

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3
Philadelphia, Pennsylvania 19103

FILED

Apr 27, 2026

3:41 pm

U.S. EPA REGION 3
HEARING CLERK

In the Matter of: :
:
Clemens Food Group, LLC : U.S. EPA Docket No. CAA-03-2026-0133
2700 Clemens Road :
Hatfield, PA 19440-4202, : Proceeding under Sections 112(r) and 113(d) of
Respondent. : the Clean Air Act, 42 U.S.C. §§ 7412(r) and
7413(d)
:
Clemens Food Group, LLC :
2700 Clemens Road :
Hatfield PA 19440-4202, :
:
Facility. :
:

CONSENT AGREEMENT

PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 3 (“Complainant”) and Clemens Food Group, LLC (“Respondent”) (collectively the “Parties”), pursuant to Section 113(d) of the Clean Air Act (“CAA”), as amended, 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 (“Consolidated Rules of Practice”), 40 C.F.R. Part 22. Section 113 of the CAA authorizes the Administrator of the U.S. Environmental Protection Agency to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated the authority to enter into agreements concerning administrative penalties to the Complainant. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the “Consent Agreement and Final Order”) resolve Complainant’s civil penalty claims against Respondent under the CAA (or the “Act”) for the violations alleged herein.
2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

JURISDICTION

3. The U.S. Environmental Protection Agency (“EPA”) has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.
4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(2).

GENERAL PROVISIONS

5. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.
6. Except as provided in Paragraph 5, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.
7. Respondent agrees not to contest the jurisdiction of the EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this Consent Agreement and Final Order.
8. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and Final Order and waives its right to appeal the accompanying Final Order.
9. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
10. Respondent shall bear its own costs and attorney’s fees in connection with this proceeding.
11. Pursuant to Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), the Administrator and the Attorney General, each through their respective delegates, have jointly determined that this administrative penalty action is appropriate.
12. By signing this Consent Agreement, Respondent waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the Final Order accompanying the Consent Agreement.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

13. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.

14. Respondent is a Delaware limited liability company registered to do business in the Commonwealth of Pennsylvania, with its principal office located at 2700 Clemens Road, Hatfield, PA 19440-0902.
15. Respondent is the owner and operator of a pork manufacturing and supply business located at 2700 Clemens Road, Hatfield, PA 19440-0902 (the "Facility").
16. As a limited liability company, Respondent is a "person" as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e), and is subject to the assessment of civil penalties for the violations alleged herein.
17. Respondent is, and at all times referred to herein was, the owner and operator of a "stationary source," as the term is defined in Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), and 40 C.F.R. § 68.3.
18. On November 15, 1990, the President signed into law the Clean Air Act Amendments of 1990. The Clean Air Act Amendments added Section 112(r) to the CAA, 42 U.S.C. § 7412(r).
19. Section 112(r)(3), 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, the threshold quantities, and defines the stationary sources that will be subject to the accident prevention regulations mandated by Section 112(r)(7), 42 U.S.C. § 7412(r)(7). The list of regulated substances and threshold levels are codified at 40 C.F.R. § 68.130.
20. On June 20, 1996, EPA promulgated a final rule known as the Chemical Accident Prevention Provisions, 40 C.F.R. Part 68 (referred to as the "RMP Regulations"), which implements Section 112(r)(7), 42 U.S.C. § 7412(r)(7), of the CAA. The RMP 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 must be described in a risk management plan that must be submitted to EPA. The risk management plan must include a hazard assessment to assess the potential effects of an accidental release of any regulated substance, a program for preventing accidental releases of hazardous substances, and a response program providing for specific actions to be taken in response to an accidental release of a regulated substance, so as to protect human health and the environment.
21. Pursuant to Section 112(r)(7)(B)(iii), 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 a risk management plan to EPA no later than the latter of June 21, 1999, three years after the date on which a regulated substance is first listed under 40 C.F.R. § 68.130, or the date on which a regulated substance is first present above the threshold quantity in a process.

22. As reported in Respondent's risk management plan, anhydrous ammonia, Chemical Abstract Service ("CAS") Number 7664-41-7, is used at the Facility to cool and freeze its pork products. The Facility's freezing and cooling system holds 201,852 pounds of anhydrous ammonia.
23. Anhydrous ammonia is a regulated substance that is listed pursuant to Section 112(r)(3) as a regulated toxic substance under 40 C.F.R. § 68.130 with a threshold quantity of 10,000 pounds.
24. Pursuant to 40 C.F.R. § 68.79(a), an owner or operator must certify that they have evaluated compliance with the RMP Regulations at least every three years to verify that the procedures and practices developed are adequate and are being followed.
25. Respondent certified its most recent RMP Compliance Audit on August 10, 2024. Respondent's previous RMP Compliance Audit was certified on January 16, 2021.
26. The RMP Regulations at 40 C.F.R. § 68.73(d)(2) require inspection and testing procedures to "follow recognized and generally accepted good engineering practices ("RAGAGEPs")."
27. The relevant RAGAGEP for the ammonia refrigeration process at the Facility is found in the American National Standards Institute ("ANSI")/The International Institute of Ammonia Refrigeration ("IIAR") 6, Standard for Inspection, Testing, and Maintenance of Closed-Circuit Ammonia Refrigeration Systems (2019) ("IIAR 6"). Section 13.1.1 of IIAR 6 entitled "Overpressure Protection Devices" requires "[a]ll pressure relief valves (PRVs) that relieve to atmosphere shall be recertified or replaced on the 5-year time-based frequency."
28. On August 13, 2023, Respondent reported the release of approximately 160 pounds of anhydrous ammonia from the Facility due to an operator error, causing pressure in the lines to build and a PRV to vent to the roof. The release caused the building to be evacuated and the initiation of the emergency notification process.
29. This release led the EPA to initiate CAA Section 112(r) offsite compliance monitoring activities, including the issuance of the Information Request Letter to Respondent on March 14, 2024, pursuant to CAA Section 114.
30. On April 19, 2024, Respondent provided the requested information to the EPA.
31. On August 23, 2024, Respondent submitted to the EPA a replacement schedule for the 375 PRVs in use at the Facility. Respondent also provided a chart of all PRVs in use at the Facility, including the date of installation; the chart indicated 145 PRVs had been installed more than five years earlier than the date of submission.
32. On September 13, 2024, Respondent reported to EPA 145 PRVs remained out of compliance. Thereafter, Respondent provided regular updates to the EPA on the number of PRVs remaining out of compliance.

33. On July 8, 2025, Respondent reported to the EPA that all PRV replacements had been completed.

Count I
Failure to Timely Certify Compliance Audits

34. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
35. On January 16, 2021, Respondent certified a Compliance Audit for the Facility. However, Respondent did not certify the subsequent Compliance Audit until August 10, 2024, which exceeded the three-year period within which Respondent was required to certify its compliance with the RMP Regulations pursuant to 40 C.F.R. § 68.79(a).
36. From January 17, 2024, until August 10, 2024, Respondent violated 40 C.F.R. § 68.79(a).
37. In failing to comply with 40 C.F.R. § 68.79(a), Respondent violated Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and is subject to the assessment of penalties under Section 113(d) of the CAA, 42 U.S.C. § 7413(d).

Count II
Failure to Timely Recertify or Replace Pressure Release Valves

38. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
39. On September 13, 2024, the Respondent reported to EPA that it failed to recertify or replace 145 PRVs in the Facility within the previous five years.
40. From at least September 13, 2024, until July 8, 2025, Respondent violated 40 C.F.R. § 68.73(d)(2), by failing to recertify or replace all PRVs in accordance with the relevant RAGAGEP.
41. In failing to comply with 40 C.F.R. § 68.73(d)(2), Respondent is in violation of Section 112(r)(7) of the Clean Air Act, 42 U.S.C. § 7412(r)(7), and is subject to the assessment of penalties under Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d).

CIVIL PENALTY

42. In settlement of the EPA's claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of ninety thousand dollars (\$90,000) ("Assessed Penalty"), which Respondent shall be liable to pay in accordance with the terms set forth below.

43. In determining the amount of the Assessed Penalty, EPA has taken into account the factors specified in Section 113(e) of the CAA, 42 U.S.C. § 7413(e).
44. Respondent agrees to pay the Assessed Penalty within thirty (30) days of the Effective Date of this Consent Agreement and Final Order.
45. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>. Respondent acknowledges that EPA has provided adequate notification that, prior to the Effective Date, in accordance with Executive Order 14247: Modernizing Payments To and From America's Bank Account, EPA ceased accepting paper checks as a form of payment of civil penalties and EPA only accepts specific electronic methods of payments as provided on the above website.
46. When making a payment, Respondent shall:
 - a. Identify every payment with Respondent's name and the docket number of this Consent Agreement, CAA 03-2026-0133,
 - b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve Proof of Payment simultaneously by email to the following person(s):

Ryan D. McDermott
Assistant Regional Counsel
mcdermott.ryan@epa.gov,

U.S. Environmental Protection Agency
Cincinnati Finance Center
CINWD_AcctsReceivable@epa.gov,

and

U.S. EPA Region 3 Regional Hearing Clerk
R3_Hearing_Clerk@epa.gov.

“Proof of Payment” means, as applicable, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to the EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent's name.

47. Interest, Charges, and Penalties on Late Payments. Pursuant to 42 U.S.C. § 7413(d)(5), 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay any portion of the Assessed Penalty per this Consent Agreement, the entire unpaid balance of the Assessed Penalty and all accrued interest shall become immediately due and owing, and the EPA is authorized to recover the following amounts.
- a. Interest. Interest begins to accrue from the Effective Date. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. Per 42 U.S.C. § 7524(c)(6), interest will be assessed pursuant to 26 U.S.C. § 6621(a)(2), that is the IRS standard underpayment rate, equal to the Federal short-term rate plus 3 percentage points.
 - b. Handling Charges. The United States' enforcement expenses including, but not limited to, attorneys' fees and costs of handling collection.
 - c. Late Payment Penalty. A ten percent (10%) quarterly non-payment penalty.
48. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Consent Agreement, the EPA may take additional actions. Such actions the EPA may take include, but are not limited to, the following.
- a. Refer the debt to a credit reporting agency or a collection agency, per 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 government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 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 the EPA or engaging in programs the EPA sponsors or funds, per 40 C.F.R. § 13.17.
 - d. Request that the Attorney General bring a civil action in the appropriate district court to enforce the Final Order and recover the full remaining balance of the Assessed Penalty, in addition to interest and the amounts described above, pursuant to 42 U.S.C. § 7413(d)(5). In any such action, the validity, amount, and appropriateness of the Assessed Penalty and Final Order shall not be subject to review.

49. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.
50. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Consent Agreement shall not be deductible for purposes of federal taxes.
51. The Parties consent to service of the Final Order by email at the following valid email addresses: mcdermott.ryan@epa.gov (for Complainant), and jlee@clemensfoodgroup.com (for Respondent).
52. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, the EPA is required to send to the IRS annually, a completed IRS Form 1098-F (“Fines, Penalties, and Other Amounts”) with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that the EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor’s violation of any law or the investigation or inquiry into the payor’s potential violation of any law, including amounts paid for “restitution or remediation of property” or to come “into compliance with a law.” The EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number (“TIN”), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide the EPA with sufficient information to enable it to fulfill these obligations, the EPA herein requires, and Respondent herein agrees, that:
 - a. Respondent shall complete an IRS Form W-9 (“Request for Taxpayer Identification Number and Certification”), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
 - b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent’s correct TIN or that Respondent has applied and is waiting for issuance of a TIN;
 - c. Respondent shall email its completed Form W-9 to the EPA’s Cincinnati Finance Center at henderson.jessica@epa.gov, within 30 days after the Final Order ratifying this Consent Agreement is filed, and the EPA recommends encrypting IRS Form W-9 email correspondence; and
 - d. In the event that Respondent has certified in its completed IRS Form W-9 that it has applied for a TIN and that TIN has not been issued to Respondent within 30 days after the Effective Date, then Respondent, using the same email address identified in the preceding sub-paragraph, shall further:

- i. notify the EPA's Cincinnati Finance Center of this fact, via email, within 30 days after the Effective Date of the Final Order per Paragraph 59 and
- ii. provide the EPA's Cincinnati Finance Center with Respondent's TIN, via email, within five (5) days of Respondent's issuance and receipt of the TIN.

GENERAL SETTLEMENT CONDITIONS

53. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement and Final Order will be available to the public and represents that, to the best of Respondent's knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.
54. Respondent certifies that any information or representation it has supplied or made to the EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. The EPA shall have the right to institute further actions to recover appropriate relief if the EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Consent Agreement and Final Order, including information about Respondent's ability to pay a penalty, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that the EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

CERTIFICATION OF COMPLIANCE

55. Respondent certifies to the EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is in compliance with regard to the violations alleged in this Consent Agreement.

OTHER APPLICABLE LAWS

56. Nothing in this Consent Agreement and Final Order shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This Consent Agreement and Final Order does not constitute a waiver, suspension or modification of the requirements of the CAA, 42 U.S.C. §§ 7401 et seq., or any regulations promulgated thereunder.

RESERVATION OF RIGHTS

57. This Consent Agreement and Final Order resolves only the EPA’s claims for civil penalties for the specific violation alleged against Respondent in this Consent Agreement and Final Order. The EPA reserves the right to commence action against any person, including Respondent, in response to any condition which the EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. This settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice, 40 C.F.R. § 22.18(c). The EPA reserves any rights and remedies available to it under the Clean Air Act, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this Consent Agreement and Final Order after its effective date.

EXECUTION /PARTIES BOUND

58. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents and assigns of Respondent. By providing the signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that the person signing is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and Final Order.

EFFECTIVE DATE

59. The effective date of this Consent Agreement and Final Order (“Effective Date”) is the date on which the Final Order, signed by the Regional Administrator of the EPA, Region 3, or the Regional Administrator’s designee, the Regional Judicial Officer, is filed along with the Consent Agreement with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

ENTIRE AGREEMENT

60. This Consent Agreement and Final Order constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this Consent Agreement and Final Order.

For Respondent: Clemens Food Group LLC

Date: _____

By: _____

Ken Pickett
Director of Engineering
Clemens Food Group, LLC

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Acting Director of the Enforcement & Compliance Assurance Division of the United States Environmental Protection Agency, Region 3, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or the Regional Administrator's designee, the Regional Judicial Officer, issue the attached Final Order.

By: _____
Andrea Bain
Acting Division Director
Enforcement & Compliance Assurance Division
U.S. EPA – Region 3
Complainant

Attorney for Complainant:

By: _____
Ryan D. McDermott
Assistant Regional Counsel
U.S. EPA – Region 3

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3
Philadelphia, Pennsylvania 19103

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:
Clemens Food Group, LLC :
2700 Clemens Road :
Hatfield, PA 19440-4202, :
Facility. :
:

FINAL ORDER

Pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. Part 22 (with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3)), the Consent Agreement resolving this matter is hereby ratified and incorporated by reference into this Final Order.

The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement.

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.

By: _____
Regional Judicial and Presiding Officer
U.S. EPA Region 3

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3
Philadelphia, Pennsylvania 19103

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Clemens Food Group, LLC	:
2700 Clemens Road	:
Hatfield, PA 19440-4202,	:
	:
Facility.	:
	:

CERTIFICATE OF SERVICE

I certify that the foregoing ***Consent Agreement and Final Order*** was filed with the EPA Region 3 Regional Hearing Clerk on the date that has been electronically stamped on the ***Consent Agreement and Final Order***. I further certify that on the date set forth below, I caused to be served a true and correct copy of the foregoing to each of the following persons, in the manner specified below, at the following addresses:

Copies served via email to:

Ken Pickett, Director of Engineering
Clemens Food Group, LLC
kpickett@clemensfoodgroup.com
2700 Clemens Road
Hatfield, Pennsylvania 19440-4202

Jim Lee, Esq.
Clemens Food Group, LLC
jlee@clemensfoodgroup.com
2702 Clemens Road
Hatfield, Pennsylvania 19440-4202

Ryan D. McDermott, Esq.
Assistant Regional Counsel
U.S. EPA, Region 3
mcdermott.ryan@epa.gov

Kyung Min
Enforcement Inspector Officer
U.S. EPA, Region 3
min.kyung@epa.gov

[Digital Signature and Date]

Regional Hearing Clerk

U.S. Environmental Protection Agency, Region 3