

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1201 Elm Street, Suite 500
Dallas, Texas 75270**

In the Matter of	§	
	§	
Simmons Prepared Foods, Inc.	§	Docket No. CAA-06-2024-3341
	§	
	§	
Respondent.	§	

CONSENT AGREEMENT AND FINAL ORDER

Preliminary Statement

The U.S. Environmental Protection Agency, Region 6 (“EPA” or “Complainant”), and Simmons Prepared Foods, Inc. (“Respondent” or “Simmons Foods”) 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).
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 Simmons Prepared Foods, Inc., a company authorized to conduct business in the state of Arkansas.

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 prevent the accidental release and 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), requires 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), requires the Administrator to 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 Occupational

Safety and Health Administration 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 \$57,617 for violations that occur after November 2, 2015, and are assessed after December 27, 2023.

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.

EPA Findings of Fact and Conclusions of Law

19. 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).

20. Respondent is the owner and operator of a facility located at: 2101 Twin Circle Drive, Van Buren, Arkansas 79022 (the "Facility").

21. On July 1, 2023, there was an incident at the Facility that resulted in an accidental release of 1,600 pounds of anhydrous ammonia and an exposure to three employees (the "Incident").

22. Pursuant to Section 114 of the CAA, 42 U.S.C. § 7414, the EPA requested documentation on February 14, 2024, and Respondent provided on March 5, 2024, information concerning the Incident and Respondent's compliance with Section 112(r) of the CAA 42 U.S.C. § 7412(r), and 40 C.F.R. Part 68 (the "Investigation").

23. 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.

24. The Respondent's facility is a chicken further processing plant. Respondent's facility specializes in processing and packaging chicken, operating three production lines, and producing approximately 110 million pounds of fully cooked chicken products annually. Processing aid substances handled and stored onsite consist of ammonia and sanitation chemicals. The Respondent's processes meet the definition of "process" and "covered process," as defined by 40 C.F.R. § 68.3. The Respondent's RMP Program Level 3 covered process stores or otherwise uses a regulated substance in an amount exceeding the applicable threshold.

25. 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.

26. Respondent has at times maintained 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.

27. From the time Respondent first had on-site greater than a threshold quantity of anhydrous ammonia, 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.

28. From the time Respondent first had on-site greater than a threshold quantity of anhydrous ammonia, 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, is subject to Occupational Safety and Health Administration requirements for Process Safety Management pursuant to 29 C.F.R. 1910.119, and is in North American Industry Classification System code 311615 (Poultry Processing).

EPA Findings of Violation

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

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

Count 1 – Operating Procedures

31. The regulation at 40 C.F.R. § 68.69(d) requires the owner or operator of a stationary

source to develop and implement safe work practices to provide for the control of hazards during operations such as lockout/tagout; confined space entry; opening process equipment or piping; and control over entrance into a stationary source by maintenance, contractor, laboratory, or other support personnel. These safe work practices shall apply to employees and contractor employees.

32. Respondent failed to implement safe work practices related to lockout/tagout to provide for the control of hazards during operations. The root cause of the chemical accidental release that occurred on July 1, 2023, identified the accidental release occurred as a result of an existing ammonia compressor that was started on an ammonia line which was meant to be tagged out of service (however the tag had fallen off) while in the process of tying the existing system into new expansion equipment.

33. Respondent's failure to properly implement safe work practices to provide for the control of hazards during lockout/tagout, pursuant to 40 C.F.R. § 68.69(d), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

CONSENT AGREEMENT

34. 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 performance of the Supplemental Environmental Project (SEP) set forth herein;

- 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.

35. 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.

36. 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

37. Respondent agrees that, in settlement of the claims alleged herein, Respondent shall pay a civil penalty of Ten Thousand Dollars (\$10,000) and shall perform a Supplemental Environmental Project ("SEP") as set forth herein. The projected cost of the SEP is Thirty-Seven Thousand, Eight-Hundred Twenty-Six Dollars and Seventy-Five Cents (\$37,826.75).

38. 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 979078
St. Louis, Missouri 63197-9000

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

39. 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

Carlos Flores
Enforcement and Compliance Assurance Division
Waste and Chemical Enforcement Branch
U.S. Environmental Protection Agency, Region 6
1201 Elm Street, Suite 500 (ECDSC)
Dallas, Texas 75270-2101
flores.carlos@epa.gov

40. 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).

Supplemental Environmental Project

41. In response to the alleged violations of the CAA and in settlement of this matter, although not required by the CAA or any other federal, state or local law, Respondent agrees to implement a supplemental environmental project (SEP), as described below in paragraphs 42-

47 (or in Appendix A).

42. Respondent shall complete a purchase of emergency response equipment for Van Buren, Arkansas Fire Department, consisting of: “Jaws of Life” emergency cutter, spreader, ram, and necessary batteries. The SEP is more specifically described in Attachment A and incorporated herein by reference.

43. Respondent shall spend no less than \$37,500 on implementing the SEP. Respondent shall include documentation of the expenditures made in connection with the SEP as part of the SEP Completion Report.

44. Respondent shall complete the SEP by October 20, 2024.

45. Use of SEP Implementer and Identification of SEP Recipient

a. SEP Implementer

i. Respondent shall serve as SEP Implementer and purchase the aforementioned equipment themselves to provide to the SEP Recipient.

b. SEP Recipient

i. Respondent has selected the Van Buren, Arkansas Fire Department to receive SEP emergency response equipment as stated in Paragraph 42 and Attachment A.

1. Respondent shall provide the EPA with notice of the SEP recipient and the EPA has the right to disapprove the SEP if the recipient does not meet the required criteria.

c. Except as provided in subsections [a.i. and b.i.] above, the EPA had no role in the selection of any SEP implementer, SEP recipient, or specific equipment identified

in the SEP, nor shall this Consent Agreement and Final Order be construed to constitute EPA approval or endorsement of any SEP implementer, SEP recipient, or specific equipment identified in this Consent Agreement and Final Order.

46. The SEP is consistent with applicable EPA policy and guidelines, specifically EPA's *2015 Update to the 1998 Supplemental Environmental Projects Policy* (March 10, 2015). The SEP advances at least one of the objectives of CAA RMP, by supplementing emergency response equipment to be used by first-responders in the event of a chemical containment accident. The SEP relates to the alleged violation(s), and is designed to reduce:

- a. Equipment shortfalls of first responders in responding to a chemical containment incident;
- b. The adverse impact to public health and/or the environment to which the alleged violations contribute, specifically how the emergency response equipment can better help the residents of Van Buren, Arkansas in the event of a chemical containment incident.

47. Respondent certifies as to the truth and accuracy of each of the following:

- a. That all cost information provided to EPA in connection with EPA's approval of the SEP is complete and accurate and that Defendant in good faith estimates that the cost to implement the SEP is Thirty-Seven Thousand Eight-Hundred Dollars and Seventy-Five Cents (\$37,826.75);
- b. That, as of the date of executing this Consent Agreement and Final Order, 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;

- c. That the SEP is not a project that Respondent was planning or intending to construct, perform, or implement other than in settlement of the claims resolved in this Consent Agreement and Final Order;
- d. That Respondent has not received and will not receive credit for the SEP in any other enforcement action;
- e. That Respondent will not receive reimbursement for any portion of the SEP from another person or entity;
- f. That for federal income tax purposes, Respondent agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP;
- g. Respondent is not a party to any open federal financial assistance transaction that is funding or could fund the same activity as the SEP described in Paragraph 42; and
- h. That Respondent has inquired of the SEP recipient whether it is party to an open federal financial assistance transaction that is funding or could fund the same activity as the SEP and has been informed by the recipient that they are not a party to such a transaction.

48. Any public statement, oral or written, in print, film, or other media, made by Respondent or a representative of Respondent making reference to the SEP under this Consent Agreement and Final Order from the date of its execution of this Consent Agreement and Final

Order shall include the following language: “This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency for alleged violations of the federal laws.”

49. SEP Reports.

- a. Respondent shall submit a SEP Completion Report to EPA by no later than October 30, 2024. The SEP (Completion) Report shall contain the following information, with supporting documentation:
 - i. A detailed description of the SEP as implemented;
 - ii. A description of any operating problems encountered and the solutions thereto;
 - iii. Itemized costs;
 - iv. Certification that the SEP has been fully implemented pursuant to the provisions of this Consent Agreement and Final Order; and
 - v. A description of the environmental and public health benefits resulting from implementation of the SEP (with a quantification of the benefits and pollutant reductions, if feasible).
- b. Respondent agrees that failure to submit the SEP Completion Report shall be deemed a violation of this Consent Agreement and Final Order and Respondent shall become liable for stipulated penalties pursuant to paragraph 51 below.
- c. Respondent shall submit all notices and reports required by this Consent Agreement and Final Order to Carlos Flores at flores.carlos@epa.gov.
- d. In itemizing its costs in the SEP Completion Report, Respondent shall clearly

identify and provide acceptable documentation for all eligible SEP costs. Where the SEP completion report includes costs not eligible for SEP credit, those costs must be clearly identified as such. For purposes of this Paragraph, “acceptable documentation” includes invoices, purchase orders, or other documentation that specifically identifies and itemizes the individual costs of the goods and/or services for which payment is being made. Canceled drafts do not constitute acceptable documentation unless such drafts specifically identify and itemize the individual costs of the goods and/or services for which payment is being made.

50. EPA acceptance of the SEP Report.

- a. After receipt of the SEP Completion Report described in paragraph 49 above, EPA will, in writing to the Respondent, either:
 - i. Identify any deficiencies in the SEP Completion Report itself along with a grant of an additional thirty (30) days for Respondent to correct any deficiencies; or
 - ii. Indicate that EPA concludes that the project has been completed satisfactorily; or
 - iii. Determine that the project has not been completed satisfactorily and seek stipulated penalties in accordance with paragraph 51 herein.
- b. If EPA elects to exercise option (i) above, i.e., if the SEP Report is determined to be deficient but EPA has not yet made a final determination about the adequacy of SEP completion itself, Respondent may object in writing to the notification of deficiency given pursuant to this paragraph within ten (10) days of receipt of

such notification. EPA and Respondent shall have an additional thirty (30) days from the receipt by EPA of the notification of objection to reach agreement on changes necessary to the SEP Report. If agreement cannot be reached on any such issue within this thirty (30) day period, EPA shall provide a written statement of its decision on adequacy of the completion of the SEP to Respondent, which decision shall be final and binding upon Respondent.

51. Stipulated Penalties

- a. Except as provided in subparagraphs (b) and (c) below, if Respondent fails to satisfactorily complete the requirements regarding the SEP specified in Paragraph(s) 42-47 by the deadline in Paragraph 44, Respondent agrees to pay, in addition to the civil penalty in Paragraph 37, the following per day per violation stipulated penalty for each day the Respondent is late meeting the applicable SEP requirement:
 - i. \$250 per day for days 1-30.
 - ii. \$300 per day for days 31-60.
 - iii. \$500 per day for days 61 or more.

- b. If Respondent fails to timely submit any SEP reports, such as those referred to in Paragraph 49, in accordance with the timelines set forth in this Consent Agreement and Final Order, Respondent agrees to the following per day stipulated penalty for each day after the report was due until Respondent submits the report in its entirety:
 - i. \$100 per day for days 1-30.

- ii. \$150 per day for days 31-60.
 - iii. \$300 per day for days 61 or more.
- c. If Respondent does not satisfactorily complete the SEP, including spending the minimum amount on the SEP set forth in Paragraph 43 above, Respondent shall pay a stipulated penalty to the United States in the amount of \$41,250.
- “Satisfactory completion” of the SEP is defined as Respondent spending no less than \$37,500 to donate the emergency response equipment by October 20, 2024. The determinations of whether the SEP has been satisfactorily completed shall be in the sole discretion of EPA.
- d. EPA retains the right to waive or reduce a stipulated penalty at its sole discretion.
- e. Respondent shall pay stipulated penalties not more than fifteen (15) days after receipt of written demand by EPA for such penalties. The method of payment shall be in accordance with the provisions of paragraph 38 above. Interest and late charges shall be paid as stated in paragraph 40.

Modification

52. The terms, conditions, and compliance requirements of this Consent Agreement and Final Order may not be modified or amended except upon the written agreement of all parties and approval of the Regional Judicial Officer except that the Regional Judicial Officer need not approve written agreements between the parties modifying the SEP schedules in Appendix A. The Branch Manager of the Enforcement and Compliance Assurance Division shall have the authority to extend the deadlines in Appendix A for good cause.

Effect of Settlement and Reservation of Rights

53. 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.

54. 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.

55. Respondent certifies by the signing of this Consent Agreement that, as of the date of the execution of this Consent Agreement, Respondent has addressed or is addressing the violations alleged herein, and to the best of its knowledge, it is presently in compliance with all other requirements of Section 112(r) of the CAA, 42 U.S.C. § 7412(r).

56. Full payment of the penalty proposed in this Consent Agreement shall not in any case 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.

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

General Provisions

58. 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.

59. 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.

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

61. 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.

62. 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: *Sharma.Ravi@epa.gov*

To Respondent: *Nelson.Jackson@simfoods.com*

Bailey.Nash@simfoods.com

RESPONDENT:
SIMMONS PREPARED FOODS, INC.

Date: 6/29/24


Signature

Austin Mansfield
Print Name

Vice President of Operations
Title

COMPLAINANT:
U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: July 1, 2024

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
Regional Judicial Officer

Date

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Consent Agreement and Final Order was 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:

Sharma.Ravi@epa.gov

Copy via Email to Respondent:

Nelson.Jackson@simfoods.com

Bailey.Nash@simfoods.com

Copy via Email to Regional Hearing Clerk:

Vaughn.Lorena@epa.gov

Signed
Office of Regional Counsel
U.S. EPA, Region 6

ATTACHMENT A: SUPPLEMENTAL ENVIRONMENTAL PROJECT

Simmons Prepared Foods, Inc., will supply the Van Buren, Arkansas Fire Department, located at 2009 Pevehouse Road, Van Buren, AR 72956, with emergency response equipment as part of their supplemental environmental project (SEP). The Van Buren Fire Department is responsible for protecting the citizens of Van Buren, AR before, during, and after any and all man-made and natural emergency incidents. The equipment will enhance the life-saving capabilities of the Van Buren Fire Department, to be used during an emergency situation.

The donation will include:

1. PCU50 Cutter, Next-Gen Penthon Series, HOL-159.000.226, Item Number: 252716, Price: \$11,816.00;
2. PSP40 Spreader, Next-Gen Penthon Series, HOL-159.000.226, Item Number: 25717, Price: \$12,185.00;
3. PTR50 Telescopic Ram, Next-Gen Penthon Series, HOL-159.000.227, Item Number: 252720, Price: \$10,021.00;
4. PBPA287 Battery (quantity 5), Item Number: 160972, Price per battery: \$720.95, Total price: \$3,604.75; and
5. Cost of freight, Item Number 300056, Price: \$200.00.

This donation covers “Jaws of Life” emergency response equipment for first responders. This equipment can assist in accessing containment systems or emergency equipment to control ammonia and other chemical releases, thereby mitigating an environmental impact, and protecting public health. The total estimated cost of this purchase is \$37,826.75. This SEP is estimated to be complete within 1-4 months.