

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket Nos. CERCLA-05-2024-0008
)	EPCRA-05-2024-0021
Institution Food House, Inc.)	
d/b/a Performance Foodservices -)	Proceeding to Assess a Civil Penalty Under
Ellenbee)	Section 109(b) of the Comprehensive
Fairfield, Ohio,)	Environmental Response, Compensation and
)	Liability Act, and Section 325(b)(2) of the
Respondent.)	Emergency Planning and Community Right-
_____)	to-Know Act of 1986

Consent Agreement and Final Order
Preliminary Statement

1. This is an administrative action commenced and concluded under Section 109(b) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended, 42 U.S.C. § 9609(b), Section 325(b)(2) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 U.S.C. § 11045(b)(2), and Sections 22.13(b) and 22.18(b)(2) and (3) 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 40 C.F.R. Part 22.

2. The Complainant is, by lawful delegation, the Manager of Emergency Response Branch 1, Superfund & Emergency Management Division, United States Environmental Protection Agency (U.S. EPA), Region 5.

3. Respondent is Institution Food House, Inc., d/b/a Performance Foodservices - Ellenbee, a North Carolina corporation, doing business in the State of Ohio.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO, and the terms of the CAFO.

Jurisdiction and Waiver of Right to Hearing

7. For purposes of this settlement only, Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO.

Statutory and Regulatory Background

9. Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), requires any person in charge of a facility to immediately notify the National Response Center (NRC) as soon as that person has knowledge of any release of a hazardous substance from the facility in an amount equal to or greater than the reportable quantity of the hazardous substance.

10. Section 304(a)(1) of EPCRA, 42 U.S.C. § 11004(a)(1), requires that the owner or operator of a facility must immediately provide notice, as described in Section 304(b) of EPCRA, 42 U.S.C. § 11004(b), if a release of an extremely hazardous substance in quantities equal to or greater than a reportable quantity occurs from a facility at which hazardous chemicals

are produced, used or stored and such release requires notice under Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

11. Under Section 304(b) of EPCRA, 42 U.S.C. § 11004(b), notice required under Section 304(a) of EPCRA, 42 U.S.C. § 11004(a), must be given immediately after the release by the owner or operator of a facility to the community emergency coordinator for the local emergency planning committee (LEPC) for any area likely to be affected by the release and to the state emergency response commission (SERC) of any state likely to be affected by a release.

12. Section 304(c) of EPCRA, 42 U.S.C. § 11004(c), requires that, as soon as practicable after a release which requires notice under Section 304(a) of EPCRA, 42 U.S.C. § 11004(a), the owner or operator of the facility must provide written follow-up emergency notice setting forth and updating the information required under Section 304(b), 42 U.S.C. § 11004(b).

13. Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), and Section 304 of EPCRA, 42 U.S.C. § 11004, provide a mechanism to alert federal, state, and local agencies that a response action may be necessary to prevent deaths or injuries to emergency responders, facility personnel and the local community. A delay or failure to notify could seriously hamper the governments' response to an emergency and pose serious threats to human health and the environment.

14. Under Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), with certain exceptions, the term "hazardous chemical" has the meaning given such term by 29 C.F.R. § 1910.1200(c).

15. Under 29 C.F.R. § 1910.1200(c), a hazardous chemical is any chemical which is classified as a physical or health hazard, a simple asphyxiant, combustible dust, pyrophoric gas, or hazard not otherwise classified.

16. Section 109(b) of CERCLA, 42 U.S.C. § 9609(b), Section 325(b)(2) of EPCRA, 42 U.S.C. § 11045(b)(2), and 40 C.F.R. Part 19 authorizes U.S. EPA to assess a civil penalty of up to \$69,733 per day of violation, for violations of CERCLA Section 103, EPCRA Section 304 that occurred after November 2, 2015, and for which penalties are assessed on or after December 27, 2023, or other amounts as penalty levels may be later adjusted at 40 C.F.R. Part 19.

U.S. EPA's Factual Allegations and Alleged Violations

17. Respondent is a "person" as that term is defined under Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

18. Respondent is a "person" as that term is defined under Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

19. At all times relevant to this CAFO, Respondent was an owner or operator of the facility located at 3765 Port Union Road, Fairfield, Ohio (facility).

20. At all times relevant to this CAFO, Respondent was in charge of the facility.

21. Respondent's facility consists of a building, structure, installation, equipment, pipe, storage container, or any site or area where a hazardous substance has been deposited, stored, placed, or otherwise come to be located.

22. Respondent's facility is a "facility" as that term is defined under Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

23. Respondent's facility consists of buildings, equipment, structures, and other stationary items which are located on a single site or on contiguous or adjacent sites, and which are owned or operated by the same person.

24. Respondent's facility is a "facility" as that term is defined under Section 329(4) of EPCRA, 42 U.S.C. § 11049(4).

25. Anhydrous ammonia (CAS #7664-41-7) is a "hazardous substance" as that term is defined under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

26. Anhydrous ammonia (CAS #7664-41-7) has a reportable quantity of 100 pounds, as indicated at 40 C.F.R. Part 302, Table 302.4.

27. Anhydrous ammonia (CAS #7664-41-7) is classified as a physical or health hazard, a simple asphyxiant, or hazard not otherwise classified.

28. Anhydrous ammonia (CAS #7664-41-7) is a "hazardous chemical" within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).

29. At all times relevant to this CAFO, anhydrous ammonia was produced, used or stored at Respondent's facility.

30. Anhydrous ammonia (CAS #7664-41-7) is an "extremely hazardous substance" according to Section 302(a)(2) of EPCRA, 42 U.S.C. § 11002(a)(2).

31. Anhydrous ammonia (CAS #7664-41-7) has a reportable quantity of 100 pounds, as indicated at 40 C.F.R. Part 355, Appendix A.

32. Between December 24, 2023, at 9:19 p.m. and December 26, 2023, at 7:54 a.m., a release occurred from Respondent's facility of approximately 660 pounds of anhydrous ammonia (the release).

33. In a 24-hour time period, the release of anhydrous ammonia exceeded 100 pounds.

34. During the release, approximately 660 pounds of anhydrous ammonia spilled, leaked, emitted, discharged, or escaped into the ambient air.

35. The release is a “release” as that term is defined under Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).
36. The release is a “release” as that term is defined under Section 329(8) of EPCRA, 42 U.S.C. § 11049(8).
37. Respondent had knowledge of the release on December 26, 2023, at approximately 6:00 a.m.
38. The release was one for which notice was required under Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).
39. The release required notice under Section 304(a) of EPCRA, 42 U.S.C. § 11004(a).
40. The release was likely to affect Ohio.
41. At all times relevant to this CAFO, the Ohio EPA was the SERC for Ohio under Section 301(a) of EPCRA, 42 U.S.C. § 11001(a).
42. The release was likely to affect Butler County, Ohio.
43. At all times relevant to this CAFO, the Butler County LEPC was the LEPC for Butler County, Ohio under Section 301(c) of EPCRA, 42 U.S.C. § 11001(c).
44. Respondent notified the NRC of the release on December 26, 2023, at 9:14 a.m.
45. Respondent did not immediately notify the NRC as soon as Respondent had knowledge of the release.
46. Respondent’s failure to immediately notify the NRC of the release is a violation of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).
47. Respondent notified the Ohio SERC of release on December 26, 2023, at 10:43 a.m.

48. Respondent did not immediately notify the SERC after Respondent had knowledge of the release.

49. Respondent's failure to immediately notify the SERC of the release is a violation of Section 304(a) of EPCRA, 42 U.S.C. § 11004(a).

50. On April 30, 2024, Respondent notified the LEPC of the release.

51. Respondent did not immediately notify the LEPC after Respondent had knowledge of the release.

52. Respondent's failure to immediately notify the LEPC of the release is a violation of Section 304(a) of EPCRA, 42 U.S.C. § 11004(a).

53. On April 30, 2024, Respondent provided the written follow-up emergency notice to the LEPC.

54. Respondent did not provide the LEPC with written follow-up emergency notice of the release as soon as practicable after the release occurred.

55. Respondent's failure to provide written follow-up emergency notice to the LEPC as soon as practicable after the release occurred is a violation of Section 304(c) of EPCRA, 42 U.S.C. § 11004(c).

Civil Penalty

56. Complainant has determined that the combined appropriate civil penalty to settle this action is \$60,261. Complainant has determined that \$11,450 of the \$60,261 is an appropriate civil penalty to settle this action for the CERCLA violation. Complainant has determined that \$48,811 of the \$60,261 is an appropriate civil penalty to settle this action for the EPCRA violations. In determining the penalty amounts, Complainant considered the nature,

circumstances, extent and gravity of the violations, Respondent's agreement to perform a supplemental environmental project, and with respect to Respondents, their ability to pay, prior history of violations, economic benefit or savings resulting from the violations and any other matters as justice may require. Complainant also considered U.S. EPA's Enforcement Response Policy for Sections 304, 311 and 312 of the Emergency Planning and Community Right-to-Know Act and Section 103 of the Comprehensive Environmental Response Compensation and Liability Act, dated September 30, 1999 (EPCRA/CERCLA Enforcement Response Policy).

57. Respondent agrees to pay separate civil penalties in the amount of \$11,450 for the CERCLA (Superfund) violations and \$48,811 for the EPCRA violations ("Assessed Penalties") within thirty (30) days after the date the Final Order ratifying this Agreement is filed with the Regional Hearing Clerk.

58. Respondents shall pay the Assessed Penalties, any stipulated penalty listed in paragraph 76, below, 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>.

59. When making a payment, Respondents shall:

- a. Identify every CERCLA payment with Respondent's name and the docket number of this Agreement, CERCLA-05-2024-0008, as well as the billing document number, 2752430B008, for the CERCLA payment.
- b. Identify every EPCRA payment with Respondent's name and the docket number of this Agreement, EPCRA-05-2024-0021.
- c. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of such payment to the following person(s):

Regional Hearing Clerk
R5regionalclerk@epa.gov

James Entzinger
Entzinger.james@epa.gov

Jeffrey Cahn
Cahn.Jeff@epa.gov

and

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

“Proof of payment” means, as applicable, a copy of the check, 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 EPA requirements, in the amount due, and identified with the appropriate docket number, Respondent’s name, and billing document number for the CERCLA payment.

60. Interest, Charges, and Penalties on Late Payments. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay the full amount of the Assessed Penalties per this Agreement, EPA is authorized to recover, in addition to the amount of the unpaid Assessed Penalties, the following amounts.

- a. Interest. Interest begins to accrue from the Filing Date. If the Assessed Penalties are paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalties are not paid in full within thirty (30) days, interest will continue to accrue until any unpaid portion of the Assessed Penalties as well as any interest, penalties, and other charges are paid in full. To protect the interests of the United States the rate of interest is set at the IRS large corporate underpayment rate, any lower rate would fail to provide Respondents adequate incentive for timely payment.

- b. Handling Charges. Respondent will be assessed monthly a charge to cover EPA's costs of processing and handling overdue debts. If Respondent fails to pay the Assessed Penalties in accordance with this Agreement, EPA will assess a charge to cover the costs of handling any unpaid amounts for the first thirty (30) day period after the Filing Date. Additional handling charges will be assessed every thirty (30) days, or any portion thereof, until the unpaid portion of the Assessed Penalties as well as any accrued interest, penalties, and other charges are paid in full.
- c. Late Payment Penalty. A late payment penalty of six percent (6%) per annum, will be assessed monthly on all debts, including any unpaid portion of the Assessed Penalties, interest, penalties, and other charges, that remain delinquent more than ninety (90) days. Any such amounts will accrue from the Filing Date.

61. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalties, interest, or other charges and penalties per this Agreement, EPA may take additional actions. Such actions 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 EPA or engaging in programs EPA sponsors or funds, per 40 C.F.R. § 13.17.
- d. Refer this matter to the United States Department of Justice for litigation and collection, per 40 C.F.R. § 13.33.

62. 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.

63. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Agreement shall not be deductible for purposes of federal taxes.

64. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. §1.6050X-1, EPA is required to send to the Internal Revenue Service (“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 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.” 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 EPA with sufficient information to enable it to fulfill these obligations, 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 their completed Form W-9 to EPA’s Cincinnati Finance Center at wise.milton@epa.gov, within 30 days after the Final Order ratifying this

Agreement is filed, and 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 does not yet have a TIN but has applied for a TIN, Respondent shall provide EPA's Cincinnati Finance Center with Respondent's TIN, via email, within five (5) days of Respondent's receipt of a TIN issued by the IRS.

Supplemental Environmental Project

65. Respondent must complete a supplemental environmental project (SEP) designed to protect the environment or public health by installing steel evaporator protectors and surge level probes. The expected amount pollution prevention is 511 pounds of anhydrous ammonia.

66. At its Fairfield, Ohio facility, Respondent must complete the SEP as follows:

- a. Within 15 weeks after the effective date of this CAFO, Respondent must install four steel evaporator protectors to cover the 4 evaporators at the facility.
- b. Within 15 weeks after the effective date of this CAFO, Respondent must install surge drum level probes that will allow for tighter control band and better volume control in the surge drums to avoid process shutdown and risk of leak at the facility.

67. Respondent must spend at least \$87,599 to install the equipment.

68. With regard to the SEP, Respondent certifies the truth and accuracy of each of the

following:

- a. That, as of the date of executing this CAFO, Respondent is not required to perform or develop the SEP by any federal, state, or local law or regulation and is not required to perform or develop the SEP by agreement, grant, or as injunctive relief awarded in any other action in any forum;
- b. That the SEP is not a SEP that Respondent was planning or intending to construct, perform, or implement other than in settlement of the claims resolved in this CAFO;
- c. That Respondent has not received and will not receive credit for the SEP in any other enforcement action; and

- d. That Respondent shall neither generate nor use any pollutant reductions from the SEP as netting reductions, pollutant offsets, or to apply for, obtain, trade, or sell any pollutant reduction credits.

69. U.S. EPA may, upon reasonable notice to Respondent, inspect the facility to monitor Respondent's compliance with this CAFO's SEP requirements.

70. Respondent must maintain copies of the underlying research and data for all reports submitted to U.S. EPA according to this CAFO. Respondent must provide the documentation of any underlying research and data to U.S. EPA within seven days of U.S. EPA's request for the information.

71. Within 135 days after the effective date of this CAFO, Respondent must submit a SEP completion report to U.S. EPA. This report must contain the following information:

- a. Detailed description of the SEP as completed, including pictures before the project started and after the project is completed;
- b. Description of any operating problems and the actions taken to correct the problems;
- c. Itemized costs of goods and services used to complete the SEP documented by copies of invoices, purchase orders or canceled checks that specifically identify and itemize the individual costs of the goods and services;
- d. Certification that Respondent has completed the SEP in compliance with this CAFO; and
- e. Description of the environmental and public health benefits resulting from the SEP (quantify the benefits and pollution reductions, if feasible).

72. Respondent must submit all notices and reports required by this CAFO by email to James Entzminger of the Chemical Emergency Preparedness and Prevention Section at the address specified in paragraph 59, above.

73. In each report that Respondent submits as provided by this CAFO, it must certify that the report is true and complete by including the following statement signed by one of its officers:

I certify that I am familiar with the information in this document and that, based on my inquiry of those individuals responsible for obtaining the information, it is true and complete to the best of my knowledge. I know that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

74. Following receipt of the SEP completion report described in paragraph 73, above, U.S. EPA must notify Respondent in writing that:

- a. It has satisfactorily completed the SEP and the SEP report;
- b. There are deficiencies in the SEP as completed or in the SEP report and U.S. EPA will give Respondent 30 days to correct the deficiencies; or
- c. It has not satisfactorily completed the SEP, or the SEP report and U.S. EPA will seek stipulated penalties under paragraph 76.

75. If U.S. EPA exercises option b, above, Respondent may object in writing to the deficiency notice within 10 days of receiving the notice. The parties will have 30 days from U.S. EPA's receipt of Respondent's objection to reach an agreement. If the parties cannot reach an agreement, U.S. EPA will give Respondent a written decision on its objection. Respondent will comply with any requirements that U.S. EPA imposes in its decision. If Respondent does not complete the SEP as required by U.S. EPA's decision, Respondent will pay stipulated penalties to the United States under paragraph 76, below.

76. If Respondent violates any requirement of this CAFO relating to the SEP, Respondent must pay stipulated penalties to the United States as follows:

- a. Except as provided in subparagraph b, below, if Respondent did not complete the SEP satisfactorily according to the requirements of this CAFO, including the schedule in paragraph 66, Respondent must pay a penalty of \$87,599.
- b. If Respondent did not complete the SEP satisfactorily, but U.S. EPA determines that Respondent made good faith and timely efforts to complete the SEP and certified, with supporting documents, that it spent at least 90 percent of the amount set forth in paragraph 67, Respondent will not be liable for any stipulated penalty under subparagraph a, above.
- c. If Respondent completed the SEP satisfactorily but spent less than 90 percent of the amount set forth in paragraph 67, Respondent must pay a penalty of \$21,900.
- d. If Respondent did not submit timely the SEP completion report, Respondent must pay penalties in the following amounts for each day following such non-compliance:

<u>Penalty Per Violation Per —Day</u>	<u>Period of Violation</u>
\$ 500	1st through 14th day
\$ 750	15th through 30th day
\$ 1,000	31st day and beyond

77. U.S. EPA’s determinations of whether Respondent completed the SEP satisfactorily and whether Respondent made good faith and timely efforts to complete the SEP will bind Respondent, but such determination shall not be unreasonably delayed or withheld.

78. Respondent must pay any stipulated penalties within 15 days of receiving U.S. EPA’s written demand for the penalties. Respondent will use the method of payment specified in paragraphs 57-58, above, with 19% for CERCLA and 81% for EPCRA and will pay interest, handling charges and nonpayment penalties on any overdue amounts. At the time U.S. EPA makes a demand for any stipulated penalties it will also send a copy of that demand to U.S. EPA’s Cincinnati Finance Center via email at CINWD_AcctsReceivable@epa.gov.

79. U.S. EPA may, in the unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due under this CAFO.

80. U.S. EPA may, in the unreviewable exercise of its discretion, give Respondent an extension of time to submit the SEP completion report.

81. Any public statement that Respondent makes referring to the SEP must include the following language, "Respondent undertook this project under the settlement of the United States Environmental Protection Agency's enforcement action against Respondent for violations of CERCLA Section 103 and EPCRA Section 304."

82. Nothing in this CAFO is intended to nor will be construed to constitute U.S. EPA approval of the equipment or technology installed by Respondent in connection with the SEP under the terms of this CAFO.

83. For federal income tax purposes, Respondent will neither capitalize into inventory or basis, nor deduct any costs or expenditures incurred in performing the SEP.

General Provisions

84. The parties' consent to service of this CAFO by email at the following valid email addresses: Cahn.Jeff@epa.gov (for Complainant) and Bob.Barrett@pfgc.com and JGrachuk@bdlaw.com (both for Respondent). Respondent understands that the CAFO will become publicly available upon filing.

85. Full payment of the penalty and compliance with this CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the CAFO.

86. This CAFO does not affect the rights of U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

87. Respondent certifies that the facility is currently in compliance with Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), Section 304 of EPCRA, 42 U.S.C. § 11004.

88. This CAFO does not affect Respondent's responsibility to comply with CERCLA, EPCRA, and other applicable federal, state and local laws and regulations.

89. This CAFO is a "final order" for purposes of U.S. EPA's EPCRA/CERCLA Enforcement Response Policy.

90. The terms of this CAFO bind Respondent and its successors and assigns.

91. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

92. Each party agrees to bear its own costs and attorney's fees in this action.

93. This CAFO shall terminate when Respondent is informed in writing by U.S. EPA that it has complied with the requirements of this CAFO in full.

94. This CAFO constitutes the entire agreement between the parties.

**In the Matter of: Institution Food House, Inc., d/b/a Performance Foodservices - Ellenbee, Fairfield, Ohio
Docket Nos. CERCLA-05-2024-0008; EPCRA-05-2024-0021**

Institution Food House, Inc., d/b/a Performance Foodservices – Ellenbee, Respondent

8-13-2024
Date

Steve Preston
Steve Preston
President
Performance Foodservice - Ellenbee

**In the Matter of: Institution Food House, Inc., d/b/a Performance Foodservices - Ellenbee,
Fairfield, Ohio
Docket Nos. CERCLA-05-2024-0008; EPCRA-05-2024-0021**

U.S. Environmental Protection Agency, Complainant

Date

Jason El-Zein
Manager, Emergency Response Branch I
Superfund & Emergency Management Division
U.S. Environmental Protection Agency
Region 5

Date

Douglas Ballotti
Director
Superfund & Emergency Management Division
U.S. Environmental Protection Agency
Region 5

**In the Matter of: Institution Food House, Inc., d/b/a Performance Foodservices – Ellenbee,
Fairfield, Ohio
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Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

Date

Ann L. Coyle
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 5