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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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REGION 6

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REGIONAL HEARING CLERK
EPA REGION VI

In the Matter of

House of Raeford Farms of
Louisiana, L.L.C.

Respondent.

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Docket No. CAA-06-2022-3322

CONSENT AGREEMENT AND FINAL ORDER

Preliminary Statement

The U.S. Environmental Protection Agency, Region 6 (“EPA” or “Complainant”), and House of Raeford Farms of Louisiana, L.L.C., (“Respondent”) have agreed to a settlement of this action before the filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).

Jurisdiction

1. This proceeding is an administrative action for the assessment of civil penalties instituted pursuant to Section 113(d) of the Clean Air Act (“CAA”), 42 U.S.C. § 7413(d). Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), the Administrator and the Attorney General jointly determined that this matter, in which the first date of alleged violation occurred more than twelve months prior to the initiation of the administrative action, was appropriate for administrative penalty action.

2. This Consent Agreement and Final Order serves as notice that the EPA has reason to believe that Respondent has violated the Chemical Accident Prevention Provisions in

40 C.F.R. Part 68, promulgated pursuant to Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and that Respondent is therefore in violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7). Furthermore, this Consent Agreement and Final Order serves as notice pursuant to Section 113(d)(2)(A) of the CAA, 42 U.S.C. § 7413(d)(2)(A), and 40 C.F.R. § 22.34, of the EPA's intent to issue an order assessing penalties for these violations.

Parties

3. Complainant is the Director of the Enforcement and Compliance Assurance Division of EPA, Region 6, as duly delegated by the Administrator of the EPA and the Regional Administrator, EPA, Region 6.

4. Respondent is House of Raeford Farms of Louisiana, L.L.C., a limited liability company organized in the state of Louisiana and authorized to conduct business in the state of Louisiana.

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 Title I of the CAA, 42 U.S.C. § 7412(r). The objective of Section 112(r) is to minimize the consequences of any such release of any substance listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance.

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 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. Section 112(r)(5) of the CAA, 42 U.S.C. § 7412(r)(5), mandates that the Administrator establish a threshold quantity for any substance

listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3). The list of regulated substances and respective threshold quantities is codified at 40 C.F.R. § 68.130.

7. Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), requires the Administrator to promulgate regulations that address release prevention, detection, and correction requirements for stationary sources with threshold quantities of regulated substances listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3). On June 20, 1996, EPA promulgated a final rule known as the Risk Management Program, 40 C.F.R. Part 68 – Chemical Accident Prevention Provisions, which implements Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

8. The regulations at 40 C.F.R. Part 68 require owners and operators to develop and implement a Risk Management Program at each stationary source with over a threshold quantity of regulated substances. The Risk Management Program must include, among other things, a hazard assessment, a prevention program, and an emergency response program. The Risk Management Program is described in a Risk Management Plan (RMP) that must be submitted to the EPA.

9. Pursuant to Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 C.F.R. § 68.150, an RMP must be submitted for all covered processes by the owner or operator of a stationary source subject to 40 C.F.R. Part 68 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.

10. The regulations at 40 C.F.R. § 68.10 set forth how the Chemical Accident Prevention Provisions of 40 C.F.R. Part 68 apply to each program level of covered processes. Pursuant to 40 C.F.R. § 68.10(i), a covered process is subject to Program 3 requirements if the process does not meet the requirements of Program 1, as described in 40 C.F.R. § 68.10(g), and if it is in a specified North American Industrial Classification System code or is subject to the

Occupation Safety and Health Administration (OSHA) process safety management standard, 29 C.F.R. § 1910.119.

11. Section 113(d) of the CAA, 42 U.S.C. § 7413(d), states that the Administrator may issue an administrative order against any person assessing a civil administrative penalty of up to \$25,000 per day of violation whenever, on the basis of any available information, the Administrator finds that such person has violated or is violating any requirement or prohibition of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and its implementing regulations. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, as amended, and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, 28 U.S.C. § 2461, and implementing regulations at 40 C.F.R. Part 19, increased these statutory maximum penalties to \$37,500 for violations that occurred before November 2, 2015, and to \$48,762 for violations that occur after November 2, 2015, and are assessed after January 13, 2020.

Definitions

12. Section 302(e) of the CAA, 42 U.S.C. § 7602(e), defines “person” to include any 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.

13. Section 112(r)(2)(A) of the CAA, 42 U.S.C. § 7412(r)(2)(A), and the regulation at 40 C.F.R. § 68.3 defines “accidental release” as an unanticipated emission of a regulated substance or other extremely hazardous substance into the ambient air from a stationary source.

14. Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), and the regulation at 40 C.F.R. § 68.3 defines “stationary source,” in part, 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.

15. Section 112(r)(2)(B) of the CAA, 42 U.S.C. § 7412(r)(2)(B), and the regulation at 40 C.F.R. § 68.3 define “regulated substance” as any substance listed pursuant to Section 112(r)(3) of the CAA, as amended, in 40 C.F.R. § 68.130.

16. The regulation at 40 C.F.R. § 68.3 defines “threshold quantity” as the quantity specified for regulated substances pursuant to Section 112(r)(5) of the CAA, as amended, listed in 40 C.F.R. § 68.130 and determined to be present at a stationary source as specified in 40 C.F.R. § 68.115.

17. The regulation at 40 C.F.R. § 68.3 defines “process” as any activity involving a regulated substance including any use, storage, manufacturing, handling or on-site movement of such substances, or combination of these activities. For the purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release, shall be considered a single process.

18. The regulation at 40 C.F.R. § 68.3 defines “covered process” as a process that has a regulated substance present in more than a threshold quantity as determined under 40 C.F.R. § 68.115.

19. The regulation at 40 C.F.R. § 68.3 defines “population” as the public.

20. The regulation at 40 C.F.R. § 68.3 defines “environmental receptors” as natural areas such as national or state parks, forests, or monuments; officially designated wildlife sanctuaries, preserves, refuges, or areas; and Federal wilderness areas, that could be exposed at any time to toxic concentrations, radiant heat, or overpressure greater than or equal to the

endpoints provided in §68.22(a), as a result of an accidental release and that can be identified on local U. S. Geological Survey maps.

EPA Findings of Fact and Conclusions of Law

21. 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).

22. Respondent is the owner and operator of a facility located at: 3867 Second Street, Arcadia, Louisiana 71001 (“the Facility”).

23. Pursuant to Section 114 of the CAA, 42 U.S.C. § 7414, the EPA conducted an inspection of the Facility on August 11, 2020, through September 18, 2020, to determine Respondent’s compliance with Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and 40 C.F.R. Part 68 (“the Inspection”).

24. The Facility is a “stationary source” pursuant to Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), and the regulation at 40 C.F.R. § 68.3.

25. The Respondent processes and freezes poultry products for distributions. The Respondent has two systems which include Anhydrous Ammonia at the Facility. The Respondent had one RMP program level 3 covered process (anhydrous ammonia refrigeration systems) which store or otherwise use a regulated substance in an amount exceeding the applicable threshold. The Respondent’s poultry freezing processes meet the definition of “process” and “covered process”, as defined by 40 C.F.R. § 68.3.

26. Anhydrous Ammonia is a “regulated substance” pursuant to Section 112(r)(2)(B) of the CAA, 42 U.S.C. § 7412(r)(2)(B), and the regulation at 40 C.F.R. § 68.3. The threshold quantity for Anhydrous Ammonia, as listed in 40 C.F.R. § 68.130 is 10,000 pounds.

27. Respondent has greater than a threshold quantity of Anhydrous Ammonia, in a

process at the Facility, meeting the definition of “covered process” as defined by 40 C.F.R. § 68.3.

28. From the time Respondent first had on-site greater than a threshold quantity of Anhydrous Ammonia, in a process, Respondent was subject to the requirements of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 C.F.R. Part 68 because it was the owner or operator of a stationary source that had more than a threshold quantity of a regulated substance in a process.

29. From the time Respondent first had on-site greater than a threshold quantity of Anhydrous Ammonia, in a process, Respondent was required to submit an RMP pursuant to 40 C.F.R. § 68.12(a) and comply with the Program 3 prevention requirements because pursuant to 40 C.F.R. § 68.10(i), the covered process at the Facility did not meet the eligibility requirements of Program 1 and is in North American Industry Classification System code 311615 (poultry processing) and is subject to the OSHA process safety management standard, 29 C.F.R. § 1910.119.

EPA Findings of Violation

30. The facts stated in the EPA Findings of Fact and Conclusions of Law above are herein incorporated.

31. Complainant hereby states and alleges that Respondent has violated the CAA and federal regulations promulgated thereunder as follows:

Count 1 – Defining Off-Site Impacts – Population & Environmental Receptors

32. The regulation at 40 C.F.R. § 68.12(d)(2), requires the owner or operator of a stationary source with a process subject to Program 3 to conduct a hazard assessment as provided in 40 C.F.R. §§ 68.20 through 68.42. Pursuant to 40 C.F.R. § 68.39(e), the owner or operator

shall maintain records of the data used to estimate population and environmental receptors potentially affected.

33. At the time of the Inspection, Respondent did not maintain records demonstrating the data used to estimate the population and environmental receptors that would be potentially affected.

34. Respondent's failure to maintain records demonstrating the data used to estimate the population and environmental receptors affected, pursuant to 40 C.F.R. § 68.39(e), as required by 40 C.F.R. § 68.12(d)(2), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Count 2 – Process Hazard Analysis

35. The regulation at 40 C.F.R. § 68.12(d)(3), requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. § 68.67(a), the owner or operator shall perform an initial process hazard analysis (hazard evaluation) on processes covered by 40 C.F.R. Part 68. The regulation at 40 C.F.R. § 68.67(e), requires the owner or operator to establish a system to promptly address the team's findings and recommendations; assure that the recommendations are resolved in a timely manner and that the resolution is 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; communicate the actions to operating, maintenance and other employees whose work assignments are in the process and who may be affected by the recommendations or actions.

36. At the time of the Inspection, Respondent had not promptly addressed the process hazard analysis team's findings and recommendations, had not assured that the recommendations

were resolved in a timely manner, had not developed a written schedule for when the recommendations were to be completed and did not communicate the actions to employees whose work assignments are in the process or who may be affected by the recommendations or actions for the 2015 and 2020 process hazard analyses.

37. Respondent's failure to assure that the recommendations were resolved in a timely manner and that the resolution was documented; failure to document what actions were to be taken; failure to complete actions as soon as possible; failure to develop a written schedule of when these actions were to be completed; failure to communicate the actions to operating, maintenance and other employees whose work assignments were in the process and who might have been affected by the recommendations or actions pursuant to 40 C.F.R. § 68.67(e), as required by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Count 3 – Process Hazard Analysis

38. The regulation at 40 C.F.R. § 68.12(d)(3), requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements as provided in 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. § 68.67(a), the owner or operator shall perform an initial process hazard analysis (hazard evaluation) on processes covered by 40 C.F.R. Part 68. Pursuant to the regulation at 40 C.F.R. § 68.67(f), at least every five (5) years after the completion of the initial process hazard analysis, the process hazard analysis shall be updated and revalidated by a team meeting the requirements in paragraph (d) of this section, to assure that the process hazard analysis is consistent with the current process. Updated and revalidated process hazard analyses completed to comply with 29 CFR 1910.119(e) are acceptable to meet the requirements of this paragraph.

39. At the time of the Inspection, the Respondent completed an Ammonia Refrigeration process hazards analysis on July 22, 2010 and revalidated the Ammonia Refrigeration process hazard analysis on November 10, 2015. The 2015 Ammonia Refrigeration process hazards analysis was approximately 3 months and 18 days past due.

40. Respondent's failure to update and revalidate the process hazard analysis at least every five (5) years after the completion of the initial process hazard analysis, pursuant to 40 C.F.R. § 68.67(f), as required by 40 C.F.R. § 68.12(d)(3) is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Count 4 – Training

41. The regulation at 40 C.F.R. § 68.12(d)(3), requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. § 68.71(c), the owner or operator shall ascertain that each employee involved in operating a process has received and understood the training required by this paragraph. The owner or operator 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.

42. At the time of the Inspection, the Respondent could not provide Standard Operator Procedure training records for any of the employees presently operating the process.

43. Respondent's failure to ascertain that each employee operating a process received and understood the training, by failing to provide Standard Operating Procedure training records for any of the employees involved in operating the process pursuant to 40 C.F.R. § 68.71(c), as required by 40 C.F.R. § 68.12(d)(3) is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Count 5 – Mechanical Integrity

44. The regulation at 40 C.F.R. § 68.12(d)(3), requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. § 68.73(b), the owner or operator shall establish and implement written procedures to maintain the on-going integrity of process equipment.

45. At the time of the Inspection, the Respondent's Mechanical Integrity policy stated, "scheduled maintenance and inspection tasks are performed regularly... these tasks: 1) are based on recognized and generally accepted good engineering practices such as the IIAR's Maintenance and Inspection of Closed-Circuit Ammonia Mechanical Refrigerating Systems (ANSI/IIAR 6)." At the time of the Inspection, Respondent completed Cutout testing for Compressors A10, B2, and C3 only for the year 2020. In accordance with Respondent's Mechanical Integrity policy the cutout testing was to be conducted annually.

46. Respondent's failure to implement written procedures to maintain the ongoing integrity of the process equipment as required by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Count 6 – Mechanical Integrity – Inspection and Testing

47. The regulation at 40 C.F.R. § 68.12(d)(3), requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. § 68.73(d)(3), the frequency of inspections and tests of process equipment shall be consistent with applicable manufacturers' recommendations and good engineering practices, and more frequently if determined to be necessary by prior operating experience.

48. At the time of the Inspection, Respondent had not performed inspections and tests on process equipment at a frequency consistent with applicable manufacturers' recommendations and good engineering practices. According to IIAR's Maintenance and Inspection of Closed-Circuit Ammonia Mechanical Refrigerating Systems (ANSI/IIAR 6), cutout testing on compressors is to be performed annually. At the time of the Inspection, Respondent completed cutout testing for Compressor C3 only for the year 2020, there was no other record of cutout testing being completed for any other years.

49. Respondent's failure to follow the recognized and generally accepted good engineering practices (i.e. ANSI/IIAR 6), pursuant to 40 C.F.R. § 68.73(d)(3), as required by 40 C.F.R. § 68.12(d)(3) is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Count 7 – Management of Change (MOC)

50. The regulation at 40 C.F.R. § 68.12(d)(3), requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. § 68.75(a), the owner or operator shall establish and implement written procedures to manage changes (except for "replacements in kind") to process chemicals, technology, equipment, and procedures; and, changes to stationary sources that affect a covered process.

51. At the time of the Inspection, Respondent completed changes to MOC 22206 that added safety systems (ventilation and ammonia detectors), which affected operating procedures under 40 C.F.R. § 68.69(a)(4). These safety systems were not updated on the operating procedures. Respondent's MOC policy states, "the Pre-startup Safety Review must be complete prior to the refrigeration manager giving final approval for startup." The Respondent completed Pre-startup Safety Review for MOC 22206 on June 13, 2020, three (3) days after the Respondent

closed out the MOC and authorized startup on June 10, 2020.

52. Respondent's failure implement written procedures to manage changes (except for "replacements in kind") to process chemicals, technology, equipment, and procedures; and, changes to stationary sources that affect a covered process, by failing to implement the written procedures pertaining to the modification of operating procedures for the Pre-startup Safety Review and MOC 22206, pursuant to 40 C.F.R. § 68.75(a), as required by 40 C.F.R. § 68.12(d)(3) is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Count 8 – Pre-startup Safety Review (PSSR)

53. The regulation at 40 C.F.R. § 68.12(d)(3), requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. § 68.77(b)(2), the pre-startup safety review shall confirm that prior to the introduction of regulated substances to a process that safety, operating, maintenance, and emergency procedures are in place and are adequate.

54. At the time of the Inspection, Respondent completed changes to MOC 22206 that added safety systems (ventilation and ammonia detectors), which affected operating procedures under 40 C.F.R. § 68.69(a)(4). These safety systems were not updated on the operating procedures and the Respondent could not provide any record showing that the safety systems were updated.

55. Respondent's pre-startup safety review failed to confirm that prior to the introduction of regulated substances to a process that safety, operating, maintenance, and emergency procedures are in place and are adequate, by failing to update the safety systems on the operating procedures, pursuant to 40 C.F.R. § 68.77(b)(2), as required by 40 C.F.R. § 68.12(d)(3) is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Count 9 – Pre-startup Safety Review Training

56. The regulation at 40 C.F.R. § 68.12(d)(3), requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. § 68.77(b)(4), the pre-startup safety review shall confirm that prior to the introduction of regulated substances to a process that training of each employee involved in operating a process has been completed.

57. At the time of the Inspection, Respondent's training records documented that all personnel had been trained for the change on the Pre-startup Safety Reviews for MOC MC-22206. However, one of the operator's training records inspected did not receive training on MOC MC-22206.

58. The Respondent's Pre-startup Safety Review's failure to confirm that prior to the introduction of regulated substances to a process that training of each employee involved in operating a process had been completed as required by 40 C.F.R. § 68.12(d)(3) is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Count 10 – Compliance Audits

59. The regulation at 40 C.F.R. § 68.12(d)(3), requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. § 68.79(d), the owner or operator shall promptly determine and document an appropriate response to each of the findings of the compliance audit, and document that deficiencies have been corrected.

60. At the time of the Inspection, Respondent's actions taken to complete the compliance audit findings were not clear. According to the Respondent's documentation, only seventy-eight percent (78%) of the year 2016 compliance audit findings were complete and the

remaining findings lapsed into the year 2019 compliance audit.

61. Respondent's failure to promptly determine and document an appropriate response to each of the findings of the year 2016 compliance audit, and document that deficiencies had been corrected, pursuant to 40 C.F.R. § 68.79(d), as required by 40 C.F.R. § 68.12(d)(3) is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Count 11 – Hot Work Permit

62. The regulation at 40 C.F.R. § 68.12(d)(3), requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. § 68.85(b), the hot work permit shall document that the fire prevention and protection requirements in 29 C.F.R. § 1910.252(a), have been implemented prior to beginning the hot work operations; it shall indicate the date(s) authorized for hot work; and identify the object on which hot work is to be performed. The permit shall be kept on file until completion of the hot work operations.

63. At the time of the Inspection, Respondent provided hot work permits that did not identify the objects which the hot work was performed on.

64. Respondent's failure to provide hot work permits that identified the objects on which hot work was performed on, pursuant to 40 C.F.R. § 68.85(b), as required by 40 C.F.R. § 68.12(d)(3) is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Count 12 – Emergency Response Program

65. The regulation at 40 C.F.R. § 68.12(d)(5), requires the owner or operator of a stationary source with a process subject to Program 3 to develop and implement an emergency response program, and conduct exercises, as provided in 40 C.F.R. §§ 68.90 to 68.96. Pursuant to 40 C.F.R. § 68.95(c), the emergency response plan developed under paragraph (a)(1) of this

section shall be coordinated with the community emergency response plan developed under 42 U.S.C. § 11003. Upon request of the LEPC or emergency response officials, the owner or operator shall promptly provide to the local emergency response officials information necessary for developing and implementing the community emergency response plan.

66. At the time of the Inspection, Respondent could not provide documentation to show the Respondent sent a copy of their emergency response plan or their HAZMAT plan, and the other information covered under 42 U.S.C. § 11003 to the Local Emergency Planning Committees or emergency response officials.

67. Respondent's failure to coordinate the emergency response plan with the community emergency response plan, by failing to promptly provide to the local emergency response officials information necessary for developing and implementing the community emergency response plan, pursuant to 40 C.F.R. § 68.95(c), as required by 40 C.F.R. § 68.12(d)(5) is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Count 13 – Emergency Response Plan

68. The regulation at 40 C.F.R. § 68.12(d)(5), requires the owner or operator of a stationary source with a process subject to Program 3 to develop and implement an emergency response program, and conduct exercises, as provided in 40 C.F.R. §§ 68.90 to 68.96. Pursuant to 40 C.F.R. § 68.95(a), the owner or operator shall develop and implement an emergency response program for the purpose of protecting public health and the environment. Such program shall include the following elements: (1) An emergency response plan, which shall be maintained at the stationary source and contain at least the following elements: (i) Procedures for informing the public and the appropriate Federal, state, and local emergency response agencies about accidental releases; (ii) Documentation of proper first-aid and emergency medical treatment

necessary to treat accidental human exposures; and. (iii) Procedures and measures for emergency response after an accidental release of a regulated substance.

69. At the time of the Inspection, Respondent provided the Emergency Response Plan all of the required documentation was not included inside the original Emergency Response Plan. Some of the documents required in the Emergency Response Plan were included in the HAZMAT Plan, but not within the Emergency Response Plan.

70. Respondent's failure to develop and implement an emergency response program for the purpose of protecting public health and the environment, by failing to maintain an emergency response plan that contained the elements required by 40 C.F.R. § 68.95(a)(1), pursuant to 40 C.F.R. § 68.95, as required by 40 C.F.R. § 68.12(d)(5) is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Count 14 – Required Corrections

71. The regulation at 40 C.F.R. § 68.195(b), requires the owner or operator of a stationary source for which a RMP was submitted to correct the RMP as follows: Emergency contact information - Beginning June 21, 2004, within one month of any change in the emergency contact information required under § 68.160(b)(6), the owner or operator shall submit a correction of that information.

72. At the time of the Inspection, Respondent's most recent RMP submittal dated January 11, 2016, listed a past employee as both the person responsible for Part 68 (RMP) Implementation, as well as the emergency contact. This past employee left the Respondent's company on May 17, 2019.

73. Respondent's failure to submit a correction of the RMP for the emergency contact information within one month of any change in the emergency contact information pursuant to

40 C.F.R. § 68.195(b) is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Count 15 – Recordkeeping

74. The regulation at 40 C.F.R. § 68.200, requires the owner or operator to maintain records supporting the implementation of this part at the stationary source for five years, unless otherwise provided in subpart D of this part.

75. At the time of the Inspection, Respondent could not provide initial training records for all operators, so the Respondent conducted a new initial training record for all operators in 2019. The Respondent failed to document that each employee before being involved in operating a newly assigned process was trained in an overview of the process. Refresher training records for all operators also could not be found.

76. Respondent's failure to maintain records supporting the implementation of Part 68 at the stationary source for five years, pursuant to 40 C.F.R. § 68.200 is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

CONSENT AGREEMENT

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

- (a) admits the jurisdictional allegations set forth herein;
- (b) neither admits nor denies the specific factual allegations stated herein;
- (c) consents to the assessment of a civil penalty, as stated herein;
- (d) consents to the issuance of the related Administrative Order on Consent;
- (e) consents to any conditions specified herein;
- (f) waives any right to contest the allegations set forth herein; and
- (g) waives its rights to appeal the Final Order accompanying this Consent

Agreement.

78. Respondent consents to the issuance of this Consent Agreement and Final Order and consents for the purposes of settlement to the payment of the civil penalty specified herein.

79. Respondent and EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorneys' fees.

Penalty Payment

80. Respondent agrees that, in settlement of the claims alleged herein, Respondent shall pay a civil penalty of one-hundred and twenty-four thousand, and two hundred and ninety-four dollars (\$124,294.00), as set forth below.

81. Respondent shall pay the penalty within thirty (30) days of the effective date of the Final Order. Such payment shall identify Respondent by name and docket number and shall be by certified or cashier's check made payable to the "United States Treasury" and sent to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, Missouri 63197-9000

or by alternate payment method described at <http://www.epa.gov/financial/makepayment>.

82. A copy of the check or other information confirming payment shall simultaneously be sent to the following:

Lorena S. Vaughn
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 6
1201 Elm Street, Suite 500 (ORC)
Dallas, Texas 75270-2102
vaughn.lorena@epa.gov; and

Justin McDowell
Enforcement and Compliance Assurance Division
Air Enforcement Branch

U.S. Environmental Protection Agency, Region 6
1201 Elm Street, Suite 500 (ECDAC)
Dallas, Texas 75270-2101
McDowell.Justin@epa.gov

83. Respondent understands that its failure to timely pay any portion of the civil penalty may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest. In such case, interest shall begin to accrue on a civil or stipulated penalty from the date of delinquency until such civil or stipulated penalty and any accrued interest are paid in full. 31 C.F.R. § 901.9(b)(1). Interest will be assessed at a rate of the United States Treasury Tax and loan rates in accordance with 31 U.S.C. § 3717. Additionally, a charge will be assessed to cover the costs of debt collection including processing and handling costs, and a non-payment penalty charge of six percent (6%) per year compounded annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. 31 U.S.C. § 3717(e)(2).

Effect of Settlement and Reservation of Rights

84. Full payment of the penalty proposed in this Consent Agreement shall only resolve Respondent's liability for federal civil penalties for the violations alleged herein. Complainant reserves the right to take any enforcement action with respect to any other violations of the CAA or any other applicable law.

85. The effect of settlement described in the immediately preceding paragraph is conditioned upon the accuracy of Respondent's representations to the EPA, as memorialized in paragraph directly below.

86. Respondent certifies by the signing of this Consent Agreement that it is presently in compliance with all requirements of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), save and except as reflected in the Administrative Order on Consent, Docket No. CAA-06-2020-3425.

Fulfillment of the terms of the Administrative Order on Consent is intended to bring Respondent into full compliance with Section 112(r) of the CAA, 42 U.S.C. § 7412(r).

87. Full payment of the penalty proposed in this Consent Agreement shall not affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Consent Agreement and Final Order does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of the CAA and regulations promulgated thereunder.

88. Complainant reserves the right to enforce the terms and conditions of this Consent Agreement and Final Order.

General Provisions

89. By signing this Consent Agreement, the undersigned representative of Respondent certifies that it is fully authorized to execute and enter into the terms and conditions of this Consent Agreement and has the legal capacity to bind the party it represents to this Consent Agreement.

90. This Consent Agreement shall not dispose of the proceeding without a final order from the Regional Judicial Officer or Regional Administrator ratifying the terms of this Consent Agreement. This Consent Agreement and Final Order shall be effective upon filing of the Final Order by the Regional Hearing Clerk for EPA, Region 6. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

91. The penalty specified herein shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal, State, and local taxes.

92. This Consent Agreement and Final Order shall apply to and be binding upon Respondent and Respondent's agents, successors and/or assigns. Respondent shall ensure that all

contractors, employees, consultants, firms, or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this Consent Agreement and Final Order.

93. The EPA and Respondent agree to the use of electronic signatures for this matter pursuant to 40 C.F.R. § 22.6. The EPA and Respondent further agree to electronic service of this Consent Agreement and Final Order by email to the following:

To EPA: pittman.lawrence@epa.gov

To Respondent: jeff.white@houseofraeford.com

RESPONDENT:
HOUSE OF RAEFORD FARMS OF LOUISIANA, L.L.C.

Date: 04/08/2022

Ken R. Qualls
Signature

Ken R. Qualls
Print Name

VP + CFO
Title

COMPLAINANT:
U.S. ENVIRONMENTAL PROTECTION AGENCY

Cheryl T. Seager Digitally signed by
CHERYL SEAGER
Date: 2022.04.14 14:38:25
-05'00'

Cheryl T. Seager
Director
Enforcement and
Compliance Assurance Division
U.S. EPA, Region 6

FINAL ORDER

Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and 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 foregoing Consent Agreement resolving this matter is hereby ratified and incorporated by reference into this Final Order.

Respondent is ORDERED to comply with all of the terms of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(b), the effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

This Final Order shall resolve only those causes of action alleged in the Consent Agreement. Nothing in this Final Order shall be construed to waive, extinguish, or otherwise affect Respondent's (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action.

IT IS SO ORDERED.

**THOMAS
RUCKI**

Digitally signed by THOMAS RUCKI
DN: c=US, o=U.S. Government,
ou=Environmental Protection Agency,
cn=THOMAS RUCKI,
0.9.2342.19200300.100.1.1-6800100365580
4
Date: 2022.04.19 18:29:48 -05'00'

Thomas Rucki
Regional Judicial Officer

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Consent Agreement and Final Order was electronically delivered to the Regional Hearing Clerk, U.S. EPA, Region 6, 1201 Elm Street, Dallas, Texas 75270-2102, and that a true and correct copy was sent this day in the following manner to the addressees:

Copy via Email to Complainant:

pittman.lawrence@epa.gov

Copy via Email to Respondent:

jeff.white@houseofraeford.com

Jeff White
Refrigeration Manager
House of Raeford Farms of Louisiana, L.L.C.
3867 Second Street
Arcadia, Louisiana 71001

Copy via Email to Regional Hearing Clerk:

Vaughn.lorena@epa.gov

Dated this 20 day of April, 2022.

LAWRENCE
PITTMAN

Digitally signed by LAWRENCE
PITTMAN
Date: 2022.04.20 14:39:02 -05'00'

Signed _____