

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
Region 4

In the Matter of:

Foster Poultry Farms, a California Corporation,

Respondent.

Docket No. CAA-04-2019-8018(b)

**CONSENT AGREEMENT**

**I. NATURE OF ACTION**

1. This is an administrative penalty assessment proceeding brought under Section 113(d) of the Clean Air Act (“CAA” or the “Act”), 42 U.S.C. § 7413(d), and Sections 22.13(b) and 22.18 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 Title 40 of the Code of Federal Regulations (C.F.R.), Part 22.
2. This Consent Agreement and the attached Final Order shall collectively be referred to as the CAFO.
3. Having found that settlement is consistent with the provisions and objectives of the Act and applicable regulations, the Parties have agreed to settle this action pursuant to 40 C.F.R. § 22.18 and consent to the entry of this CAFO without adjudication of any issues of law or fact herein.

**II. PARTIES**

4. Complainant is the Director of the Enforcement and Compliance Assurance Division, United States Environmental Protection Agency (“EPA”), Region 4, who has been delegated the authority on behalf of the Administrator of the United States Environmental Protection Agency (EPA) to enter into this CAFO pursuant to 40 C.F.R. Part 22 and Section 113(d) of the Act.
5. Respondent is Foster Poultry Farms, a California Corporation, a corporation doing business in the State of Alabama. This proceeding pertains to Respondent’s facility located at 232 Buddy Griffith Drive, Demopolis, Alabama 36732 (Facility).

### **III. GOVERNING LAW**

6. Any person who violates Section 112(r) of the CAA, 42 U.S.C. § 7412(r)(7), or rule promulgated thereunder, may be assessed a civil penalty pursuant to Section 113(d) of the Act, 42 U.S.C. § 7413(d), and 40 C.F.R. Part 19. Each day a violation continues may constitute a separate violation. Civil penalties under Section 113(d) of the Act, 42 U.S.C. § 7413(d), may be assessed by an administrative order.
7. Section 112(r) of the Act 42 U.S.C. § 7412(r), addresses the prevention of release of substances listed pursuant to Section 112(r)(3) of the Act, 42 U.S.C. § 7412(r)(3), and other extremely hazardous substances. The purpose of this section is to prevent the accidental release of extremely hazardous substances and to minimize the consequences of such releases. Pursuant to Section 112(r)(7) of the Act, 42 U.S.C. § 7412(r)(7), the EPA is authorized to promulgate regulations for accidental release prevention.
8. Pursuant to Sections 112(r)(3) and 112(r)(7) of the Act, 42 U.S.C. §§ 7412(r)(3) and 7412(r)(7), the EPA promulgated rules codified at 40 C.F.R. Part 68, Chemical Accident Prevention Provisions. These regulations are collectively referred to as the “Risk Management Program” (RMProgram) and apply to an owner or operator of a stationary source that has a threshold quantity of a regulated substance in a process. Pursuant to Sections 112(r)(3) and 112(r)(5) of the Act, 42 U.S.C. §§ 7412(r)(3) and 7412(r)(5), the list of regulated substances and threshold levels are codified at 40 C.F.R. § 68.130.
9. Pursuant to Section 112(r)(7)(B)(iii) of the Act, 42 U.S.C. § 7412(r)(7)(B)(iii), and 40 C.F.R. §§ 68.10 and 68.150, the owner or operator of a stationary source that has a regulated substance in an amount equal to or in excess of the applicable RMProgram threshold in a “process” as defined in 40 C.F.R. § 68.3, must develop an RMProgram accidental release prevention program, and submit and register a single Risk Management Plan (RMPlan) to the EPA.
10. The EPA and the United States Department of Justice jointly determined that this matter, is appropriate for an administrative penalty assessment. 42 U.S.C. § 7413(d); 40 C.F.R. § 19.4.

### **IV. FINDINGS OF FACTS**

11. Respondent operates a “stationary source” as that term is defined by Section 112(r)(2)(C) of the Act, 42 U.S.C. § 7412(r)(2)(C). The Respondent’s stationary source is located at 232 Buddy Griffith Drive, Demopolis, Alabama 36732 (stationary source).
12. Respondent has registered an RMPlan with the EPA for its Facility and has developed an RMProgram accidental release prevention program for the stationary source.
13. On August 13, 2018, the EPA issued to Respondent a Notice of Potential Violation (NOPV), providing notice that the EPA found that Respondent had potentially committed the alleged violations described in Section V of this Agreement and providing Respondent an opportunity to confer with the EPA. On October 16, 2018 representatives of Respondent and the EPA discussed the August 13, 2018, NOPV.

14. For purposes of this Agreement:

- a. Respondent operates an ammonia refrigeration system which uses anhydrous ammonia (ammonia). Ammonia is a regulated, extremely hazardous substance, under Section 112(r)(3) of the CAA and is listed at 40 C.F.R. § 68.130;
- b. Respondent uses 30,345 pounds of ammonia in its process;
- c. Respondent has one RMProgram level 3 covered process, which stores or otherwise uses an extremely hazardous substance in an amount exceeding its applicable threshold of 10,000 pounds;
- d. On December 21, 2017, the EPA conducted an onsite inspection of the RMProgram related records and equipment for the purpose of assessing the Respondent's compliance with the RMProgram requirements and the implemented recognized and generally accepted good engineering practices (RAGAGEP) for its ammonia refrigeration process at its stationary source;
- e. During a walk-through of the Facility, the EPA inspectors made the following observations:
  - 1) Yellow natural gas piping on the roof was not properly labeled to identify its contents. The American National Standards Institute/American Society of Mechanical Engineers (ANSI/ASME) A13.1-2007 indicates, "Positive identification of the contents of a piping system shall be by lettered legend, giving the name of the contents in full or abbreviated form. Arrows shall be used to indicate direction of flow." The Facility did not provide documentation that the natural gas labelling complied with RAGAGEP.
  - 2) Electrical safety issues were noted in numerous locations throughout the facility as follows:
    - On the roof, electrical conduit was connected using tape;
    - In ammonia machine room (AMR) 1B, inspectors observed an open electrical junction box;
    - In AMR 1A, the eye wash and safety shower were adjacent to a wall mounted electrical box that did not have a ground fault circuit interrupter (GFCI) receptacle;
    - In the caged area adjacent to the high-pressure receiver (HPR), open electrical wires were hanging from the side of the building; and
    - In the ingredients cooler, open electrical wires were hanging from an ammonia evaporator where the fan had been removed.

The National Fire Protection Association (NFPA) 70-2014, Section 110.12(B) states, "there shall be no damaged parts that adversely affect safe operation or mechanical strength of the equipment such as parts that are broken, bent, cut, or deteriorated by corrosion, chemical action, or

overheating.” The Facility did not provide documentation that its electrical safety complied with RAGAGEP.

- 3) Inspectors observed unsupported piping on the roof and beneath the HPR. The American National Standards Institute/International Institute of Ammonia Refrigeration (ANSI/IIAR) 2-2014, Section 13.4.2. requires “refrigerant piping be isolated and supported to prevent damage from vibration, stress, corrosion, and physical impact,” and the ANSI/American Society of Heating, Air-Conditioning Engineers (ASHRAE) 15-2016, Section 8.10.4 states “refrigerant piping shall be properly isolated and supported to prevent damaging vibration, stress, or corrosion.” The Facility did not provide documentation that its unsupported piping complied with RAGAGEP.
- 4) The vapor retarder was missing, and insulation was damaged on ammonia piping outside of the spiral freezer. The ANSI/IIAR 2-2014, Section 5.10.1 states “piping, and equipment surfaces not intended for heat exchange shall be insulated, treated, or otherwise protected to mitigate condensation and excessive frost buildup where the surface temperature is below the dew point of the surrounding air during normal operation and in an area where condensation and frost could develop and become a hazard to occupants or cause damage to the structure, electrical equipment, or refrigeration system.” The IIAR Bulletin 109, Sections 4.7.5 states “insulated piping showing signs of vapor barrier failure should have the insulation removed and the pipe inspected.” The Facility did not provide documentation that its missing vapor retarder and damaged insulation complied with RAGAGEP.
- 5) The audible and visual ammonia detection alarms outside the entrance to AMR 1B and above the interior entry door to AMR 1A did not contain signage. The ANSI/IIAR 2-2014, Section 17.6 states, “Ammonia leak detection alarms shall be identified by signage adjacent to visual and audible alarm devices.” The ASHRAE 15-2016, Section 8.11.2.1 states, “The meaning of each alarm shall be clearly marked by signage near the annunciators.” The Facility did not provide documentation that the signage for ammonia leak detection alarms complied with RAGAGEP.
- 6) Inspectors observed unsealed wall penetrations in both machine rooms that would allow ammonia to escape if a release occurred. In AMR 1B, the wall opening for electrical conduit to pass into the electrical room was not sealed and in AMR 1A, ammonia piping passing through the wall were not sealed. The ANSI/IIAR 2-2014, Section 6.6.2 states that “pipes penetrating the machinery room separation shall be sealed to the walls, ceiling, or floor through which they pass” and Section 6.2.1 of the ANSI/IIAR 2-2014 states that “the machinery room shall be separated from the remainder of the building by tight-fitting construction with a one-hour fire-resistance rating.” The ASHRAE 15-2016, Section 8.12(c) states “walls, floor, and ceiling shall be tight and of noncombustible

construction.” The Facility did not provide documentation that the unsealed wall penetrations complied with RAGAGEP.

- 7) One exit door from AMR 1A did not contain panic-type hardware and was not hinged to swing in the direction of egress. The ANSI/IIAR 2-2014 Section 6.10.2 states, “Doors that are part of the means of egress shall be equipped with panic hardware and shall be side hinged to swing in the direction of egress for occupants leaving the machinery room.” The Facility did not provide documentation that the exit door for the AMR complied with RAGAGEP.
- 8) A portion of the valves on piping and equipment in AMR 1B did not contain valve identification tags indicating the refrigerant flow direction. The ANSI/ASHRAE 15-2013, Section 11.2.2 states “systems containing more than 110 pounds (50 kg) of refrigerant shall be provided with durable signs having letters not less than 0.5 inch (12.7 mm) in height designating valves or switches for controlling the refrigerant flow.” The NFPA 1-2012, Section 53.3.4.2 states “systems containing more than 110 lb. (50 kg) of refrigerant shall be provided with signs having letters not less than 1/2 in. (12.7 mm) high, designating the following: (1) main shutoff valves to each vessel.” The Facility did not provide documentation that the identification tags on the valves controlling the refrigerant flow complied with RAGAGEP.
- 9) The HPR located inside the caged area did not contain NFPA diamonds to indicate the presence or hazards of ammonia. The NFPA 1-2012, Section 53.2.4.1 and ANSI/IIAR 2-2014, Section 6.15.1 require buildings and facilities with refrigeration systems be provided with placards accordance with NFPA 704 and the Mechanical Code. The Facility did not provide documentation that its NFPA placards conformed with RAGAGEP.
- 10) The King Valve on the HPR was located approximately eight feet off the ground and above the vessel. There was no permanent ladder or work platform to access the valves in the event of an emergency. In addition, no chain-operated valve was installed on the King Valve to allow for easy closure. The ANSI/IIAR 2-2014, Section 6.3.3.2 states “manually operated isolation valves identified as being part of the system emergency shutdown procedure shall be directly operable from the floor or chain operated from a permanent work surface.” The Facility did not provide documentation that the King Valve complied with RAGAGEP.
- 11) The sign on the King Valve was broken and weathered making it difficult to identify. The ANSI/IIAR 2-2014, Section 5.14.3 requires “valves required for emergency shutdown of the system shall be clearly and uniquely identified at the valve itself and in the system schematic drawings.” The Facility did not provide documentation that the signage for the King Valve complied with RAGAGEP.

- 12) Corrosion and blistered paint on ammonia piping entering the HPR was observed by inspectors in two locations. The ANSI/IIAR 2-2014, Section 13.4.2 states “refrigerant piping shall be isolated and supported to prevent damage from vibration, stress, corrosion, and physical impact.” The NFPA 1-2012 requires “refrigeration systems be operated and maintained in a safe and operable condition, free from accumulations of oil, dirt, waste, excessive corrosion, other debris, or leaks, and in accordance with the ASHRAE 15 and the mechanical code. The IIAR Bulletin 109, Sections 4.7.4 states “uninsulated refrigerant piping should be examined for signs of corrosion, and if corrosion exists, the pipe should be cleaned down to bare metal and painted with a rust preventive paint and badly corroded pipe should be replaced.” The Facility did not provide documentation that the piping corrosion and blistered piping painting complied with RAGAGEP.
- 13) Ammonia piping associated with evaporators in the coolers and freezer was unlabeled. In addition, piping from the condensers to the HPR did not contain labeling. This is inconsistent with the ANSI/IIAR 2-2014, Section 5.14.5; the IIAR Bulletin 109, Section 4.7.6; the IIAR Bulletin 114, Sections 4.1.1 through 4.1.8; and the ANSI/ASME 13.1-2007 that state ammonia piping mains, headers, and branches shall be identified with the contents (“AMMONIA”), including the physical state of the ammonia, the pressure level of ammonia being low or high, pipe service, and direction of flow. The Facility did not provide documentation that the ammonia piping labelling complied with RAGAGEP.
- 14) Ammonia evaporators in the ingredient’s cooler were unprotected from physical damage by lift trucks stacking loaded pallets. The ANSI/IIAR 2-2014, Section 7.2.4 requires “equipment be protected where a risk of physical damage exists. Where equipment containing ammonia is in an area with heavy vehicular traffic during normal operations and a risk of impact exists, vehicle barriers or alternative protection shall be provided in accordance with the Fire Code.” The ANSI/ASHRAE 15-2013, Section 11.1 states “means shall be taken to adequately safeguard piping, controls, and other refrigerating equipment to minimize possible accidental damage or rupture by external sources.” The Facility did not provide documentation that its unprotected ammonia evaporators complied with RAGAGEP.
- 15) Extension cords were being used in the freezer, ingredient’s cooler and raw cooler to power heating tapes that prevent freezing of condensate water lines. The NFPA 1-2012, Section 11.1.7.6 states that “extension cords shall not be used as a substitute for permanent wiring.” The Facility did not provide documentation that its use of extension cords complied with RAGAGEP; and

- f. The EPA inspection team reviewed the Facility's procedures for managing changes and observed that the procedures indicated the method of informing staff of changes was "word of mouth." Using "word of mouth" provides no documentation to verify employees are trained in the change prior to start-up of the process and does not ensure all employees whose job tasks will be affected are informed of the change.

## **V. ALLEGED VIOLATIONS**

15. As a corporation, Respondent is a "person" within the meaning of Section 302(e) of the Act, 42 U.S.C. § 7602(e).
16. 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).
17. Based on the EPA's compliance monitoring investigation, the EPA alleges that the Respondent violated 40 C.F.R. Part 68, the codified rules governing the Act's Chemical Accident Prevention Provisions and Section 112(r) of the Act, 42 U.S.C. § 7412(r), when it:
  - a) Failed to document that equipment complies with RAGAGEP as required by 40 CFR § 68.65(d)(2); and
  - b) Failed to inform employees involved in operating a process and maintenance and contract employees whose job tasks will be affected by a change in the process of, and trained in, the change prior to start-up of the process or affected part of the process as required by 40 CFR § 68.75(c).

## **VI. STIPULATIONS**

18. The issuance of this CAFO simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).
19. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:
  - a. admits that EPA has jurisdiction over the subject matter alleged in this CAFO;
  - b. neither admits nor denies the factual allegations set forth in Section IV (Findings of Facts) of this CAFO;
  - c. consents to the assessment of a civil penalty as stated below;
  - d. consents to the conditions specified in this CAFO;
  - e. waives any right to contest the allegations set forth in Section V (Alleged Violations) of this CAFO; and
  - f. waives its rights to appeal the Final Order accompanying this CAFO.

20. For the purpose of this proceeding, Respondent:

- a. agrees that this CAFO states a claim upon which relief may be granted against Respondent;
- b. acknowledges that this CAFO constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement actions;
- c. waives any rights it may possess at law or in equity to challenge the authority of EPA to bring a civil action in a United States District Court to compel compliance with the CAFO, and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action;
- d. by executing this CAFO, certifies to the best of its knowledge that Respondent is currently in compliance with all relevant requirements of the Act and its implementing regulations, and that all violations alleged herein, which are neither admitted nor denied, have been corrected;
- e. waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to EPA officials where the purpose of such discussion, memorandum, or communication is to persuade such official to accept and issue this CAFO; and
- f. agrees to comply with the terms of the CAFO.

21. In accordance with 40 C.F.R. § 22.5, the individuals named in the certificate of service are authorized to receive service related to this proceeding and the parties agree to receive service by electronic means at the following valid email addresses: [noles.jordan@epa.gov](mailto:noles.jordan@epa.gov) and [rouch.ellen@epa.gov](mailto:rouch.ellen@epa.gov) for the EPA and [RPatrick@mayerbrown.com](mailto:RPatrick@mayerbrown.com) and [Paul.Miller@fosterfarms.com](mailto:Paul.Miller@fosterfarms.com) for the Respondent.

## VII. TERMS OF PAYMENT

22. Respondent consents to the payment of a civil penalty, which was calculated in accordance with the Act, in the amount of **ONE HUNDRED FOUR THOUSAND FIVE HUNDRED TWO DOLLARS (\$104,502)**, which is to be paid within thirty (30) calendar days of the Effective Date of this CAFO.

23. Payment(s) shall be made by cashier's check, certified check, by electronic funds transfer (EFT), or by Automated Clearing House (ACH) (also known as REX or remittance express). If paying by check, the check shall be payable to: Treasurer, United States of America, and the Facility name and docket number for this matter shall be referenced on the face of the check. If Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

United States Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000

If Respondent sends payment by non-U.S. Postal express mail delivery, the payment shall be sent to:

U.S. Bank  
Government Lockbox 979077  
U.S. EPA Fines & Penalties  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, Missouri 63101  
(314) 425-1818

If paying by EFT, Respondent shall transfer the payment to:

Federal Reserve Bank of New York  
ABA: 021030004  
Account Number: 68010727  
SWIFT address: FRNYUS33  
33 Liberty Street  
New York, New York 10045  
Field Tag 4200 of the Fedwire message should read:  
“D 68010727 Environmental Protection Agency”

If paying by ACH, Respondent shall remit payment to:

US Treasury REX / Cashlink ACH Receiver  
ABA: 051036706  
Account Number: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 – checking  
Physical location of US Treasury facility:  
5700 Rivertech Court  
Riverdale, Maryland 20737  
Contact: John Schmid, (202) 874-7026  
REX (Remittance Express): 1-866-234-5681

24. Respondent shall send proof of payment, within 24 hours of payment of the civil penalty, to:

Regional Hearing Clerk  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960  
bullock.patricia@epa.gov

and

Jordan Noles  
Air Section 1  
Air Enforcement Branch  
Enforcement and Compliance Assurance Division  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960  
noles.jordan@epa.gov

25. “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 EPA requirements, in the amount due, and identified with the Facility name and Docket No. **CAA-04-2019-8018(b)**.
26. Pursuant to 42 U.S.C. § 7413(d)(5), if Respondent fails to timely pay any portion of the penalty assessed under the CAFO, EPA may recover, in addition to the amount of the unpaid penalty assessed, the following amounts on any amount overdue:
- a. Interest. Interest will begin to accrue on the civil penalty from the Effective Date of this CAFO. If the civil penalty is paid within 30 days, Interest is waived. However, if the civil penalty is not paid in full within 30 days of the Effective Date of this CAFO, Interest will continue to accrue on any unpaid portion until the unpaid portion of the civil penalty and accrued Interest is paid. Interest will be assessed at the rates established pursuant to 26 U.S.C. § 6621(a)(2)(c);
  - b. Non-Payment Penalty. A 10 percent quarterly non-payment penalty pursuant to 42 U.S.C. § 7413(d)(5); and
  - c. Attorneys’ Fees and Costs of Collection. The United States enforcement expenses, including, but not limited to, attorneys’ fees and cost of collection.
27. If Respondent fails to timely pay any portion of the penalty assessed under this CAFO, EPA may:
- a. Refer the debt to a credit reporting agency or a collection agency, 40 C.F.R. §§ 13.13 and 13.14;
  - b. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H;

- c. Suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, 40 C.F.R. § 13.17; and/or
- d. Request that the Attorney General bring a civil action in an appropriate district court to recover the amount assessed, in addition to the amounts described above, pursuant to 42 U.S.C. § 7413(d)(5). In any such action, the validity, amount, and appropriateness of the penalty and of this CAFO shall not be subject to review.

28. Penalties paid pursuant to this CAFO shall not be deductible for purposes of federal taxes.

### **VIII. EFFECT OF CAFO**

- 29. In accordance with 40 C.F.R. § 22.18(c), Respondent's full compliance with this CAFO shall only resolve Respondent's liability for federal civil penalties for the violations and facts specifically alleged above.
- 30. Full payment of the civil penalty, as provided in Section VII (Terms of Payment), shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. 40 C.F.R. § 22.18(c).
- 31. Any violation of this CAFO may result in a civil judicial action for civil penalties as provided in Section 113(b) of the Act, 42 U.S.C. § 7413(b), as well as criminal sanctions as provided in Section 113(c) of the Act, 42 U.S.C. § 7413(c). EPA may use any information submitted under this CAFO in an administrative, civil judicial, or criminal action.
- 32. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the Act and other federal, state, or local laws or statutes, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit, except as expressly provided herein.
- 33. Nothing herein shall be construed to limit the power of EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment as provided under the Act.
- 34. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of both Parties, and approval of the Regional Judicial Officer.
- 35. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns.
- 36. Any change in the legal status of the Respondent, or change in ownership, partnership, corporate or legal status relating to the Facility, will not in any way alter Respondent's obligations and responsibilities under this CAFO.

37. By signing this Consent Agreement, Respondent acknowledges that this CAFO will be available to the public and agrees that this CAFO does not contain any confidential business information or personally identifiable information.
38. By signing this Consent Agreement, the Complainant and the undersigned representative of Respondent each certify that he or she is fully authorized to execute and enter into the terms and conditions of this CAFO and has the legal capacity to bind the party he or she represents to this CAFO.
39. By signing this Consent Agreement, both Parties agree that each party's obligations under this CAFO constitute sufficient consideration for the other party's obligations.
40. By signing this Consent Agreement, Respondent certifies to the best of its knowledge that the information it has supplied concerning this matter was at the time of submission, and continues to be, true, accurate, and complete for each such submission, response, and statement. Respondent acknowledges that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.
41. EPA also reserves the right to revoke this CAFO and settlement penalty if and to the extent that EPA finds, after signing this CAFO, that any information provided by Respondent was materially false or inaccurate at the time such information was provided to EPA. If such false or inaccurate material was provided, EPA reserves the right to assess and collect any and all civil penalties for any violation described herein. EPA shall give Respondent notice of its intent to revoke, which shall not be effective until received by Respondent in writing.
42. It is the intent of the parties that the provisions of this CAFO are severable. If any provision or authority of this CAFO or the application of this CAFO to any party or circumstances is held by any judicial or administrative authority to be invalid or unenforceable, the application of such provisions to other parties or circumstances and the remainder of the CAFO shall remain in force and shall not be affected thereby.
43. Unless specifically stated otherwise in this CAFO, each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.

#### **IX. EFFECTIVE DATE**

44. This CAFO shall become effective after execution of the accompanying Final Order by the Regional Judicial Officer, on the date of filing with the Hearing Clerk.

**Remainder of Page Intentionally Left Blank  
Complainant and Respondent will Each Sign on Separate Pages**

The foregoing Consent Agreement In the Matter of Foster Poultry Farms, a California Corporation, Docket No. CAA-04-2019-8018(b) is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:

W. Paul Miller

8/13/2020

Signature

Date

Printed Name:

W. PAUL MILLER

Title:

PLANT MANAGER

Address:

232 BUDDY GRIFFITH DR. DEMPERS, AL 36732

The foregoing Consent Agreement In the Matter of Foster Poultry Farms, a California Corporation, Docket No. CAA-04-2019-8018(b) is Hereby Stipulated, Agreed, and Approved for Entry.

FOR COMPLAINANT:

*Carol L. Kemker 8/24/2020*

Carol L. Kemker  
Director  
Enforcement and Compliance Assurance Division  
U.S. Environmental Protection Agency, Region 4

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of:

Foster Poultry Farms, a California Corporation,

Respondent.

Docket No. CAA-04-2019-8018(b)

FINAL ORDER

The Regional Judicial Officer is authorized to ratify this Consent Agreement which memorializes a settlement between Complainant and Respondent. 40 C.F.R. §§ 22.4(b) and 22.18(b)(3). The foregoing Consent Agreement is, therefore, hereby approved, ratified and incorporated by reference into this Final Order in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22.

The Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Final Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

**BEING AGREED, IT IS SO ORDERED**

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Tanya Floyd  
Regional Judicial Officer

## CERTIFICATE OF SERVICE

I hereby certify that the foregoing "Consent Agreement" and "Final Order," in the Matter of Foster Poultry Farms, a California Corporation, Docket No. CAA-04-2019-8018(b) were filed and copies of the same were emailed to the parties as indicated below.

**Via email to all parties at the following email addresses:**

To Respondent:        Mr. Paul Miller, Plant Manager Foster Farms  
                                  Corn Dog Plant  
                                  Paul.Miller@fosterfarms.com 232 Buddy  
                                  Griffith Drive Demopolis, Alabama 36732  
                                  (334) 289-5082 ext. 126

                                  Mr. Roger Patrick  
                                  Mayer Brown LLP  
                                  RPatrick@mayerbrown.com

To EPA:                    Jordan Noles, Case Development Officer  
                                  noles.jordan@epa.gov  
                                  (404) 562-9105

                                  Ellen Rouch, Regional Counsel  
                                  rouch.ellen@epa.gov  
                                  (404) 562-9575

                                  U.S EPA Region 4  
                                  61 Forsyth Street, S.W. Atlanta, Georgia  
                                  30303-8960

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Patricia A. Bullock, Regional Hearing Clerk  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960