UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

AUG - 9 2017

REPLY TO THE ATTENTION OF:

SC-5J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

John Hiller
Director of Risk Management
Prairie Farms Dairy, Inc.
1100 Broadway Street
Carlinville, IL 62626

Re: Prairie Farms Dairy, Inc., Consent Agreement and Final Order
Docket No. CAA-07-2017-0211 **CAA-05-2017-0037**

Dear Mr. Hiller:

Enclosed please find a fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The U. S. Environmental Protection Agency has filed the original CAFO with the Regional Hearing Clerk on August 9, 2017. Please pay the civil penalty in the amount of **$270,000** in the manner prescribed in paragraphs 112 through 114 and reference your check with "Prairie Farms Dairy, Inc." and the docket number of this CAFO.

Please feel free to contact Silvia Palomo at (312) 353-2172 or Monika Chrzaszcz at (312) 886-0181 if you have any questions regarding the enclosed document. Please direct any legal questions to Kevin Chow, Associate Regional Counsel at (312) 353-6181. Thank you for your assistance in resolving this matter.

Sincerely,

Michael E. Hans, Chief
Chemical Emergency
Preparedness and Prevention Section

Enclosure: Consent Agreement and Final Order

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:	
Prairie Farms Dairy, Inc.,	**Proceeding to Assess a Civil Penalty Under Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d)**
Peoria, Illinois, **Battle Creek, Michigan,** **Hazelwood, Missouri,**	
	CAA-05-2017-0037
Respondent.	**Docket No.** CAA-07-2017-0211

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the "Act"), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b), and 22.18(b)(2) and (3) of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* ("Consolidated Rules"), as codified at 40 C.F.R. Part 22, for violations of Section 112(r) of the Act, 42 U.S.C. § 7412(r), and the implementing regulations at 40 C.F.R. Part 68.

2. Complainant is, collectively, the Director of the Superfund Division, United States Environmental Protection Agency ("EPA"), Region 5, Chicago, Illinois, and the Director of the Air and Waste Management Division, EPA, Region 7, Lenexa, Kansas.

3. Respondent is Prairie Farms Dairy, Inc. ("Prairie Farms" or "Respondent"), an Illinois corporation doing business in the States of Illinois, Michigan and Missouri.

4. Under 40 C.F.R. § 22.13(b), where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order ("CAFO").

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. In order to resolve this matter without litigation, Prairie Farms consents to entry of this CAFO and the assessment of the specified civil penalty, and agrees to comply with the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Prairie Farms admits the jurisdictional allegations in this CAFO but neither admits nor denies the factual allegations in this CAFO.

8. Prairie Farms waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

Statutory and Regulatory Background

9. Section 112(r)(1) of the Act, 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.

10. Section 112(r)(3) of the Act, 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.

11. Section 112(r)(7)(A) of the Act, 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.

12. Section 112(r)(7)(B)(i) of the Act, 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.

13. Section 112(r)(7)(B)(ii) of the Act, 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.

14. Under Section 112(r) of the Act, 42 U.S.C. § 7412(r), the Administrator initially promulgated a list of regulated substances, with threshold quantities for applicability, at 59 Fed. Reg. 4478 (January 31, 1994), which has since been codified, as amended, at 40 C.F.R. § 68.130.

15. Under Section 112(r) of the Act, 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 were codified, and amended, at 40 C.F.R. Part 68: Chemical Accident Prevention Provisions (Risk Management Program Regulations).

16. The Risk Management Program Regulations, at 40 C.F.R. § 68.3, define "stationary source" as "any buildings, structures, equipment, installations, or substance emitting stationary activities which belong to the same industrial group, which are located on one or more contiguous properties, which are under the control of the same person (or persons under common control), and from which an accidental release may occur."

17. The Risk Management Program 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."

18. The Risk Management Program Regulations, at Tables 1 and 2 referenced in 40 C.F.R. § 68.130, list ammonia (CAS #7664-41-7), as a regulated toxic substance with a threshold quantity of 10,000 pounds (lbs.).

19. The Risk Management Program Regulations, at 40 C.F.R. § 68.115(a), provide that a "threshold quantity of a regulated substance listed in 40 C.F.R. § 68.130 is present at a stationary source if the total quantity of the regulated substance contained in a process exceeds the threshold."

20. The Risk Management Program Regulations, at 40 C.F.R. § 68.12(a), require that the owner or operator of a stationary source subject to 40 C.F.R. Part 68 shall submit a single RMP, as provided in 40 C.F.R. §§ 68.150 through 68.185.

21. The Risk Management Program Regulations, at 40 C.F.R. § 68.12(c), require that, in addition to meeting the general requirements of 40 C.F.R. § 68.12(a), the owner or operator of a stationary source with a process subject to Program 3 shall meet additional requirements identified at 40 C.F.R. § 68.12(d).

22. Section 113(d) of the Act, 42 U.S.C. § 7413(d), and 40 C.F.R. Part 19 provide that the Administrator of U.S. EPA may assess a civil penalty of up to $32,500 per day of violation up to a total of $270,000 for each violation of Section 112(r) of the Act that occurred from March 15, 2004 to January 12, 2009, and a civil penalty of up to $37,500 per day of violation up to a total of $295,000 for each violation of Section 112(r) of the Act, 42 U.S.C. § 7412(r), that occurred after January 12, 2009 to December 6, 2013, and a civil penalty of up to $37,500 per day of violation up to a total of $320,000 for each violation of Section 112(r) of the Act, 42 U.S.C. § 7412(r), that occurred after December 6, 2013.

23. Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d), limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and the Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

24. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

Factual Allegations and Alleged Violations

25. Respondent owns or operates a facility located at 126 Brady Road, Battle Creek, Michigan ("Battle Creek Facility"). Respondent also owns or operates a facility located at 2004 N. University Street, Peoria, Illinois ("Peoria Facility"). Respondent owned or operated a facility located at 6040 N. Lindbergh Blvd., Hazelwood, Missouri ("Hazelwood Facility"), until operations ceased in 2014.

26. At each of these facilities, Respondent is or was at all times relevant to this CAFO engaged in the business of fluid milk production.

27. Respondent is a "person," as that term is defined at Section 302(e) of the Act, 42 U.S.C. § 7602(e).

28. Each facility is or was at all times relevant to this CAFO a "stationary source" as that term is defined at 40 C.F.R. § 68.3.

29. For purposes of the requirements at 40 C.F.R. Part 68, Respondent is or was at all times relevant to this CAFO the "owner or operator" of these facilities as that term is defined at Section 112(a)(9) of the Act.

30. Respondent operates or operated at all times relevant to this CAFO a closed-loop refrigeration system which utilizes or utilized anhydrous ammonia at each of these facilities. Each system uses and stores, or used and stored at all times relevant to this CAFO, more than 10,000 lbs. of anhydrous ammonia.

31. Respondent uses and stores, or used and stored at all times relevant to this CAFO, more than 10,000 lbs. of anhydrous ammonia in the refrigeration system at each of these facilities.

32. Respondent reported in its RMP for each facility that each refrigeration system is or was at all times relevant to this CAFO a "process," as that term is defined at 40 C.F.R. § 68.3.

33. These facilities are or were at all times relevant to this CAFO subject to the "Program 3" eligibility requirements because the process: (a) does or did not meet the requirements of 40 C.F.R. § 68.10(b), because the distance to a toxic or flammable endpoint for a worst-case release assessment conducted under Subpart B and 40 C.F.R. § 68.25 is or was greater than the distance to any public receptor; and (b) is or was subject to the OSHA process safety management standard set forth at 29 C.F.R. § 1910.119 and 40 C.F.R. § 68.10(d) because the process involves or involved anhydrous ammonia above its threshold quantity.

Battle Creek Facility

34. On August 28-29, 2012, an authorized representative of EPA, Region 5 conducted an inspection at the Battle Creek Facility to determine compliance with 40 C.F.R. Part 68.

35. Based on the inspection conducted on August 28-29, 2012, and a review of additional information received by EPA subsequent to that date, the Battle Creek Facility failed to comply fully with the Risk Management Program regulations at 40 C.F.R. Part 68 for Program 3 requirements as set forth below in Paragraphs 36 through 61.

36. Respondent failed to develop a management system to oversee the implementation of the Risk Management Program elements, as required pursuant to 40 C.F.R. § 68.15(a).

37. Respondent failed to document the names or positions of persons who have responsibility for implementing individual requirements of the Risk Management Program, as required pursuant to 40 C.F.R. § 68.15(c).

38. Respondent failed to have information pertaining to the equipment in Respondent's process involving regulated substances that included the piping and instrumentation diagrams for the orange juice room added in 2010 and the milk tanks added in 2012, as required pursuant to 40 C.F.R. § 68.65(d)(1)(ii).

39. Respondent failed to have information pertaining to the equipment in Respondent's process involving regulated substances that included the material and energy balances, as required pursuant to 40 C.F.R. § 68.65(d)(1)(vii).

40. The Process Hazard Analysis ("PHA") performed by Respondent in 2009 did not address stationary source siting, as required pursuant to 40 C.F.R. § 68.67(c)(5).

41. The PHA performed by Respondent in 2009 did not address human factors, as required pursuant to 40 C.F.R. § 68.67(c)(6).

42. Respondent failed to establish a system to promptly address the 2009 PHA team's findings and recommendations; assure that recommendations are resolved in a timely manner and documented; document what actions are to be taken; complete actions as soon as possible; develop a written schedule of when these actions are to be completed; and communicate the actions to operating, maintenance, and other employees whose work assignments are in the process and who may be affected by the recommendations, as required pursuant to 40 C.F.R. § 68.67(e).

43. Respondent's 2012 PHA revalidation did not satisfy all of the requirements to update and revalidate the PHA by a team every five years after the completion of the initial PHA to assure that the PHA is consistent with the current process, as required pursuant to 40 C.F.R. § 68.67(f).

44. Respondent failed to provide refresher training at least every three years to each employee involved in operating a process to assure that the employee understands and adheres to the current operating procedures of the process, as required pursuant to 40 C.F.R. § 68.71(b).

45. Respondent failed to ascertain and document in records that one of its employees involved in operating a process had received and understood the training required, as required pursuant to 40 C.F.R. § 68.71(c).

46. Respondent failed to establish and implement a written procedure to maintain the on-going integrity of the process, as required pursuant to 40 C.F.R. § 68.73(b).

47. Respondent failed to train one of its employees involved in maintaining the on-going integrity of the process equipment, as required pursuant to 40 C.F.R. § 68.73(c).

48. Respondent failed to follow the frequency of inspections and tests of process equipment that is consistent with applicable manufacturers' recommendations and good engineering practices, and more frequently if determined to be necessary by prior operating experience, as required pursuant to 40 C.F.R. § 68.73(d)(3).

49. Respondent failed to document each inspection and test that had been performed on process equipment which identified the date of the inspection or test, the name of the person who performed the inspection or test, the serial number or other identifier of the equipment on which the inspection or test was performed, a description of the inspection or test performed, and the results of the inspection or test, as required pursuant to 40 C.F.R. § 68.73(d)(4).

50. Respondent failed to correct deficiencies in equipment that is outside acceptable limits before further use or in a safe and timely manner when necessary means are taken to assure safe operation, as required pursuant to 40 C.F.R. § 68.73(e).

51. Respondent failed to implement written procedures to manage changes to process chemicals, technology, equipment, and procedures, and changes to stationary sources that affect a covered process (namely, the refrigeration process which includes the orange juice room), as required pursuant to 40 C.F.R. § 68.75(a).

52. Respondent failed to inform and train employees involved in operating a process, and maintenance and contract employees whose job tasks were affected by a change in the orange juice room added in 2010 and the milk tanks added in 2012, prior to startup on the process, as required pursuant to 40 C.F.R. § 68.75(c).

53. Respondent failed to timely update process safety information accordingly when a 2010 change in the orange juice room and a 2012 addition of milk tanks resulted in a change to process safety information, as required pursuant to 40 C.F.R. § 68.75(d).

54. Respondent failed to update operating procedures accordingly after the addition of an orange juice room resulted in a change in the process, as required pursuant to 40 C.F.R. § 68.75(e).

55. Respondent failed to perform a pre-startup safety review after the addition of an orange juice room in 2010, as required pursuant to 40 C.F.R. § 68.77(b).

56. Respondent failed to promptly determine and document an appropriate response to each of the findings of the 2009 compliance audit and document that deficiencies have been corrected, as required pursuant to 40 C.F.R. § 68.79(d).

57. Respondent failed to timely investigate each 2012 incident that could have resulted in a catastrophic release of a regulated substance, as required pursuant to 40 C.F.R. § 68.81(a).

58. Respondent failed to initiate a timely incident investigation as promptly as possible but not later than 48 hours following each 2012 incident, as required pursuant to 40 C.F.R. § 68.81(b).

59. Respondent failed to obtain and evaluate information regarding the contract owner or operator's safety performance and programs when selecting a contractor, as required pursuant to 40 C.F.R. § 68.87(b)(1).

60. Respondent failed to inform the contract owner or operator of known potential fire, explosion, or toxic release hazards related to the contractor's work and the process, as required pursuant to 40 C.F.R. § 68.87(b)(2).

61. Respondent failed to inform the contract owner or operator of the applicable provisions of the emergency response or emergency action program, as required pursuant to 40 C.F.R. § 68.87(b)(3).

Peoria Facility

62. On July 13, 2012, an authorized representative from EPA, Region 5 conducted an inspection at the Peoria Facility under the authority of Section 114(a) of the Act, 42 U.S.C. § 7414(a). The purpose of the inspection was to determine whether Respondent was complying with Section 112(r) of the Act and the regulations at 40 C.F.R. Part 68, at the Peoria Facility.

63. Based on the July 13, 2012 inspection and a review of additional information received by EPA subsequent to that date, the Peoria Facility failed to comply with the Risk Management Program regulations at 40 C.F.R. Part 68 for Program 3 requirements as set forth below in Paragraphs 64 through 76.

64. Respondent failed to document the pressure relief valve's design and design basis, and the relief header's design and design basis, as required pursuant to 40 C.F.R. § 68.65(d)(1)(iv).

65. Respondent failed to document the ventilation system design for the control room, as required pursuant to 40 C.F.R. § 68.65(d)(1)(v).

66. Respondent failed to document the design codes and standards employed to design, maintain, and operate the system, in violation of 40 C.F.R. § 68.65(d)(1)(vi).

67. Respondent failed to establish a system to promptly address the 2000 PHA team's findings and recommendations; assure that recommendations are resolved in a timely manner and documented; document what actions are to be taken; complete actions as soon as possible; develop a written schedule of when these actions are to be completed; and communicate the actions to operating, maintenance, and other employees whose work assignments are in the process and who may be affected by the recommendations, as required pursuant to 40 C.F.R. § 68.67(e).

68. The PHA revalidations performed by Respondent in 2005, 2008 and 2013 were not adequate to assure that the PHA is consistent with the current process, as required pursuant to 40 C.F.R. § 68.67(f).

69. Respondent failed to include some of the Operating Limits in its written operating procedures that are to provide clear instructions for safely conducting activities, as required pursuant to 40 C.F.R. § 68.69(a)(2).

70. Respondent failed to provide refresher training at least every three years to each employee involved in operating a process to assure that the employee understands and adheres to the current operating procedures of the process, as required pursuant to 40 C.F.R. § 68.71(b).

71. Respondent failed to establish and implement a written procedure to maintain the on-going integrity of the process, as required pursuant to 40 C.F.R. § 68.73(b).

72. Respondent failed to perform inspections and tests on every portion of the anhydrous ammonia refrigeration system, as required by 40 C.F.R. § 68.73(d)(1).

73. Respondent failed to follow recognized and generally accepted good engineering practices for inspections and testing procedures, as required by 40 C.F.R. § 68.73(d)(2).

74. Respondent failed to ensure the frequency of inspections and tests of the anhydrous ammonia refrigeration system is consistent with applicable good engineering practices, as required by 40 C.F.R. § 68.73(d)(3).

75. Respondent failed to document each inspection and test that had been performed on the ammonia refrigeration system in accordance with 40 C.F.R. § 68.73(d)(4).

76. Respondent failed to correct a deficiency in the termination height of its relief header that was outside acceptable limits before use or in a safe and timely manner when necessary means are taken to assure safe operation in accordance with 40 C.F.R. § 68.73(e).

Hazelwood Facility

77. On April 23-25, 2013, an authorized representative of EPA, Region 7 conducted an inspection at the Hazelwood Facility to determine compliance with 40 C.F.R. Part 68.

78. Based on the inspection conducted on April 23-25, 2013, and a review of additional information received by EPA subsequent to that date, the Hazelwood Facility failed to comply with the Risk Management Program regulations at 40 C.F.R. Part 68 for Program 3 requirements as set forth below in Paragraphs 79 through 108.

79. Respondent failed to review and update the offsite consequence analyses at least once every five years, as required pursuant to 40 C.F.R. § 68.36(a).

80. Respondent failed to maintain records to the offsite consequence analyses, as required pursuant to 40 C.F.R. § 68.39(e).

81. Respondent failed to have information pertaining to the equipment in the process that included materials of construction, as required by 40 C.F.R. § 68.65(d)(1)(i).

82. Respondent failed to have information pertaining to the equipment in the process that included the piping and instrumentation diagrams, as required pursuant to 40 C.F.R. § 68.65(d)(1)(ii).

83. Respondent failed to have information pertaining to the equipment in the process that included electrical classification, as required by 40 C.F.R. § 68.65(d)(1)(iii).

84. Respondent failed to have information pertaining to the equipment in the process that included the relief system design and design basis, as required pursuant to 40 C.F.R. § 68.65(d)(1)(iv).

85. Respondent failed to have information pertaining to the equipment in the process that included the design codes and standards employed, as required pursuant to 40 C.F.R. § 68.65(d)(1)(vi).

86. Respondent failed to have information pertaining to the equipment in the process that included safety systems, as required by 40 C.F.R. § 68.65(d)(1)(viii).

87. Respondent failed to produce documentation that equipment complies with recognized and generally accepted good engineering practices, as required by 40 C.F.R. § 68.65(d)(2).

88. Respondent failed to document if existing equipment was designed with obsolete codes, standards, or practices no longer in general use; and failed to document that the equipment

is designed, maintained, inspected, tested, and operating in a safe manner, as required pursuant to 40 C.F.R. § 68.65(d)(3).

89. Respondent failed to establish a system to promptly address the PHA team's findings and recommendations; assure that recommendations are resolved in a timely manner and documented; document what actions are to be taken; complete actions as soon as possible; develop a written schedule of when these actions are to be completed; and communicate the actions to operating, maintenance, and other employees whose work assignments are in the process and who may be affected by the recommendations, as required pursuant to 40 C.F.R. § 68.67(e).

90. Respondent failed to update and revalidate the initial PHA at least every five years after its completion by a team to assure that the PHA is consistent with the current process, as required pursuant to 40 C.F.R. § 68.67(d) and (f).

91. Respondent failed to develop and implement written operating procedures that provide clear instruction for safely conducting activities involved in the covered process that address temporary operations, as required by 40 C.F.R. § 68.69(a)(1)(iii).

92. Respondent failed to develop and implement written operating procedures that provide clear instruction for safely conducting activities involved in the covered process that address emergency shutdown including conditions under which emergency shutdown is required, and assignment of shutdown responsibility to qualified operators to ensure that emergency shutdown is executed in safe and timely manner, as required pursuant to 40 C.F.R. § 68.69(a)(1)(iv).

93. Respondent failed to develop and implement written operating procedures that provide clear instruction for safely conducting activities involved in the covered process that address emergency operations, as required by 40 C.F.R. § 6869(a)(1)(v).

94. Respondent failed to develop and implement written operating procedures that provide clear instruction for safely conducting activities involved in the covered process that address operating limits, as required pursuant to 40 C.F.R. § 68.69(a)(2).

95. Respondent failed to develop and implement written operating procedures that provide clear instruction for safely conducting activities involved in the covered process that address safety and health considerations, as required pursuant to 40 C.F.R. § 68.69(a)(3).

96. Respondent failed to develop and implement written operating procedures that provide clear instruction for safely conducting activities involved in the covered process that address safety systems and their function, as required pursuant to 40 C.F.R. § 68.69(a)(4).

97. Respondent failed to certify annually that operating procedures are current and accurate, as required pursuant to 40 C.F.R. § 68.69(c).

98. Respondent failed to initially train each employee involved in the covered process in an overview of the process and in operating procedures, as required pursuant to 40 C.F.R. § 68.71(a).

99. Respondent failed to provide refresher training 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 procedure of the process, as required pursuant to 40 C.F.R. § 68.71(b).

100. Respondent failed to prepare a record which contains the identify of the employee, the date of the training, and the means used to verify that the employee understood the training, as required pursuant to 40 C.F.R. § 68.71(c).

101. Respondent failed to train each employee involved in maintaining the on-going integrity of process equipment in the procedures applicable to the employee's job tasks to assure that the employee can perform the job tasks in a safe manner, as required pursuant to 40 C.F.R. § 68.73(c).

102. Respondent failed to establish and implement written procedures to manage changes to process chemicals, technology, equipment, and procedures, as required pursuant to 40 C.F.R. § 68.75(a).

103. Respondent failed to establish management of change procedures that assure that considerations are addressed prior to any change, as required pursuant to 40 C.F.R. § 68.75(b).

104. Respondent failed to train maintenance and contract employees whose job tasks will be affected by a change in the process prior to start-up of the process or affected part of the process, as required pursuant to 40 C.F.R. § 68.75(c).

105. Respondent failed to perform a pre-startup safety review for modified stationary source when the modification is significant enough to require a change in the process safety information, as required pursuant to 40 C.F.R. § 68.77(a).

106. Respondent failed to certify a 2010 compliance audit and did not maintain copies of its two compliance audits prior to 2010 in order to verify that the procedure and practices developed are adequate and are being followed, as required pursuant to 40 C.F.R. § 68.79(a) and (e).

107. Respondent failed to obtain and evaluate information regarding the contract owner or operator's safety performance and programs, failed to inform contract owner or operators of the known hazards related to the contractor's work and the process, failed to explain to the contract owner or operator the applicable provisions, and failed to periodically evaluate the performance of the contract owner or operator in fulfilling their obligations, as required pursuant to 40 C.F.R. § 68.87.

108. Respondent failed to comply with 40 C.F.R. § 68.150 by failing to submit a single Risk Management Plan that included the information required by Sections 68.155 through 68.185 for all covered processes, as required pursuant to 40 C.F.R. §§ 68.150-195.

109. Section 112(r)(7)(E) of the Act, 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 Act, it shall be unlawful for any person to operate any stationary source in violation of such regulation or requirement.

110. Accordingly, the above alleged violations of 40 C.F.R. Part 68 and Section 112(r) of the Act at the Battle Creek, Peoria, and Hazelwood Facilities are subject to the assessment of a civil penalty under Section 113(d) of the Act, 42 U.S.C. § 7413(d).

Civil Penalty

111. Based on an analysis of the factors specified in Section 113(e) of the Act, 42 U.S.C. § 7413(e), the facts of this case, and other factors such as cooperation and prompt compliance, Complainant has determined that an appropriate civil penalty to settle this action is $270,000.

112. Within 30 days after the effective date of this CAFO, Respondent shall pay the $270,000 civil penalty by sending a company or personal check, by regular U.S. Postal Service mail, payable to the "Treasurer, United States of America," to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

The check must note "Prairie Farms Dairy, Inc." and the docket number of this CAFO.

113. A transmittal letter stating Respondent's name, complete address, and the docket number of this CAFO must accompany the payment. Respondent must send a copy of the check and transmittal letter to:

Attn: Regional Hearing Clerk (E-19J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Kathy Robinson
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 7
11201 Renner Blvd.
Lenexa, KS 66219

Monika Chrzaszcz (SC-5J)
Chemical Emergency Preparedness and Prevention Section
Superfund Division
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Silvia Palomo (SC-5J)
Chemical Emergency Preparedness and Prevention Section
Superfund Division
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Kevin Chow (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Kristen Nazar
Attorney, Office of Regional Counsel
U.S. Environmental Protection Agency, Region 7
11201 Renner Blvd.
Lenexa, KS 66219

114. This civil penalty is not deductible for federal tax purposes.

115. If Prairie Farms does not pay the civil penalty as provided herein, EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States' enforcement expenses for the collection action under Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

116. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury. Respondent must pay a $15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue according to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter.

General Provisions

117. This CAFO resolves only Prairie Farm's liability for federal civil penalties for the violations alleged in this CAFO.

118. This CAFO does not affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

119. Respondent's signature on this CAFO shall not be construed as an admission of liability. Furthermore, this CAFO is not intended to be, nor shall it be deemed, an admission of liability in any proceeding or litigation brought by a person or entity that is not a party to this CAFO.

120. This CAFO does not affect Prairie Farm's responsibility to comply with the Act and other applicable federal, state, and local laws. Except as provided in Paragraph 117, above, compliance with this CAFO will not be a defense to any actions subsequently commenced by Complainant pursuant to federal laws administered by it.

121. Respondent certifies, upon information and belief, that it is complying fully with 40 C.F.R. Part 68.

122. Respondent certifies, and, based on Respondent's certifications, representations, and documentation submitted to Complainant, Complainant acknowledges, that Respondent is in compliance with the laws and regulations allegedly violated at the Battle Creek Facility as alleged in paragraphs 36 through 61, and at the Peoria Facility as alleged in paragraphs 64 through 76. Respondent further certifies, and based on Respondent's certifications, representations, and documentation submitted to Complainant, Complainant acknowledges, that operations at the Hazelwood Facility ceased on October 18, 2014, and that, as a result, corrective

measures for violations alleged at the Hazelwood Facility are unnecessary as of the effective date of this CAFO.

123. The effect of this settlement is conditional upon the accuracy of the representations made to EPA as memorialized in paragraph 122 above.

124. This CAFO constitutes an "enforcement response" as that term is used in EPA's Clean Air Act Stationary Civil Penalty Policy to determine Respondent's "full compliance history" under Section 113(e) of the CAA, 42 U.S.C. § 7413(e).

125. The terms of this CAFO bind Prairie Farms, its successors, and assigns.

126. Each person signing this CAFO certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

127. Each party agrees to bear its own costs and attorneys' fees incurred in this action.

128. This CAFO constitutes the entire agreement between the parties.

129. This CAFO is effective when filed with the Regional Hearing Clerk.

130. Consistent with the Standing Order Authorizing E-Mail Service of Orders and Other Documents Issued by the Regional Administrator or Regional Judicial Officer under the Consolidated Rules, dated March 27, 2015, the parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: chow.kevin@epa.gov (for Complainant EPA, Region 5), nazar.kristen@epa.gov (for Complainant EPA, Region 7), and brad.hiles@huschblackwell.com (for Respondent). The parties waive their right to service by the methods specified in 40 C.F.R. § 22.6.

CONSENT AGREEMENT AND FINAL ORDER
In the Matter of Prairie Farms Dairy, Inc.
Docket No. CAA-07-2017-0211 KW **CAA-05-2017-0037**

Prairie Farms Dairy, Inc., Respondent

Date: 6/1/17 By: John P. Hiller

John Hiller
Director of Risk Management
Prairie Farms Dairy, Inc.

CONSENT AGREEMENT AND FINAL ORDER
In the Matter of Prairie Farms Dairy, Inc.
Docket No. CAA-07-2017-0211 KW **CAA-05-2017-0037**

United States Environmental Protection Agency, Region 7, Complainant

6/8/17
Date

By: _____
Becky Weber
Director
Air and Waste Management Division
U.S. EPA, Region 7

6/7/17
Date

By: _____
Kristen Nazar
Assistant Regional Counsel
U.S. EPA, Region 7

CONSENT AGREEMENT AND FINAL ORDER
In the Matter of Prairie Farms Dairy, Inc.
Docket No. CAA-07-2017-0211 KW **CAA-05-2017-0037**

United States Environmental Protection Agency, Region 5, Complainant

7/13/2017
Date

By:

Margaret M. Guerriero
ft Acting Director
Superfund Division
U.S. EPA, Region 5

CONSENT AGREEMENT AND FINAL ORDER
In the Matter of Prairie Farms Dairy, Inc.
Docket No. CAA-07-2017-0211 KW **CAA-05-2017-0037**

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, U.S. EPA, Region 5. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

Aug. 1, 2017
Date

Karina Borromeo
Karina Borromeo
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 7

CONSENT AGREEMENT AND FINAL ORDER
In the Matter of Prairie Farms Dairy, Inc.
Docket No. CAA - 07 - 2017 - 0211 (ME) **CAA-05-2017-0037**

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, U.S. EPA, Region 5. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

August 8, 2017
Date

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

CONSENT AGREEMENT AND FINAL ORDER
In the Matter of Prairie Farms Dairy, Inc.
Docket No. CAA-07-2017-0211 **CAA-05-2017-0037**

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number **CAA-05-2017-0037**, which was filed on August 9, 2017, in the following manner to the addressees:

Copy by Certified Mail Return Receipt:	John Hiller Director of Risk Management Prairie Farms Dairy, Inc. 1100 Broadway Street Carlinville, IL 62626
Copy be E-Mail to Attorney for Respondent:	Brad Hiles, Esq. brad.hiles@huschblackwell.com
Copy by E-Mail to Attorney for Complainant, EPA, Region 5:	Kevin Chow chow.kevin@epa.gov
Copy by E-Mail to Attorney for Complainant, EPA, Region 7:	Kristen Nazar nazar.kristin@epa.gov
Copy by E-Mail to Regional Judicial Officer, EPA, Region 5:	Ann Coyle coyle.ann@epa.gov
Copy by E-Mail to Regional Judicial Officer, EPA, Region 7:	Karina Borromeo borromeo.karina@epa.gov

Dated: August 9, 2017

LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5

CERTIFIED MAIL RECEIPT NUMBER(S): 7009 1680 0000 7662 6910