



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

**HAND DELIVERY**

Regional Hearing Clerk (3RC00)  
U.S. EPA, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029

APR 18 2018

**Re: In the matter of Smithfield Fresh Meats Corporation  
f/k/a Smithfield Farmland Corporation  
U.S. EPA Docket No. CAA-03-2018-0064**

Dear Regional Hearing Clerk:

Enclosed please find the original and one copy of the Consent Agreement and Final Order, along with a certificate of service, in the above-captioned matter.

Sincerely,

  
Lauren E. Ziegler  
Assistant Regional Counsel

Enclosures

cc: Kevin Finto, Counsel for Respondent (951 East Byrd Street, Richmond, VA 23219)



Rules of Practice, pursuant to 40 C.F.R. § 22.13(b), 22.18(b)(2) and (3), and having consented to the entry of this CAFO, agree to comply with the terms of this CAFO.

4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(2).
5. The Regional Judicial Officer has the authority to approve this settlement and conclude this proceeding pursuant to 40 C.F.R. § 22.4(b) and 22.18(b)(3).
6. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:
  - a. admits that the EPA has jurisdiction over the subject matter alleged in this Consent Agreement and agrees not to contest EPA's jurisdiction with respect to the execution or enforcement of this Consent Agreement;
  - b. neither admits nor denies the specific factual allegations or conclusions of law contained in this Consent Agreement;
  - c. consents to the assessment of a civil penalty as stated below, to the issuance of any specified compliance or corrective action order, to the conditions specified in this Consent Agreement, and to any stated Permit Action;
  - d. waives any right to contest the alleged violations of law set forth in this Consent Agreement; and
  - e. waives its rights to appeal the Final Order accompanying this Consent Agreement.

#### **STATUTORY AND REGULATORY AUTHORITY**

7. On November 15, 1990, the President signed into law the Clean Air Act Amendments of 1990. The Clean Air Act Amendments added Section 112(r) to the CAA, 42 U.S.C. § 7412(r).
8. Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), mandates the Administrator to promulgate a list of 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. The list of regulated substances can be found in 40 C.F.R. § 68.130.
9. On June 20, 1996, EPA promulgated a final rule known as the Chemical Accident Prevention Provisions, 40 C.F.R. Part 68, which implements Section 112(r)(7) of the

CAA, 42 U.S.C. § 7412(r)(7). Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and the corresponding regulations require EPA to promulgate requirements for the prevention, detection, and correction of accidental releases of regulated substances. The regulations require owners and operators of stationary sources to develop and implement a risk management program that includes a hazard assessment, a prevention program, and an emergency response program. The risk management program is described in a risk management plan (“RMP”) that must be submitted to EPA. The RMP must include a hazard assessment to assess the potential effects of an accidental release of any regulated substance, a program for preventing accidental releases of hazardous substances, and a response program providing for specific actions to be taken in response to an accidental release of a regulated substance, so as to protect human health and the environment.

10. Section 112(r)(7)(E) of the CAA, 42 U.S.C. § 7412(r)(7)(E), renders it unlawful for any person to operate a stationary source subject to the regulations promulgated under the authority of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), in violation of such regulations.
11. Pursuant to Section 112(r)(7)(B)(iii) of the CAA, 42 U.S.C. § 7412(r)(7)(B)(iii), and 40 C.F.R. § 68.10(a), the owner or operator of a stationary source at which a regulated substance is present in more than a threshold quantity must comply with the requirements of Part 68 no later than the latter of June 21, 1999, three years after the date on which a regulated substance is first listed under § 68.130, or the date on which a regulated substance is first present above the threshold quantity in a process.
12. Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), defines “stationary source,” as “any buildings, structures, equipment, installations, or substance emitting stationary activities (i) which belong to the same industrial group, (ii) which are located on one or more contiguous properties, (iii) which are under the control of the same person (or persons under common control), and (iv) from which an accidental release may occur.”
13. The regulations at 40 C.F.R. § 68.3 define “regulated substance” as any substance listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), in 40 C.F.R. § 68.130.
14. The regulations at 40 C.F.R. § 68.3 define “threshold quantity” as the quantity specified for regulated substances pursuant to Section 112(r)(5) of the CAA, 42 U.S.C. § 7412(r)(5), listed in 40 C.F.R. § 68.130 and determined to be present at a stationary source as specified in 40 C.F.R. § 68.115.
15. The regulations at 40 C.F.R. § 68.3 define “process” as any activity involving a regulated substance including any use, storage, manufacturing, handling, or on-site

movement of such substances, or combination of these activities. For 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.

16. Section 113(d)(1)(B), as amended by the Debt Collection Improvement Act of 1996, as implemented by the subsequent Civil Monetary Penalty Inflation Adjustment Rule, 82 Fed. Reg. 3633 (January 12, 2017), which is codified at, 40 C.F.R. Part 19, authorizes EPA to commence an administrative action to assess civil penalties of not more than \$45,268 per day per violation for violations of the CAA occurring after November 2, 2015 and assessed on or after January 15, 2017.

#### **FINDINGS OF FACT**

17. Respondent was incorporated in the State of Delaware and is a subsidiary of Smithfield Foods, Inc. Respondent's headquarters is located at 200 Commerce Street, Smithfield, Virginia, 23430.
18. Respondent is the owner and operator of a pork harvesting, processing, and packaging facility located at 601 North Church Street, Smithfield, Virginia 23430 ("the Facility").
19. The Facility was previously owned and operated by another Smithfield Foods, Inc. subsidiary, Smithfield Farmland Corporation. On or about December 31, 2017, Smithfield Food, Inc. reorganized Smithfield Farmland Corporation into Respondent, Smithfield Fresh Meats Corporation. As part of the terms of the reorganization, Respondent acquired the assets of Smithfield Farmland Corporation as well as assumed responsibility for Smithfield Farmland Corporation's outstanding liabilities associated with the Facility.
20. Respondent utilizes 250,000 pounds of anhydrous ammonia in its refrigeration system at the Facility.
21. Anhydrous ammonia, Chemical Abstract Service ("CAS") No. 7664-41-7, is a chemical listed under 40 C.F.R. § 68.130 with a threshold quantity of 10,000 pounds.
22. Respondent uses anhydrous ammonia in a refrigeration "process," as defined by 40 C.F.R. § 68.3, in a series of interconnected pipes and vessels at the Facility (the "Process").
23. On April 20, 2016, EPA conducted an inspection of the Facility pursuant to Section 114 of the CAA, 42 U.S.C. § 7414, in order to determine the Facility's compliance with Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and its regulations, the

Chemical Accident Prevention Provisions of 40 C.F.R. Part 68, (“the Inspection”). Based upon the information gathered pursuant to the Inspection, EPA alleges the following violations of 40 C.F.R. Part 68.

**COUNT 1: FAILURE TO COMPLY WITH PROCESS SAFETY INFORMATION REQUIREMENTS**

24. The findings of fact contained in Paragraphs 17 through 23 of this CAFO are incorporated by reference herein as though fully set forth at length.
25. The Chemical Accident Prevention Provisions require an owner or operator to complete a compilation of written process safety information which shall include information pertaining to the hazards of the regulated substances used or produced by the process, information pertaining to the technology of the process, and information pertaining to the equipment in the process. 40 C.F.R § 68.65(a). Information pertaining to the equipment in the process shall include design codes and standards employed. 40 C.F.R § 68.65(d)(1)(vi). Specifically, the owner or operator shall document that equipment complies with recognized and generally accepted good engineering practices. 40 C.F.R § 68.65(d)(2).
26. Applicable industry standards for anhydrous ammonia refrigeration systems include the American National Standards Institute/International Institute of Ammonia Refrigeration 2 (“ANSI/IIAR 2”), *Standard for Safe Design of Closed-Circuit Ammonia Refrigeration Systems of Closed-Circuit Ammonia Mechanical Refrigeration* (2014), and American National Standards Institute/American Society of Heating, Refrigerating and Air-Conditioning Engineers 15 (“ANSI/ASHRAE 15”), *Safety Standard for Refrigeration Systems and Designation and Classification of Refrigerants* (2013). ANSI/IIAR 2 and ANSI/ASHRAE 15 are recognized and generally accepted as good engineering practices for safeguards pertaining to anhydrous ammonia refrigeration systems.
27. Section 6.14.3.5 of ANSI/IIAR 2 states, “Machinery room exhaust shall discharge vertically upward with a minimum discharge velocity of 2,500 ft/min (762 m/min) at the required emergency ventilation flow rate.”
28. During the Inspection, EPA observed that the Facility’s machinery room was vented to the outdoors by six mechanical exhaust vents, four of which were horizontal.
29. Section 6.2.5 of ANSI/IIAR 2 states, “**Airflow From Occupied Spaces.** Air shall not flow to or from any portion of a premises that is routinely accessible to or occupied by people on a part-time or full-time basis through a machinery room unless the air is ducted and sealed to prevent ammonia leakage from entering the airstream. Access

doors and panels in ductwork and air-handling units located in a machinery room shall be gasketed and tight fitting.”

30. Section 8.11.2 of ANSI/ASHRAE 15 states, “Each refrigerating machinery room shall have a tight-fitting door or doors opening outward....With the exception of access doors and panels in air ducts and air-handling units conforming to Section 8.11.17, there shall be no openings that will permit passage of escaping refrigerant to other parts of the building.”
31. During the Inspection, EPA observed a vent duct above the door between the production area and the accessible hallway within the machinery room, which appeared to vent air to or from the production area into the accessible hallway in the machinery room.
32. Section 8.12 of ANSI/ASHRAE 15 states, “**Machinery Room, Special Requirements**....[A] refrigerating machinery room shall meet the following special requirements...(c) Walls, floor, and ceiling shall be tight and of noncombustible construction. Walls, floor, and ceiling separating the refrigerating machinery room from other occupied spaces shall be of at least one-hour fire-resistive construction.”
33. During the Inspection, EPA inspectors observed that the wall above the door, which adjoined the production area and the accessible hallway in the machinery room, and was located near Recirculator #2, was not of tight-fitting construction.

**COUNT 2: FAILURE TO COMPLY WITH OPERATING PROCEDURE REQUIREMENTS**

34. The findings of fact contained in Paragraphs 17 through 33 of this CAFO are incorporated by reference herein as though fully set forth at length.
35. The Chemical Accident Prevention Provisions require an owner or operator to develop and implement written operating procedures that provide clear instructions for safely conducting activities involved in each covered process. 40 C.F.R § 68.69.
36. Additionally, an owner or operator of a stationary source at which a regulated substance is present in more than a threshold quantity must review operating procedures as often as necessary to assure that they reflect current operating practice, including changes that result from changes in process chemicals, technology, and equipment, and changes to stationary sources. 40 C.F.R § 68.69(c). The owner or operator must certify annually that the operating procedures are current and accurate. *See id.*
37. At the time of Inspection, Respondent did not have current, annually certified standard operating procedures for the ammonia refrigeration process.

**COUNT 3: FAILURE TO COMPLY WITH MECHANICAL INTEGRITY REQUIREMENTS**

38. The findings of fact contained in Paragraphs 17 through 37 of this CAFO are incorporated by reference herein as though fully set forth at length.
39. Pursuant to 40 C.F.R. § 68.73, the owner or operator of a stationary source at which a regulated substance is present in more than a threshold quantity must establish and implement written procedures to maintain the ongoing integrity of certain process equipment and train employees accordingly. Additionally, the owner or operator must inspect and test the process equipment following recognized and generally accepted good engineering practices, and inspect and test as frequently as manufacturer's recommendations and good engineering practices dictate, or more frequently if needed based on prior operating experience. *See* 40 C.F.R. § 68.73(d).
40. The National Fire Protection Association 85 ("NFPA 85"), *Boiler and Combustion Systems Hazards Code* (2015), sets forth industry standards and is recognized and generally accepted as good engineering practices for safeguards and preventive maintenance for boilers and combustion systems.
41. Section 6.4 of ANSI/IIAR 2 Exception 2 states, "Fuel-burning appliances and equipment shall be permitted in a machinery room where an ammonia detector is in accordance with Section 6.13 and automatically shuts off the combustion process upon detection of ammonia.
42. Section 4.4.1.1 of NFPA 85 states, "A program shall be provided for inspection and maintenance of equipment at intervals consistent with the type of equipment used, service requirements, and manufacturers' recommendations." Annex A.4.4.1.1 further explains "An example of an inspection and maintenance schedule is as follows: (1) *Daily*: flame failure detection system, low water level cutout, and alarm (2) *Weekly*: igniter and burner operation (3) *Monthly*: fan and airflow interlocks, fuel safety shutoff valves for leakage, high steam pressure interlock, fuel pressure and temperature interlocks for fuel oil, high and low fuel pressure interlocks, and fuel gas strainer and drip leg (4) *Semiannually*: burner components; flame failure system components; piping, wiring, and connections of all interlocks and shutoff valves; calibration of instrumentation and combustion control system."
43. During the Inspection, EPA inspectors observed boilers installed inside the machinery room that have automatic shut-off capabilities. However, at the time of the Inspection, Respondent had not completed a functional test of the boiler shutdown system, and, specifically, had not tested the automatic shutdown interlock of the boiler and ammonia detectors.



**CONCLUSIONS OF LAW RELATED TO THE  
VIOLATIONS OF SECTION 112(r)(7) OF THE CLEAN AIR ACT**

44. The findings of fact contained in Paragraphs 17 through 43 of this CAFO are incorporated by reference herein as though fully set forth at length.
45. Respondent is a “person” as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
46. At all times relevant to the violations alleged herein, Respondent was the “owner or operator” of the Facility, as defined at Section 112(a)(9) of the CAA, 42 U.S.C. § 7412(a)(9), or has assumed the responsibilities of the former “owner or operator” of the Facility, Smithfield Farmland Corporation, according to the terms of Respondent’s corporate reorganization.
47. The Facility is a building or structure from which an accidental release may occur and is therefore a “stationary source,” as defined at Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), and 40 C.F.R. § 68.3.
48. Therefore, Respondent is the owner and operator of the “stationary source,” as the term is defined at 40 C.F.R. § 68.3.
49. Anhydrous ammonia is a regulated substance pursuant to Section 112(r)(2) and (3) of the CAA, 42 U.S.C. § 7412(r)(2) and (3), because it is identified in the initial list of substances in Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), and listed under 40 C.F.R. § 68.130, with a threshold quantity of 10,000 pounds.
50. At all times relevant to this Consent Agreement, anhydrous ammonia has been present in a process at the Facility in an amount exceeding its threshold quantity.
51. Respondent is subject to the requirements of Section 112(r)(7) of the CAA, 40 U.S.C. § 7412(r)(7), and 40 C.F.R. Part 68, because it is the owner and/or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process.
52. The Facility is a Program 3 Facility under the Chemical Accident Prevention Provisions, in accordance with 40 C.F.R. § 68.10(d).
53. Respondent failed to document that its equipment complies with recognized and generally accepted good engineering practices as required by Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 C.F.R. § 68.65(d)(2) through the following acts: by venting the Facility’s machinery room to the outdoors with four horizontal mechanical exhaust vents out of six vents, in contradiction with the ventilation

specifications of Section 6.14.3.5 of ANSI/IIAR 2; by permitting air to vent between the production room and the accessible hallway within the machinery room in contradiction with Section 6.2.5 of ANSI/IIAR 2 and Section 8.11.2 of ANSI/ASHRAE 15; and by having a wall adjoining the production area and the accessible hallway within the machinery room that was not of tight-fitting construction, in contradiction with Section 8.12 of ANSI/ASHRAE 15.

54. Respondent failed to annually certify that its operating procedures for the ammonia refrigeration process were current and accurate, as required by Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 C.F.R. § 68.69(c).
55. Respondent failed to inspect and test the process equipment following recognized and generally accepted good engineering practices, as required by Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 C.F.R. § 68.73(d), by failing to inspect and test the automatic shutdown interlock of the boiler and ammonia detectors as part of a functional test of the boiler shutdown system.
56. Respondent has violated Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and its implementing regulations at 40 C.F.R. §§ 68.65(d)(2), 68.69(c), and 68.73(d). Respondent is, therefore, subject to the assessment of penalties under Section 113 of the CAA, 42 U.S.C. § 7413.

#### **SETTLEMENT**

57. Respondent certifies that it has corrected the violations alleged in this Consent Agreement and is currently in compliance with 40 C.F.R. Part 68 at the Facility.
58. In full and final settlement and resolution of all allegations referenced in the foregoing Findings of Fact and Conclusions of Law, and in full satisfaction of all civil penalty claims pursuant thereto, for the purpose of this proceeding, Respondent consents to the assessment of a civil penalty for the violations of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), in the amount of **\$58,549** (“EPA Civil Penalty”).
59. Respondent consents to the issuance of this Consent Agreement, and consents for purposes of settlement to the payment of the civil penalty cited in the foregoing Paragraph.

#### **PAYMENT TERMS**

60. The EPA Civil Penalty shall become due and payable immediately upon Respondent’s receipt of a true and correct copy of this CAFO. In order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with the civil penalty described in this CAFO, Respondent shall pay the EPA Civil

Penalty of \$58,549 no later than thirty (30) days after the effective date of this CAFO as follows:

- a. Respondents shall pay the EPA Civil Penalty using any method, or combination of methods, provided on the websites <https://www.epa.gov/financial/makepayment> and <http://www2.epa.gov/financial/additional-instructions-making-payments-epa>, and identifying each and every payment with “Docket No.: CAA-03-2018-0064.”
- b. Within 24 hours of payment of the EPA Civil Penalty, Respondent shall send proof of payment to:

Regional Hearing Clerk (3RC00)  
U.S. EPA, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029  
[Esposito.Bevin@epa.gov](mailto:Esposito.Bevin@epa.gov)  
[McCool.Catherine@epa.gov](mailto:McCool.Catherine@epa.gov)  
[Dunn.Bettina@epa.gov](mailto:Dunn.Bettina@epa.gov)

and

Lauren E. Ziegler (3RC42)  
Assistant Regional Counsel  
U.S. EPA, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029  
[Ziegler.Lauren@epa.gov](mailto:Ziegler.Lauren@epa.gov)

“Proof of payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, 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 “Docket No.: CAA-03-2018-0064.”

61. The EPA Civil Penalty of **\$58,549** stated herein is based upon Complainant’s consideration of a number of factors, including, but not limited to, the penalty criteria set forth in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), and is consistent with 40 C.F.R. Part 19 and the *Combined Enforcement Policy for Clean Air Act Sections 112(r)(1), 112(r)(7) and 40 C.F.R. Part 68* (June 2012).
62. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent’s failure to make timely payment of the EPA Civil Penalty as specified in Paragraph 59 or to comply with the conditions in this CAFO shall result in the assessment of late payment charges, including interest, penalties, and/or administrative costs of handling delinquent debts.
63. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a copy of this fully executed CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalties

that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).

64. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue in accordance with 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of Resources Management Directives - Cash Management, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after penalties become due and payable and an additional \$15.00 for each subsequent thirty (30) day period the penalties remain unpaid.
65. A penalty charge of six (6) percent per year will be assessed monthly on any portion of the civil penalties which remain delinquent more than ninety (90) calendar days in accordance with 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent, in accordance with 31 C.F.R. § 901.9(d).
66. Failure by Respondent to make timely payment of the EPA Civil Penalty assessed by the Final Order in full may subject Respondent to a civil action to collect the assessed penalties, plus interest, pursuant to Section 113 of the CAA, 42 U.S.C. § 7413. In any such collection action, the validity, amount and appropriateness of the penalty shall not be subject to review.

### **GENERAL PROVISIONS**

67. For the purpose of this proceeding, Respondent expressly waives its right to a hearing and to appeal the Final Order under Section 113(d)(2) of the CAA, 42 U.S.C. § 7413(d)(2).
68. The provisions of the CAFO shall be binding upon Respondent, its officers, directors, agents, servants, employees, and successors or assigns. By his or her signature below, the person signing this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the party represented to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of the Consent Agreement and accompanying Final Order.
69. This CAFO resolves only the civil penalty claims for the specific violations alleged in this Consent Agreement. Complainant reserves the right to commence action against any person, including Respondent, in response to any condition which Complainant determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. Nothing in this CAFO shall be construed to limit the United States authority to pursue criminal sanctions. In addition, this

settlement is subject to all limitations on the scope of resolution and the reservation of rights set forth in 40 C.F.R. § 22.18(c). Further, Complainant reserves any rights and remedies available to it under the CAA or the regulations promulgated thereunder, and any other federal laws or regulations for which Complainant has jurisdiction, to enforce the provisions of this Consent Agreement and accompanying Final Order following its filing with the Regional Hearing Clerk.

70. This Consent Agreement 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 the subject matter hereof.

71. Each party to this action shall bear its own costs and attorney's fees.

In the Matter of: Smithfield Fresh Meats Corporation  
f/k/a Smithfield Farmland Corporation

EPA Docket No.: CAA-03-2018-0064

FOR SMITHFIELD FRESH MEATS CORPORATION  
FORMERLY KNOWN AS SMITHFIELD FARMLAND CORPORATION

George Enderlin  
Signature

April 3<sup>rd</sup> 2018  
DATE

Name (Print): George Enderlin

Title: General Manager

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In the Matter of: Smithfield Fresh Meats Corporation  
f/k/a Smithfield Farmland Corporation

EPA Docket No.: CAA-03-2018-0064

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY



Karen Melvin, Director  
Hazardous Site Cleanup Division

APR 12 2018

DATE

**BEFORE THE UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION III**

**U.S. EPA-REGION 3-RHC  
FILED-18APR2018am11:18**

<b>In the Matter of:</b>	:	<b>EPA Docket No.: CAA-03-2018-0064</b>
	:	
<b>Smithfield Fresh Meats Corporation f/k/a Smithfield Farmland Corporation 200 Commerce Street Smithfield, Virginia 23430,</b>	:	<b>Proceeding under Sections 112(r) and 113 of the Clean Air Act, 42 U.S.C. §§ 7412(r) and 7413</b>
	:	
<b>Respondent,</b>	:	
	:	
<b>Smithfield Fresh Meats Corporation f/k/a Smithfield Farmland Corporation 601 North Church Street Smithfield, Virginia 23430,</b>	:	
	:	
<b>Facility.</b>	:	

**FINAL ORDER**

Complainant, the Director of the Hazardous Site Cleanup Division, U.S. Environmental Protection Agency, Region III, and Respondent, Smithfield Fresh Meats Corporation, formerly known as Smithfield Farmland Corporation, have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with 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 (with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based on the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA's *Combined Enforcement Policy for Clean Air Act Sections 112(r)(1), 112(r)(7), and 40 C.F.R. Part 68* (June 2012), and the statutory factors set forth in Section 113(e) of the Clean Air Act ("CAA"), 42 U.S.C. § 7413(e).


**NOW, THEREFORE, PURSUANT TO** Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty of **FIFTY-EIGHT THOUSAND FIVE HUNDRED AND**



**FORTY-NINE DOLLARS (\$58,549)**, plus any applicable interest, in accordance with the payment provisions set forth in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

The effective date of the attached Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

April 12, 2018  
Date

  
\_\_\_\_\_  
Joseph J. Lisa  
Regional Judicial and Presiding Officer  
U.S. EPA Region III

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

U.S. EPA-REGION 3-RHC  
FILED-18APR2018am11:18

In the Matter of: : EPA Docket No.: CAA-03-2018-0064  
: :  
Smithfield Fresh Meats Corporation : Proceeding under Sections 112(r) and  
f/k/a Smithfield Farmland Corporation : 113 of the Clean Air Act, 42 U.S.C. §§  
200 Commerce Street : 7412(r) and 7413  
Smithfield, Virginia 23430, :  
: :  
Respondent, :  
: :  
Smithfield Fresh Meats Corporation :  
f/k/a Smithfield Farmland Corporation :  
601 North Church Street :  
Smithfield, Virginia 23430, :  
: :  
Facility. :


**CERTIFICATE OF SERVICE**

I hereby certify that the original and one copy of the foregoing Consent Agreement and Final Order (“CAFO”) in the above-captioned matter have been filed with the EPA Region III Regional Hearing Clerk and that a copy of the CAFO was sent by UPS overnight mail to counsel for Respondent:

Kevin Finto  
Hunton Andrews Kurth LLP  
Riverfront Plaza, East Tower  
951 East Byrd Street  
Richmond, VA 23219

I further certify that I have sent a copy of the CAFO by electronic mail to Respondent’s counsel, Kevin Finto, at kfinto@hunton.com on this day.

4/18/18  
Date

  
Lauren E. Ziegler  
Assistant Regional Counsel  
U.S. Environmental Protection Agency, Region III