.1.1.1 states that the service life of the PRV shall not exceed 5 years of service after it is installed on the system.

58. IIAR-6 Section 13.1.1.1.1 states that where the PRV Date Tag was not punched during installation, and PRV records do not indicate the installation date, then the worst-case installation date on PRV Date Tag is assumed and shall be punched upon inspection.

59. IIAR-9 is the Minimum System Safety Requirements for Existing Closed Circuit Ammonia Refrigeration Systems.

60. IIAR-9 Section 7.2.9.1(1) states that buildings and facilities with refrigeration systems shall be provided with placards in accordance with National Fire Protection Association (NFPA) 704.
61. IIAR-9 Section 7.2.9.2 states that refrigeration equipment shall be provided with labels indicating the equipment's name or identifier.
62. IIAR-9 Section 7.2.9.4 states that ammonia piping mains, headers, and branches shall be identified with the following information: "AMMONIA"; Physical state of the ammonia; relative pressure level of ammonia being low or high as applicable; pipe service; and direction of flow.
63. IIAR-9 Section 7.2.11.1 states that where ammonia-containing equipment is installed in a location subject to physical damage, guarding or barricading shall be provided.
64. IIAR-9 Section 7.3.7.1 states that each machinery room shall have access to a minimum of two eyewash/safety shower units, one located inside the machinery room and one located outside the machinery room.
65. IIAR-9 Section 7.3.9.2 states that machinery room doors shall be self-closing and tight fitting. Doors that are part of the means of egress shall be equipped with panic hardware and shall be side hinged to swing in the direction of egress for occupants leaving the machinery room. Where the machinery room is not provided with fire sprinklers, doors communicating with the building interior shall be one-hour fire rated. Doors to the outdoors shall be fire rated based on the fire rating required for exterior wall openings.
66. IIAR-9 Section 7.3.11.1 states that a clearly identified emergency shut-off switch with a tamper-resistant cover shall be located outside and adjacent to the designated principal machinery room door. The switch shall provide off-only control of refrigerant compressors, refrigerant pumps, and normally closed automatic refrigerant valves located in the machinery room. The function of the switch shall be clearly marked by signage near the controls.

67. IIAR-9 Section 7.3.12.1(3) states that audible and visual alarms shall be provided inside the room. Additional audible and visual alarms shall be located outside of each entrance to the machinery room.

68. IIAR-9 Section 7.3.12.2(1) states, in relevant part, that the machinery room alarm response shall be at an appropriate arrangement for activation of an alarm to a monitored location so an immediate response can be set in place at a detected concentration of no higher than 50 ppm.

69. IIAR-9 Section 7.3.12.4 states that a leak detection sensor, or the inlet of the sampling tube that draws air to a leak detection sensor, shall be mounted in a position where ammonia from a leak is expected to accumulate. In rooms equipped with continuous exhaust ventilation, the leak detection sensors and sampling tubes shall take into account the air movement towards the inlet of the ventilation system. Leak detection sensors and sampling tube inlets shall be positioned where they can be accessed for maintenance and testing.

70. IIAR-9 Section 7.4.2.1 states that the termination of pressure relief device discharge piping relieving to the atmosphere shall not be less than 15 feet above grade and not less than 20 feet from windows, ventilation intakes, or exits.

71. IIAR-9 Section 7.4.2.3 states that discharge piping shall be permitted to terminate not less than 7.25 ft (2.2 m) above platform surfaces, such as upper condenser catwalks, that are occupied solely during service and inspection.

D. Stipulated Facts

CAPP Applicability

72. Echo Lake owns and operates an ammonia refrigeration system at their production facility specializing in egg products and breakfast style entrees at 435 W State St., Huntington, IN 46750 (Facility).

73. The Facility uses a two-stage, closed loop, ammonia refrigeration system to refrigerate the food items.

74. The ammonia refrigeration system at the Facility includes eleven compressors, fifteen evaporators, ten make-up air units, seven condensers, three heat exchangers, seventeen ammonia detection sensors, ventilation system, pumps, piping, vessels, and refrigeration controls.

75. The Facility maintains a maximum inventory of the regulated toxic substance anhydrous ammonia, that exceeds the threshold quantity of 10,000 pounds of anhydrous ammonia set forth in Table 1 at 40 C.F.R. § 68.130.

76. The anhydrous ammonia system at the Facility was and is a “covered process,” as that term is defined at 40 C.F.R. § 68.3.

77. The covered process at the Facility is subject to the Indiana OSHA process safety management standard because it contains greater than the threshold quantity of 10,000 pounds of anhydrous ammonia that is a highly hazardous chemical as defined in 29 C.F.R. § 1910.119(b).

78. The Facility is subject to the requirements of the CAPP in accordance with 40 C.F.R. § 68.1 et seq.

79. The covered process at the Facility does not meet the Program 1 eligibility requirements at 40 C.F.R. § 68.10(j) because the distance to the toxic endpoint for the worst-case release assessment is more than the distance to any public receptor.

80. The Facility is subject to Program 3 because the covered process is subject to the OSHA process safety management standard (29 C.F.R. § 1910.119) and does not meet the Program 1 eligibility requirements at 40 C.F.R. § 68.10(j), in accordance with 40 C.F.R. § 68.10(l).

Facility Inspection

81. On January 17, 2024, EPA conducted an announced inspection of the Facility (January 2024 Inspection).

82. During the January 2024 Inspection, EPA inspectors reviewed documents relating to the RMP that Echo Lake provided (RMP Documents). The RMP Documents included aspects of the Facility's RMP involving the management system, offsite consequence analysis, process safety information, process hazard analysis, operating procedures, training, mechanical integrity, management of change, pre-startup safety review, compliance audits, incident investigation, hot work permits, employee participation, emergency response, and contractors.

83. From February 28, 2024 to November 20, 2025, Respondent completed the following actions:

- a. OCA: conducted a new OCA to identify public and environmental receptors that could be affected by the worst-case release scenario based on their distance to the endpoint.
- b. PSI: commenced the building and equipment reconstruction project to ensure that equipment associated with the covered process complies with recognized and generally accepted good engineering practices. Specifically, the following were completed:
 - i. Installed placards in accordance with NFPA 704.
 - ii. Installed guarding and barricading where necessary.
 - iii. Installed necessary eyewash/safety shower units.
 - iv. Installed panic hardware on egress doors.
 - v. Installed emergency shut-off switches with tamper-resistant covers.

- vi. Installed necessary leak detection sensors that account for the air movement.
- vii. Extended termination of pressure relief device discharge piping to the correct lengths.
- c. PHA: completed the revalidation of the PHA conducted on June 24 - 25, 2019, (2019 PHA).
- d. Operating procedures: updated necessary operating procedures and completed the review process to ensure that all operating procedures are current, accurate, and certified annually.
- e. Training: updated training for employees.
- f. Mechanical Integrity: commenced the building and equipment reconstruction project to correct deficiencies in equipment that were outside acceptable limits defined by the process safety information, including the 2019 mechanical integrity audit recommendations.
- g. Emergency Response: achieved initial contact with the local emergency planning and response organizations and obtained the community emergency response plan to ensure the facility is addressed.
- h. RMP: resubmitted the RMP with updated emergency contact information on February 28, 2024.

E. Allegations

84. Based on information gathered during the January 2024 Inspection, EPA alleges the following violations of CAPP requirements:

OCA

85. The RMP Documents contain a worst-case release scenario analysis for a toxic release of ammonia. The worst-case release documentation did not list public or environmental receptors within the radius, determined by the distance to the endpoint from the Facility.

86. Echo Lake failed to identify the presence of public receptors within the radius of a distance to the endpoint modeled by the worse-case release scenario, in violation of 40 C.F.R. § 68.30(b).

87. Echo Lake failed to list environmental receptors that would be affected by a worse-case release scenario based on the distance to the endpoint, in violation of 40 C.F.R. § 68.33(a).

PSI

88. During the January 2024 Inspection, material of construction information was not maintained for the entire ammonia system. Echo Lake did not provide the information pertaining to the materials of construction for compressor C-6 and make-up air unit MAU-5.

89. Echo Lake failed to maintain information pertaining to the materials of construction for equipment used in the process, in violation of 40 C.F.R. § 68. 65(d)(1)(i).

90. During the January 2024 Inspection, Echo Lake provided material and energy balances that had an inaccurate number of the process equipment.

91. Echo Lake failed to maintain information regarding the material and energy balances for processes built after June 21, 1999, in violation of 40 C.F.R. § 68. 65(d)(1)(vii).

92. During the January 2024 Inspection, inspectors toured the Facility and made several observations (Inspector Observations).

93. Inspector Observations included:

- a. The exit door #14, on the southwest corner of the machine room, did not have panic-opening hardware installed.
- b. An ammonia sensor and ventilation exhausts were on opposite walls with compressors between them in the high-stage machine room.
- c. The intercooler referenced as "V-3" in the RMP Documents was labeled "V-4 Intercooler" at the site.
- d. The intercooler oil pot relief valve did not have a replacement tag to indicate the date of installation and the date in which replacement is required and showed signs of heavy corrosion.
- e. The atmospheric discharges of some pressure relief valves did not appear to meet required height above roof or adjacent roof/platform elevation.
- f. No eyewash/safety shower units were located outside the exit machine room exits.
- g. The NFPA placard on the outside of exit door #15 was damaged, partially peeled off and unreadable.
- h. The emergency shut-off switch outside the machine room door #15 was not identified with a tamper-resistant cover, and its function was not clearly marked by signage near the controls.
- i. Evaporator EV-15 was located near the storage rack, however it was not protected or guarded from the physical impact of the storage handling equipment.
- j. Vessels and piping on the roof of the building were not properly labeled.

94. Based on the observations noted in paragraph 93, Echo Lake failed to ensure that equipment associated with the covered process complies with recognized and generally accepted good engineering practices as set forth in Recognized And Generally Accepted Good Engineering Practices Section above, in violation of 40 C.F.R. § 68.65(d)(2).

PHA

95. Some of the engineering and administrative controls applicable to the hazards and interrelationships checklist developed during the 2019 PHA indicated "NO" to some questions and then did not have a recommendation to address or an explanation to demonstrate that the current system/safeguards were enough.

96. As described in paragraph 95, Echo Lake failed to conduct the 2019 PHA appropriate to the complexity of the process and identify, evaluate, and control the hazards involved in the process, in violation of 40 C.F.R. § 68.67(a) and 68.67(c)(1).

Operating procedures

97. During the January 2024 Inspection, Echo Lake provided the standard operating procedures (SOPs) for review.

98. The King Valve actuates if the ammonia concentration in the room reaches 250 ppm, however, the compressors' SOP stated that the King Valve will actuate at an ammonia concentration of 300 ppm.

99. Echo Lake failed 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 and address safety systems and their functions, in violation of 40 C.F.R. § 68.69(a)(4).

100. Some of the SOPs provided during the January 2024 Inspection had not been reviewed and certified annually. Echo Lake representatives stated that while some procedures were annually recertified, they had not completed the annual certification of all SOPs.

101. Echo Lake failed to certify annually that operating procedures are current and accurate, in violation of 40 C.F.R. § 68.69(c).

Training

102. The RMP Documents indicated that the most recent refresher training was conducted on July 31, 2020.

103. Echo Lake failed to provide refresher training at least every three years, or more often if necessary, to each employee involved in operating a process to assure that the employee understands and adheres to the current operating procedures of the process, in violation of 40 C.F.R. § 68.71(b).

Mechanical Integrity

104. At the time of the January 2024 Inspection, the latest 5-year mechanical integrity program audit had been conducted on December 17-18, 2019, (2019 Audit) by Bassett Mechanical PSM Services.

105. The 2019 Audit resulted in 51 recommendations. As of the January 2024 Inspection, 23 recommendations have yet to be addressed. Some of the recommendations were addressed in 2020, and two more were addressed in 2021. However, no action was taken in 2022. Echo Lake resumed addressing the recommendations towards the end of 2023.

106. During the January 2024 inspection, EPA inspectors observed that some of the deficiencies identified in the 2019 Audit have not yet been addressed. For instance, EPA inspectors noted that the atmospheric discharges of certain pressure relief valves did not appear to meet the

required height above the roof or adjacent roof/platform elevation. Additionally, safety equipment such as eyewash/safety shower units were still not installed outside the machine room exits.

107. As described in paragraphs 105 and 106, Echo Lake failed to correct deficiencies in equipment that were outside acceptable limits defined by the process safety information before further use or in a safe and timely manner when necessary means were taken to assure safe operation, in violation of 40 C.F.R. § 68.73(e).

Incident investigation

108. EPA inspectors reviewed an incident investigation report during the January 2024 Inspection that did not include the date of the incident, the factors that contributed to the incident, and any recommendations resulting from the investigation.

109. Echo Lake failed to prepare a report at the conclusion of the investigation which includes at a minimum: date of incident, date investigation began, a description of the incident, the factors that contributed to the incident, and any recommendations resulting from the investigation, in violation of 40 C.F.R. § 68.81(d).

Emergency Response

110. During the January 2024 Inspection, a representative of Echo Lake informed EPA inspectors that Echo Lake is a non-responding stationary source, per 40 C.F.R. § 68.90(a).

111. The RMP Documents failed to indicate that Echo Lake had coordinated response needs with local emergency planning and response organizations to determine how the stationary source is addressed in the community emergency response plan and to ensure that local response organizations are aware of the regulated substances at the stationary source, their quantities, the risks presented by covered processes, and the resources and capabilities at the stationary source to respond to an accidental release of a regulated substance pursuant to 40 C.F.R. § 68.93.

112. Echo Lake failed 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 and/or emergency action plan; and/or in the community emergency response plan, in violation of 40 C.F.R. § 68.93(a).

113. Due to the lack of coordination with the local emergency planning committee (LEPC), Echo Lake did not provide its emergency response plan, emergency action plan, current emergency contact information, or other information necessary for developing and implementing the local emergency response plan.

114. Echo Lake failed to provide to the local emergency planning and response organizations: the stationary source's emergency action plan; updated emergency contact information; and other information necessary for developing and implementing the local emergency response plan, in violation of 40 C.F.R. § 68.93(b).

115. At the time of the January 2024 Inspection, Echo Lake indicated that the LEPC and Fire Department had not been responsive to the annual coordination. However, Echo Lake did not document its attempts to reach the LEPC to initiate the coordination.

116. Echo Lake failed to document coordination with local authorities, including: the names of individuals involved and their contact information (phone number, email address, and organizational affiliations); dates of coordination activities; and nature of coordination activities, in violation of 40 C.F.R. § 68.93(c).

RMP

117. Echo Lake submitted the RMP on August 8, 2019, identifying Todd Fowler as the emergency contact.

118. At the time of the January 2024 Inspection, Todd Fowler was no longer employed with Echo Lake, and had been replaced on December 11, 2023, by the current plant manager, Juan Castanon making the information contained in the RMP outdated.

119. Echo Lake resubmitted the RMP with the current emergency contact information on February 28, 2024.

120. Echo Lake failed to submit a correction of the emergency contact information within one month of any change in the emergency contact information required under 40 C.F.R. § 68.160(b)(6), in violation of 40 C.F.R. § 68.195(b).

Violations of the Clean Air Act

121. Pursuant to Section 112(r)(7)(E) of the CAA, 42 U.S.C. § 7412(r)(7)(e), the above-described violations of the regulations and requirements of 40 C.F.R. Part 68 are violations of the CAA.

F. Terms of Consent Agreement

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

- a. admits to the jurisdictional allegations in this CAFO;
- b. neither admits nor denies the allegations stated in Section E of this CAFO;
- c. consents to the assessment of a civil penalty as stated below;
- d. consents to any conditions specified in this CAFO;
- e. waives any right to contest the allegations set forth in Section E of this CAFO;
and
- f. waives its right to appeal this CAFO.

123. For the purposes of this proceeding, Respondent:

- a. agrees this CAFO states a claim upon which relief may be granted against Respondent;

- b. acknowledges this proceeding constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement actions;
- c. waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CAFO, including any right of judicial review under Section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1);
- d. waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c);
- e. 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; and
- f. waives any rights it may possess at law or in equity to challenge the authority of the EPA to bring a civil action in a United States District Court to compel compliance with the CAFO, and to seek an additional penalty for noncompliance, and agrees that federal law shall govern in any such civil action.

124. Based on analysis of the factors specified in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), the facts of this case, and Respondent's cooperation, the EPA has determined that an appropriate civil penalty to settle this action is \$164,410.

125. Respondent agrees to pay a civil penalty in the amount of \$164,410 ("Assessed Penalty") within thirty (30) days after the date the Final Order ratifying this Consent Agreement is filed with the Regional Hearing Clerk ("Filing Date").

126. 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>.

127. When making a payment, Respondent shall:

- a. Identify every payment with Respondent's name and the docket number of this CAFO, CAA-05-2026-0019,

- b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of such payment to the following persons:

Regional Hearing Clerk (E-19J)
U.S. Environmental Protection Agency, Region 5
r5hearingclerk@epa.gov

Air Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency, Region 5
R5airenforcement@epa.gov

Cathleen R. Martwick
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
martwick.cathleen@epa.gov

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

“Proof of payment” means, as applicable 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 EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent’s name.

128. Interest, Charges, and Penalties on Late Payments. Pursuant to 42 U.S.C. § 7413(d)(5), 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 CAFO, the entire unpaid balance of the Assessed Penalty and all accrued interest shall become immediately owing, and the EPA is authorized to recover the following amounts.

- a. Interest. Interest begins to accrue from the Filing Date. 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. Per 42 U.S.C. § 7413(d)(5), interest will be assessed pursuant to 26 U.S.C. § 6621(a)(2), that is, the IRS standard

underpayment rate, equal to the Federal short-term rate plus 3 percentage points.

- b. Handling Charges. The United States' enforcement expenses including, but not limited to, attorneys' fees and costs of handling collection.
- c. Late Payment Penalty. A ten percent (10%) quarterly non-payment penalty.

129. 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 CAFO, 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 EPA or engaging in programs 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 enforce the Final Order and recover the full remaining balance of the Assessed Penalty, in addition to interest and the amounts described above, per 42 U.S.C. § 7413(d)(5). In any such action, the validity, amount, and appropriateness of the Assessed Penalty and Final Order shall not be subject to review.

130. 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.

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

132. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to annually send to the Internal Revenue Service (“IRS”) a completed IRS Form 1098-F (“Fines, Penalties, and Other Amounts”) with respect to any court order or settlement agreement (including administrative settlements) that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor’s violation of any law or the investigation or inquiry into the payor’s potential violation of any law, including amounts paid for “restitution or remediation of property” or to come “into compliance with a law.” EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Respondent’s failure to 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 EPA’s Cincinnati Finance Division at wise.milton@epa.gov within 30 days after the Final Order ratifying this Consent Agreement is filed, or within 7 days after the Final Order ratifying this Consent Agreement is filed should that happen between December 15 and December 31 of the calendar year. EPA recommends encrypting IRS Form W-9 email correspondence.
- d. In the event that Respondent has certified in its completed IRS Form W-9 that it does not yet have a TIN but has applied for a TIN, Respondent shall provide EPA’s Cincinnati

Finance Division with Respondent's TIN, via email, within five (5) days of Respondent's receipt of a TIN issued by the IRS.

133. By signing this CAFO, Respondent consents to the release of any information in this CAFO to the public and agrees this CAFO does not contain business information that is entitled to confidential treatment under 40 C.F.R. Part 2.

134. By signing this CAFO, the undersigned representative of the EPA and the undersigned representative of Respondent each certify that they are fully authorized to execute and enter into the terms and conditions of this CAFO and have the legal authority to bind the party they represent to this CAFO.

135. By signing this CAFO, Respondent certifies the information it has supplied concerning this matter was at the time of submission true, accurate, and complete for each such submission, response, and statement. Respondent acknowledges that there may be significant penalties for knowingly submitting false information, including the possibility of fines and/or imprisonment under 18 U.S.C. §§ 1001 and 1519.

136. Each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding, except in the case of a civil action brought by the Attorney General of the United States to recover unpaid penalties as described above.

G. Effect of Consent Agreement and Final Order

137. The parties consent to service of this CAFO by e-mail at the following e-mail addresses: martwick.cathleen@epa.gov (for the EPA), and dhumphries@echolakefoods.com (Derek Humphries) with cc to djordan@echolakefoods.com (Dave Jordan).

138. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this CAFO resolves only Respondent's liability for federal civil penalties for the violations specifically alleged in this CAFO.

139. This CAFO constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to this matter with the exception of the administrative compliance order, docket number EPA-5-26-113(a)-IN-1 issued concurrently.

140. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of both parties and approval of the Regional Judicial Officer.

141. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, authorized representatives, successors, and assigns.

142. Any violation of this CAFO may result in a civil judicial action for an injunction or civil penalties of up to \$124,426 per day per violation, or both, as provided in Section 113(b) of the CAA, 42 U.S.C. § 7413(b), and 40 C.F.R. § 19.4, as well as criminal sanctions as provided in Section 113(c) of the CAA, 42 U.S.C. § 7413(c). The EPA may use any information submitted under this CAFO in an administrative, civil judicial, or criminal action.

143. Nothing in this CAFO relieves Respondent of the duty to comply with all applicable provisions of the CAA and other federal, state, or local laws or statutes, nor does it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor is it a ruling on, or determination of, any issue related to any federal, state, or local permit.

144. Nothing in this CAFO limits the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

145. The EPA reserves the right to revoke this CAFO and settlement penalty if and to the extent that the EPA finds, after signing this CAFO, that any information provided by Respondent was

materially false or inaccurate at the time such information was provided to the EPA, and to assess and collect any civil penalties permitted by statute for any violation described herein. The EPA will give Respondent written notice of its intent to revoke this CAFO, which will not be effective until received by Respondent.

H. Effective Date

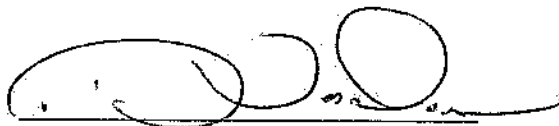
146. This CAFO will be effective on the date of filing with the Regional Hearing Clerk. Upon filing, the EPA will transmit a copy of the filed CAFO to Respondent.

Consent Agreement in the Matter of **Echo Lake Foods – Huntington**, Docket No. CAA-05-2026-0019

For Echo Lake Foods – Huntington, Respondent

19-MAR 2024

Date

A handwritten signature in black ink, appearing to read "Dave Jordan", written over a horizontal line.

Dave Jordan
President

Consent Agreement in the Matter of **Echo Lake Foods – Huntington**, Docket No. CAA-05-2026-0019

For United States Environmental Protection Agency, Complainant

Carolyn Persoon
Division Director
Enforcement and Compliance Assurance Division
U. S. Environmental Protection Agency, Region 5

Consent Agreement and Final Order
In the Matter of: Echo Lake Foods – Huntington
Docket No. CAA-05-2026-0019

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

Date

Ann L. Coyle
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 5