



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3
1650 ARCH STREET
PHILADELPHIA, PA 19103-2029

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EPA REGION III PHILA. PA

IN THE MATTER OF:)

Cargill Meat Solutions Corporation)
151 N. Main Street)
Wichita, KS 67202,)

Respondent.)

Cargill Meat Solutions Corporation)
1252 Route 706)
Wyalusing, PA 18553,)

65 Green Mountain Road)
Hazleton, PA 18202.)

Facilities.)

EPA Docket Number
CAA-03-2018-0029DA

Proceeding Pursuant to
Section 113(a)(3)(B) of the
Clean Air Act, 42 U.S.C.
§ 7413(a)(3)(B)

ADMINISTRATIVE SETTLEMENT AGREEMENT AND ORDER ON CONSENT

The parties to this Administrative Settlement Agreement and Order on Consent (“Order”), Cargill Meat Solutions Corporation (“Respondent” or “Cargill Meat”) and the United States Environmental Protection Agency (“EPA” or “the Agency”), having agreed to the entry of this Settlement Agreement, it is therefore ordered, that:

I. JURISDICTION AND GENERAL PROVISIONS

1. This Order is issued pursuant to Section 113(a)(3) of the Clean Air Act (“CAA” or “the Act”), 42 U.S.C. § 7413(a)(3)(B). Under Section 113(a)(3)(B) of the Act, the Administrator of EPA has the authority to issue Orders requiring any person who is in violation of certain sections of the CAA, including Section 112(r)(7), 42 U.S.C. § 7412(r)(7), to comply with such requirements of the CAA. Under Delegation No. 7-6-A, the Administrator has delegated this authority to issue orders within the geographical jurisdiction of EPA Region III to the Regional Administrator of EPA Region III, and the Regional Administrator has re-delegated

this authority to the Director of Region III's Hazardous Site Cleanup Division. For purposes of this Order, the geographical jurisdiction of EPA Region III includes the Commonwealth of Pennsylvania.

2. All terms and conditions, including any modifications hereto, are required by this Order. The Respondent agrees to undertake all actions required by the terms and conditions of this Order and to comply with all such terms and conditions.

3. The Respondent consents to and will not contest EPA's authority or jurisdiction to issue or to enforce this Order.

4. This Order requires Respondent to comply with the requirements of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and the Chemical Accident Prevention Provisions of 40 C.F.R. Part 68, as specifically set forth herein, by ensuring that the equipment at the facilities identified in the caption of this Order complies with recognized and generally accepted good engineering practices.

II. STATUTORY AND REGULATORY BACKGROUND

5. On November 15, 1990, the President signed into law the CAA Amendments of 1990. The Amendments added Section 112(r) to the CAA, 42 U.S.C. § 7412(r), which requires the Administrator of EPA to, among other things, promulgate regulations in order to prevent accidental releases of certain substances listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3).

6. Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), mandates the Administrator to promulgate a list of regulated substances, with threshold quantities, and defines the stationary sources that will be subject to the accident prevention regulations mandated by Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7). Specifically, Section 112(r)(7) requires the Administrator to promulgate regulations that address release prevention, detection, and correction requirements for these listed regulated substances. The list of regulated substances and threshold levels are codified at 40 C.F.R. § 68.130.

7. 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), ("Regulations"). 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") for the facility 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 the event of an accidental release of a regulated substance, to protect human health and the environment.

8. Pursuant to Section 112(r)(7)(B)(iii) of the CAA, 42 U.S.C. § 7412(r)(7)(B)(iii), and its regulations at 40 C.F.R. §§ 68.10(a) and 68.150(a), the owner or operator of a stationary source at which a regulated substance is present in more than a threshold quantity must submit an RMP to EPA no later than the latter of June 21, 1999, or the date on which a regulated substance is first present above the threshold quantity in a process.

III. DEFINITIONS

9. Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), defines “stationary source” as, *inter alia*, 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.

10. Section 302(e) of the CAA, 42 U.S.C. § 7602(e), defines “person” as including an individual, corporation, partnership, association, State, municipality, political subdivision of a State and any agency, department, or instrumentality of the United States and any officer, agent, or employee thereof.

11. 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, listed in 40 C.F.R. § 68.130, Table 1, and determined to be present at a stationary source as specified in 40 C.F.R. § 68.115.

12. 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 in 40 C.F.R. § 68.130.

13. As used herein, the term “day” shall mean calendar day.

14. The term “process” is defined at 40 C.F.R. § 68.3 to mean, in relevant part, “any activity involving a regulated substance including any use, storage, manufacturing, handling, or on-site movement of such substances or combination of these activities.”

15. “Effective Date” shall mean the date upon which Respondent receives a fully executed copy of this Order as set forth in Section XII of this Order.

IV. FINDINGS OF FACT

16. Respondent, Cargill Meat Solutions Corporation, is a Delaware Corporation, organized in the State of Delaware.

17. Respondent owns and operates meat processing facilities located at 1252 Route 706 in Wyalusing, Pennsylvania (“Wyalusing Facility”) and 65 Green Mountain Road, Hazleton, Pennsylvania (“Hazleton Facility”) (collectively referred to herein as (“Commonwealth Facilities”).

18. At all times relevant to this Order, as stated in Respondent’s RMP for each of the Commonwealth Facilities, Respondent has handled and handles anhydrous ammonia at each of those facilities in the following approximate quantities:

- a. 88,000 pounds at the Wyalusing Facility;
- b. 20,500 pounds at the Hazleton Facility.

19. Anhydrous ammonia, Chemical Abstracts Service (“CAS”) Number 7664-41-7 (hereinafter, “Ammonia”), is an irritant and is corrosive to the skin, eyes, respiratory tract and mucous membranes. Exposure to liquid Ammonia or rapidly expanding gases may cause severe chemical burns and frostbite to the eyes, lungs and skin. Skin and respiratory diseases could be aggravated by exposure.

20. EPA conducted an inspection of the Wyalusing Facility on June 27, 2017 (“Wyalusing Inspection”) to determine Respondent’s compliance with CAA Section 112(r)(7) and the Chemical Accident Prevention Provisions at 40 C.F.R. Part 68.

21. On August 1, 2017, Respondent reported to the National Response Center (“NRC”) that beginning at or around 2:00 a.m. that day, an estimated 33 pounds of ammonia had been released from the Hazleton Facility and stated that “the root cause of the incident was a failed o-ring. . . .”

22. On August 4, 2017, Respondent reported to the NRC that beginning at or around 7:30 a.m. that day, an estimated 71 pounds of ammonia had been released from the Hazleton Facility and stated that the root cause of the incident was “a potential failure of a PRV.”

23. Respondent has submitted RMPs to EPA for each of its Commonwealth Facilities.

24. Respondent submitted an initial RMP for the Wyalusing Facility on June 22, 1999. Several resubmissions and corrections have been made since the original submission, with the latest update submitted to EPA in October 2017.

25. According to Respondent's RMP for the Wyalusing Facility, anhydrous ammonia, has been present in its ammonia refrigeration system at the Wyalusing Facility since at least 1999.

26. The Chemical Accident Prevention Provisions require an owner or operator to comply with process safety information requirements at 40 C.F.R. § 68.65(d)(1)(vi) and (d)(2), *i.e.*, to compile process safety information pertaining to design codes and standards relevant to the equipment and to document that the equipment in the process complies with recognized and generally accepted good engineering practices.

27. Recognized and generally accepted good engineering practices for mechanical refrigeration systems using anhydrous ammonia include, but are not limited to, standards of the American National Standards Institute ("ANSI"), the American Society of Heating, Refrigerating, and Air-Conditioning Engineers ("ASHRAE"), and the International Institute of Ammonia Refrigeration ("IIAR").

28. Based on information collected by EPA during the Wyalusing Inspection, EPA determined that Respondent did not follow the Regulations, including ensuring that its anhydrous ammonia refrigeration equipment comply with recognized and generally accepted good engineering practices, and complying with training, mechanical integrity, compliance audit, and incident investigation requirements, as follows:

- a. Section 68.65(d)(1)(iv) of the Regulations requires that the owner or operator has information pertaining to the equipment in the process, including the relief system design and the basis of the design. 40 C.F.R. § 68.65(d)(1)(iv). Respondent did not have information regarding the initial design of the relief system, which was designed prior to Respondent's acquisition of the Wyalusing Facility. Respondent conducted a relief study in 2010, but implementation of the design was halted. Since the Wyalusing Inspection, Respondent has begun re-designing the relief system for the ammonia refrigeration system to achieve the protections provided by IIAR-2, *American National Standard for Safe Design of Closed-Circuit Ammonia Refrigeration Systems* (2014);
- b. EPA Section 68.65(d)(2) of the Regulations requires that owners or operators comply with recognized and generally accepted good engineering practices. Section 8.11.2.1 of ANSI/ASHRAE 15, *Safety Standard for Refrigeration Systems* (2008) requires that each machinery room contain a detector in an area where a refrigerant from a leak will concentrate that actuates an alarm and mechanical ventilation in accordance with Section 8.11.4 therein at a value not greater than the corresponding toxicity measure consistent therewith (also known as the Threshold Limit Value-Time-Weighted Average or TLV-TWA).

The alarm shall annunciate visual and audible alarms inside the refrigerating machinery room and outside each entrance to the refrigerating machinery room. These alarms shall be manual reset type with the reset located inside the refrigerating machinery room. The meaning of each alarm shall be clearly marked by signage near the annunciators. This safety standard parallels an earlier industry guidance document, IIAR Bulletin 111, Ammonia Machinery Room Ventilation (June 2002), which states “Alarms should annunciate visual and audible alarms inside the machinery room and outside each entrance to the machinery room.” Respondent did not have any audible and visual alarms outside each entrance to the Plant 1 refrigerating machinery room at the Wyalusing Facility. Since the Wyalusing Inspection, Respondent has implemented a project to upgrade and replace the refrigeration controls, including detection with audio and visual alarms for the interior and exterior of the machinery room, and to install appropriate signage.

- c. Section 68.71(c) of the Regulations requires that the owner or operator ascertain that each employee involved in operating a process has received and understood applicable training, and shall prepare a record which contains the identity of the employee, the date of training, and the means used to verify that the employee understood the training. 40 C.F.R. § 68.71(c). At the time of the Wyalusing Inspection, Respondent had not completed records documenting the completion of initial training for each of its refrigeration system operators and that each such operator received and understood applicable training at the Wyalusing Facility. After the Wyalusing Inspection, Respondent updated its training matrix coversheets to reflect the training undertaken by each operator;
- d. Section 68.73(e) of the Regulations requires that owners or operators correct deficiencies in equipment that are outside acceptable limits as defined by the process safety information in 40 C.F.R. § 68.65 before further use or in a safe and timely manner when necessary means are taken to assure safe operation. 40 C.F.R. § 68.73(e). In addition, 40 C.F.R. § 68.79(d) requires that owners or operators undertake an appropriate response to each of the findings of a compliance audit and document that deficiencies have been corrected. The 2015 5-Year Mechanical Integrity Audit for the Wyalusing Facility noted multiple action items that, at the time of the Wyalusing Inspection, had not been corrected; the 2015 Compliance Audit for the Wyalusing Facility similarly identified action items that have not been addressed. The items include, but are not limited to:
 - i. Separate action items from the 2010 5-Year Mechanical Integrity Audit that had not been resolved; and

ii. Failing O-Rings in valves;

and

e. Section 68.81(e) of the Regulations requires that owners or operators establish a system to promptly address and resolve all incident report findings and recommendations and that resolutions and corrective actions be documented. 40 C.F.R. § 68.81(e). At the time of the Wyalusing Inspection, Respondent had not established a system to promptly address and resolve incident report findings and recommendations at the Wyalusing Facility. At the Wyalusing Inspection, EPA inspectors reviewed a recent incident/nuisance release report that identified the cause of a release to be an outdated pressure relief valve. After the Wyalusing Inspection, Respondent corrected the Wyalusing Facility's Standard Operating Procedures to ensure that outdated valves were not used.

29. EPA inspectors also observed at the Wyalusing Facility that a flex hose was present at the outlet discharge from the pressure relief valve for the ammonia refrigeration system. EPA is concerned that the use of the flex hose is inconsistent with industry codes, and that the flex hose has too low a pressure rating for the system.

V. CONCLUSIONS OF LAW

30. As a corporation, Respondent is, and at all times referred to herein was, a "person" as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e), and the owner and operator of the Facility.

31. Each of Respondent's Commonwealth Facilities is a "stationary source" pursuant to Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C).

32. Respondent has been the owner and operator of a "stationary source," with respect to each of Respondent's Commonwealth Facilities at all times relevant to this Order.

33. Anhydrous ammonia is a "regulated substance" for purposes of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), because it is listed pursuant to Section 112(r)(3) of the CAA, at 40 C.F.R. § 68.130.

34. The threshold quantity for anhydrous ammonia is 10,000 pounds, pursuant to 40 C.F.R. § 68.130, Table 1.

35. More than a threshold quantity of a regulated substance is present in a process at each of the Commonwealth Facilities.

36. 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, at each of the Commonwealth Facilities because Respondent is the owner and operator of a stationary source that has more than a threshold quantity of a regulated substance in a process.

VI. FINDINGS OF VIOLATION

37. Based on information available to EPA, including information gathered during the Inspection performed by EPA at the Wyalusing Facility, and the Findings of Fact and Conclusions of Law set forth above, EPA has determined that Respondent violated Section 112(r)(7), 42 U.S.C. § 7412(r)(7), and 40 C.F.R. Part 68, with respect its storage and handling of anhydrous ammonia in the refrigeration system at the Wyalusing Facility, as detailed above.

VII. ORDER

38. EPA hereby issues this Order to Respondent under the authority of Section 113(a)(3)(B) of the CAA, 42 U.S.C. § 7413(a)(3)(B), to address the outstanding violations of the Chemical Accident Prevention Provisions alleged in Section IV, Findings of Fact and Section V, Conclusions of Law. Respondent neither admits nor denies the Findings of Fact and Conclusions of Law stated above, and will not contest EPA's authority to enforce provisions of this Order. However, Respondent agrees to undertake the actions and provide the information specified below.

39. Respondent shall undertake the following requirements ("Work"):
- a. Within ninety (90) days of the Effective Date of this Order, Respondent shall conduct an assessment of the anhydrous ammonia refrigeration system at the Wyalusing Facility, including exhaust ventilation and relief vent lines, with particular attention to the deficiencies identified in Paragraph 28, to determine if the system meets all appropriate codes, protocols, and standards. With respect to the flex hose issues described in Paragraph 29, above, the Assessment will entail a consultation with IIAR representatives to determine whether the existing configuration conforms to industry standards, and, if not, what changes are necessary to ensure conformance with industry standards.
 - b. Within ninety (90) days of the Effective Date of this Order, Respondent shall conduct an assessment of the anhydrous ammonia refrigeration system at the Hazleton Facility, including exhaust ventilation and relief vent lines, with particular attention to the deficiencies identified in Paragraph 28, to determine if the system meets all appropriate codes, protocols, and standards.

- c. The assessments required by subparagraphs a. and b., above, shall include recommendations regarding safety and release prevention improvements, in accordance with the Regulations and current appropriate codes, protocols and standards, including, but not limited to, the IIAR, ANSI, ASHRAE, American Society of Mechanical Engineers (“ASME”) protocols and standards, EPA CEPP Alert #550-F-01-009 (Hazards of Ammonia Releases at Ammonia Refrigeration Facilities) and equipment manufacturers recommendations;
- d. Within thirty (30) days after completing each assessment required by subparagraphs a. and b., above, Respondent shall submit to EPA a report that shall include the findings of the assessment performed, above, certified by the ammonia refrigeration professional(s) or consultant(s) who conducted the assessment, which shall include a list of any safety and/or release prevention improvements necessary to ensure compliance with the Regulations and all appropriate codes, protocols and standards (hereinafter, the “Wyalusing Assessment Report” and the “Hazleton Assessment Report”).
- e. Together with both the Wyalusing Assessment Report and the Hazleton Assessment Report, Respondent shall submit to EPA a workplan and schedule for the performance of improvements listed in the particular Assessment Report (“Workplan and Schedule”). The Workplan and Schedule for the Wyalusing Facility must ensure that the actions necessary to ensure compliance with the Regulations and all appropriate codes, protocols and standards shall be completed within one hundred and fifty (150) days of the Effective Date of this Order. The Workplan and Schedule for the Hazleton Facility must ensure that the actions necessary to ensure compliance with the Regulations and all appropriate codes, protocols and standards shall be completed within one-hundred and eighty (180) days of the Effective Date of this Order.
- f. EPA will review each Workplan and Schedule submitted pursuant to subparagraph 39.e., and will either accept it or direct Respondent to make changes and resubmit the document within thirty (30) days;
- g. Within seven (7) days of receipt of EPA’s written acceptance of each Workplan and Schedule, submitted pursuant to subparagraph 39.e., Respondent shall initiate implementation of the EPA-accepted Workplan and complete the Workplan in accordance with the EPA-accepted Schedule;
- h. Within thirty (30) days after completing the Work required by subparagraph 39.g. at the Wyalusing Facility and the Hazleton Facility, Respondent shall

submit to EPA, for EPA's acceptance, a written report verifying that Respondent has complied with the requirements of subparagraph 39.g at the particular facility ("Completion Report"). Each Completion Report, with the following certification, shall be signed by a responsible official of Respondent, as such term is defined in paragraph 40, below:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

- i. EPA will review each Completion Report submitted pursuant to subparagraph 39.h, above, and will either approve it in writing or identify deficiencies in writing ("Notice of Work Deficiencies") and direct Respondent to correct and/or re-perform any or all Work disapproved by EPA and resubmit the report for EPA approval within thirty (30) days of receiving the Notice of Work Deficiencies associated with each Completion Report.

40. Any notice, report, plan, certification, data presentation or other document submitted by Respondent under or pursuant to this Order which discusses, describes, demonstrates or supports any finding or makes any representation concerning Respondent's compliance or non-compliance with any requirement(s) of this Order shall be certified by a responsible official of said Respondent. The term "responsible official" means: (i) the president, secretary or vice-president of the corporation in charge of principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures. The responsible official of a partnership or sole proprietorship means the general partners or the proprietor, respectively.

41. Respondent shall provide EPA and its representatives, including contractors and grantees, with access to the Commonwealth Facilities for the purpose of assessing Respondent's compliance with this Order and with the CAA. Respondent shall also provide EPA and its representatives, including contractors and grantees, with access to all records relating to Respondent's implementation of this Order, and shall comply with all requests for information pertaining to this Order.

42. Respondent shall preserve all documents and information relating to the activities carried out pursuant to this Order for six (6) years after completion of the Work required by this Order. Upon request, Respondent shall provide EPA with copies of such documents and information.

43. All documents submitted by Respondent to EPA in the course of implementing this Order shall be available to the public unless identified as confidential by the Respondent pursuant to 40 C.F.R. Part 2, Subpart B, and determined by EPA to require treatment as confidential business information in accordance with applicable law.

VIII. PARTIES BOUND

44. This Order shall apply to and be binding upon Respondent, its agents, successors, and assigns and upon all persons, contractors and consultants acting under or for the Respondent, or persons acting in concert with Respondent who have actual knowledge of this Order or any combination thereof with respect to matter addressed in this Order. No change in ownership or corporate or partnership status of the Respondent will in any way alter the status of the Respondent or its responsibilities under this Order.

IX. WRITTEN NOTICES

45. Information required to be submitted to EPA under this Order must be sent to:

Ashley Nilsen, E.I.T., Risk Management Program Coordinator
U.S. Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029
Phone: (215) 814-3269
nilsen.ashley@epa.gov

Michael Welsh, P.E., Risk Management Program Coordinator
U.S. Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029
Phone: (215) 814-3285
welsh.michael@epa.gov

Copies shall be sent to: Cynthia T. Weiss, Esq.
Office of Regional Counsel (3RC42)
U.S. Environmental Protection Agency
1650 Arch Street

Philadelphia, PA 19103-2029
Phone: (215) 814-2659
weiss.cynthia@epa.gov

46. Information required to be submitted to Respondent under this Order must be sent to:

Scott Hartter
Vice President, EHS, Cargill Protein & Salt
Cargill Meat Solutions Corporation
151 N. Main
Wichita, KS 67202
(316) 291-5521
Scott_Hartter@cargill.com

Copies shall be sent to:

Katie Roek, Esquire
Legal Department
Cargill, Inc.
15407 McGinty Road W, MS-24
Wayzata, MN 55391
Phone: (952) 742-5395
Katie_Roek@cargill.com

X. EFFECT OF ORDER

47. As set forth in Section 113(a)(4) of the CAA, 42 U.S.C. § 7413(a)(4), nothing in this Order shall prevent EPA from assessing any penalties, or otherwise affect or limit the United States' authority to enforce other provisions of the CAA, or affect any person's obligations to comply with any Section of the CAA, or with any regulation, term or condition of any permit, or applicable implementation plan promulgated, issued or approved under the CAA. Further, nothing in this Order shall limit or otherwise preclude the United States from taking criminal or additional civil judicial or administrative enforcement action against the Respondent or any third parties with regard to the Facility pursuant to any federal or state law, regulation or permit condition. Nothing in this Order shall limit or otherwise preclude the United States from taking criminal or additional civil judicial or administrative enforcement action against the Respondent for Respondent's failure to comply with any of the requirements of this Order.

XI. ENFORCEMENT

48. Failure to comply with this Order may result in a civil judicial or administrative action for an injunction and/or civil penalties of up to \$37,500 per day of violation, pursuant to

Section 113(b) and (d) of the CAA, 42 U.S.C. § 7413(b) and (d), the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, *et seq.*, as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, *et seq.*, and Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. Parts 19. EPA retains full authority to enforce the requirements of the Act, 42 U.S.C. §§ 7401-7642, and nothing in this Order shall be construed to limit this authority.

49. Respondent waives any and all claims for relief and otherwise available rights or remedies to judicial or administrative review which the Respondent may have with respect to any issue of fact or law set forth in this Order, including, but not limited to, any right of judicial review of the Order under the Administrative Procedure Act, 5 U.S.C. §§ 701-708. This Order shall not relieve Respondent of its obligation to comply with all applicable federal, state, and local laws, regulations and other legal requirements, including but not limited to Section 112(r) of the CAA, 42 U.S.C. § 7412(r), nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit.

50. As set forth in Section 113(a)(4) of the CAA, 42 U.S.C. § 7413(a)(4), nothing in this Order shall prevent EPA from assessing any penalties, or otherwise affect or limit the United States' authority to enforce other provisions of the CAA, or affect any person's obligations to comply with any Section of the CAA, or with any regulation, term or condition of any permit, or applicable implementation plan promulgated, issued or approved under the CAA. Nothing herein shall limit the power and authority of EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of a regulated substance, extremely hazardous substance, or other hazardous substance on, at, or from the Facility. This Order shall not constitute or be construed as a release of any liability that the Respondent or any other person may have under the CAA, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601-9675, or any other law.

51. Neither EPA nor the United States, by issuance of this Order, assumes any liability for any acts or omissions by Respondent or Respondent's employees, agents, contractors, or consultants engaged to carry out any action or activity pursuant to this Order, nor shall EPA or the United States be held as a party to any contract entered into by Respondent or by Respondent's employees, agents, contractors, or consultants engaged to carry out the requirements of this Order.

XII. EFFECTIVE DATE AND SUBSEQUENT MODIFICATION

52. This Order shall be effective upon receipt by the Respondent of a fully executed copy of the Order.

53. Any reports, plans, specifications, schedules, or other submissions required by this Order are, upon acceptance by EPA, incorporated into this Order. Any non-compliance with such EPA-accepted reports, plans, specifications, schedules, or other submissions shall be considered non-compliance with the requirements of this Order.

54. No informal advice, guidance, suggestions or comments by EPA regarding reports, plans, specifications, schedules, or other submissions by the Respondent or the requirements of this Order will be construed as relieving the Respondent of its obligation to obtain formal acceptance when required by this Order, and to comply with the requirements of this Order unless formally modified.

55. This Order may be modified or amended in a writing executed by the Director of the Hazardous Site Cleanup Division and Respondent. Such modifications or amendments shall be effective on the date they are fully executed by Respondent and the Director of the Hazardous Site Cleanup Division or such other date as set by the Director of the Hazardous Site Cleanup Division. Minor modifications to the Order and/or schedule thereto may be approved by EPA's Risk Management Coordinators Michael Welsh, P.E., or Ashley Nilsen, E.I.T.

XIII. CALCULATION OF TIME

56. Any reference to "days" in this Order shall mean calendar days, unless otherwise specifically provided herein. Any reference to "business days" shall mean every day of the week except Saturdays, Sundays and federal holidays.

XIV. FAILURE TO PERFORM/PERFORMANCE EVENTS

57. In the event of an inability or anticipated inability on the part of the Respondent to perform any of the actions required by this Order in the time and manner required herein, the Respondent shall notify EPA orally within twenty-four (24) hours of such event (or, if the event occurs on a Friday or Saturday, Sunday, or legal holiday, no later than the following business day) and in writing as soon as possible, but in no event more than three (3) days after such event. Such notice shall set forth the reason(s) for, and the expected duration of, the inability to perform; the actions taken and to be taken by Respondent to avoid and mitigate the impact of such inability to perform; and the proposed schedule for completing such actions. Such notification shall not relieve Respondent of any obligation of this Order. Respondent shall take all reasonable actions to prevent and minimize any delay.

58. Failure by Respondent to carry out any requirement of this Order in accordance with the terms and conditions specified herein may result in the initiation of an enforcement action against Respondent to require Respondent to perform such actions, in addition to any other relief that may be available to EPA pursuant to applicable law. Respondent reserves all rights, claims and defenses to respond to any enforcement by EPA pursuant to this paragraph or

under any authority.

59. Nothing in this Section or any other provision of this Order shall be construed so as to limit any powers EPA may have under the CAA or any other law or regulation, nor shall they be construed so as to limit any defenses that Respondent may have under the CAA or otherwise.

XV. SEVERABILITY

60. If any provision or authority of this Order, or the application of this Order to any party or circumstances, is held by any judicial or administrative authority to be invalid, the application of such provisions to other parties or circumstances and the remainder of the Order shall remain in full force and not be effected thereby.

XVI. TERMINATION AND SATISFACTION

61. When EPA determines, after EPA's review and approval of the Reports required pursuant to this Order, that all work specified in Section VII of this Order has been fully performed, EPA will provide a notice of termination to the Respondent.

62. The provisions of this Order shall be deemed terminated upon Respondent's completion of all actions specified in Section VII. Termination of this Order shall not, however, terminate Respondent's obligation to comply with any continuing obligations of any federal, state or local law, statute, ordinance, rule or regulation, and all continuing obligations shall continue as they did before the termination of the Order.

XVII. COPIES OF ADMINISTRATIVE ORDER

63. Copies of this Order will be provided to:

Muhammad Zaman
Environmental Program Manager, Air Quality Program,
Pennsylvania Department of Environmental Protection
Northcentral Regional Office
208 West Third Street, Suite 101
Williamsport, PA 17701-6448

Mark Wejkszner
Environmental Program Manager, Air Quality Program
Pennsylvania Department of Environmental Protection
2 Public Square
Wilkes-Barre, PA 18701-1915

Cargill Meat Solutions Corporation

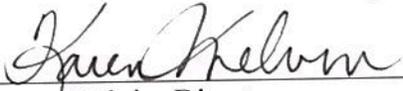
Docket No. CAA-03-2018-0029DA

Krish Ramamurthy, Acting Director
Bureau of Air Quality
Pennsylvania Department of Environmental Protection
Rachel Carson State Office Building, 12th Floor
P.O. Box 8468
Harrisburg, Pennsylvania 17105-8468

Cargill Meat Solutions Corporation

Docket No. CAA-03-2018-0029DA

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY:



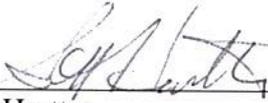
Karen Melvin, Director
Hazardous Site Cleanup Division
U.S. Environmental Protection Agency, Region III

Date: JAN 18 2018

Cargill Meat Solutions Corporation

Docket No. CAA-03-2018-0029DA

FOR CARGILL MEAT SOLUTIONS CORPORATION



Scott Hartter
VP EHS, Cargill Meat Solutions Corporation

1/9/2018

Date



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 ARCH STREET
PHILADELPHIA, PA 19103-2029

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IN THE MATTER OF:)
)
Cargill Meat Solutions Corporation)
151 N. Main Street)
Wichita, KS 67202,)
)
Respondent.)
)
)
Cargill Meat Solutions Corporation)
1252 Route 706)
Wyalusing, PA 18553,)
)
)
65 Green Mountain Road)
Hazleton, PA 18202.)
)
)
Facilities.)
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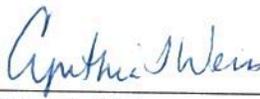
EPA Docket Number
CAA-03-2018-0029DA

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the date provided below, I hand-delivered and filed the original of Complainant's, the United States Environmental Protection Agency's, Administrative Settlement Agreement and Order on Consent ("Order") with the Regional Hearing Clerk, EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029, and that true and correct copies of the Order, along with its enclosures and/or attachments, were sent via overnight mail to:

Katie Roek, Senior Lawyer
Legal Department
Cargill
15407 McGinty Road W, MS-24
Wayzata, MN 55391

Date: January 18, 2018



Cynthia T. Weiss
Senior Assistant Regional Counsel
(215) 814-2659