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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

NOV 05 2019

EPA ORC WS  
Office of Regional Hearing Clerk

\_\_\_\_\_  
IN THE MATTER OF )

**Garelick Farms, LLC** )

626 Lynnway )  
Lynn, MA 01905 )

Proceeding under Section 113 )  
of the Clean Air Act )

) Docket No. CAA-01-2016-0020

) **CONSENT AGREEMENT**  
) **AND FINAL ORDER**

**Joint Motion to Amend Consent Agreement**

This is a joint motion to amend the above-referenced Consent Agreement and Final Order (“CAFO”) to modify the amount of time that Respondent’s third-party auditor is prohibited from working with Respondent after conducting a required audit.

In the above-referenced CAFO, which became effective on December 22, 2015, Garelick Farms, LLC (“Respondent”), agreed in Paragraph 114 of the CAFO to retain an independent third-party auditor to conduct an RMP compliance audit at its facility in Franklin, Massachusetts (the “Audit”). According to Paragraph 116 of the CAFO, the third-party auditor selected by the Respondent was required to agree in writing not do any work for the Respondent, other than the Audit described in Paragraph 114, or accept employment with Respondent, for five years after completing the Audit. This bar on future employment is hereinafter referred to as the “prohibition period.”

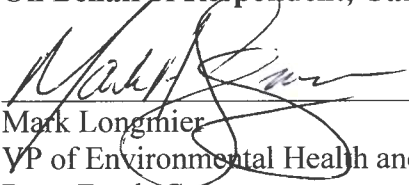
Respondent selected JS Compliance of Houston, TX to conduct the Audit, which was conducted on February 23-25, 2016. The Audit report was issued to the Respondent on March 21, 2016.

Respondent's Corporate Director of Environmental Health and Safety Programs and Compliance notified EPA Region 1 on September 26, 2019, that Respondent would like to hire JS Compliance again to provide onsite Risk Management Plan ("RMP") consultation, training and program development services. However, Respondent currently is unable to retain these consulting services because of the five-year "prohibition period" requirement in Paragraph 116.b of the CAFO. The Respondent has asked the Environmental Protection Agency ("EPA") Region 1 to amend this prohibition period to three years.

EPA Region 1 has no objections to this request. Since this CAFO became effective, the EPA has approved shorter prohibition periods. In a rulemaking, EPA considered comments on an independence requirement for third-party auditors and reduced the prohibition period from three years to two years. See EPA's Response to Comments on the 2016 Proposed Rule Amending EPA's Risk Management Program Regulations, Docket No. EPA-HQ-OEM-2015-0725 (Dec. 19, 2016), available at [https://www.epa.gov/sites/production/files/2016-12/documents/rmp\\_rtc\\_compiled\\_12-21-16.pdf](https://www.epa.gov/sites/production/files/2016-12/documents/rmp_rtc_compiled_12-21-16.pdf) at pages 77-79 (last viewed on Oct. 15, 2019). Likewise, EPA Region 1 recently settled four cases with shorter, three-year "prohibition periods" for third-party auditors. See EPA Docket Numbers CAA-01-2019-0044 through 0047.

Accordingly, both parties move to amend paragraph 116.b of the CAFO by changing the five year "prohibition period" requirement for third-party auditors to three years.

**On Behalf of Respondent, Garelick Farms, LLC**

  
\_\_\_\_\_  
Mark Longmier  
VP of Environmental Health and Safety  
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Dallas, TX 75204

10.24.19  
\_\_\_\_\_  
Date

**On Behalf of Complainant, EPA Region 1**



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NOV. 5, 2019

Date

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Joint Motion has been sent to the following persons on the date and in the manner noted below:

Original and one copy,  
delivered by hand and by  
electronic mail:

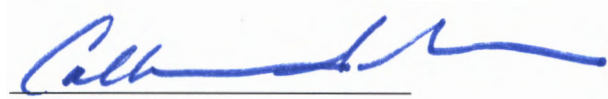
Ms. Wanda Santiago, Regional Hearing Clerk  
U.S. EPA, Region I  
5 Post Office Square, Suite 100  
Boston, MA 02109-3812

Copy, by First Class Mail  
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**Order to Amend Consent Agreement**

The Consent Agreement and Final Order (“CAFO”) for the above-referenced matter requires, among other things, that Respondent, Garelick Farms, LLC complete a third-party audit at Respondent’s facility in Franklin, Massachusetts. CAFO Para. 114, p. 45. The CAFO specifies independence requirements for the auditor, including that the auditor may not accept employment with Respondent for five years after completion of the audit (“the Prohibition Period”). CAFO Para. 116, p. 46. The Final Order was issued by the undersigned and filed with the Regional Hearing Clerk on or about December 22, 2015, and Respondent completed the third-party audit requirement in March of 2016.

Respondent has asked the Environmental Protection Agency (“EPA”) Region 1 to amend this Prohibition Period to three years so that Respondent may hire the third-party auditor for further Risk Management Plan consultation, training and program development services. EPA has no objections to this request, for the reasons set out in the parties’ Joint Motion to Amend Consent Agreement.

For good cause shown, the five-year Prohibition Period set out in paragraph 116.b of the CAFO is hereby amended to be three years.

SO ORDERED THIS \_\_\_ DAY OF NOVEMBER 2019

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LeAnn Jensen  
Regional Judicial Officer