

# 112(r)/Clean Air Act Enforcement: U.S. Environmental Protection Agency and Westfield, New York Facility Enter into Consent Agreement



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The United States Environmental Protection Agency (“EPA”) and Welch Foods, Inc. (“Welch”) entered into a September 28th Consent Agreement and Final Order (“CAFO”) addressing alleged violations regarding the Clean Air Act prevention of accidental releases of regulated substances regulations. See Docket No. CAA-02-2018-1204.

The CAFO provides that Welch is the owner and/or operator of a facility (“Facility”) located in Westfield, New York that uses anhydrous ammonia for industrial refrigeration.

EPA is stated to have conducted an inspection of the Facility on August 24, 2016 regarding compliance with the general duty clause provisions of Section 112(r)(1) of the Clean Air Act.

Welch is stated to have entered into an Administrative Order on Consent with EPA, following such inspection, (dated December 30, 2016) which addressed violations of the general duty clause. A second inspection of the Facility was stated to have been conducted on or about October 12, 2016, to determine compliance with Section 112(r)(7) of the Clean Air Act and the regulations at 40 C.F.R. Part 68.

Welch is stated to have filed a RMP for the Facility with EPA on or about November 8, 2016 that, among other things, identified a covered anhydrous ammonia process at the Facility as a Program 3 process, and that specified a quantity of 13,119 pounds of anhydrous ammonia for this process.

Welch entered into an Administrative Order on Consent with EPA, dated July 13, 2017, which required the company perform certain activities at the Facility to address deficiencies and come into compliance with the requirements of Section 112(r)(7) and 40 C.F.R. Part 68, including:

- the process hazard analysis requirements of 40 C.F.R. § 68.67(c);
- the process safety information requirements of 40 C.F.R. § 68.65;
- the operating procedures requirements of 40 C.F.R. § 68.69; and
- the mechanical integrity program requirements of 40 C.F.R. § 68.73.

The CAFO concludes that the Facility is a stationary source and has handled and stored anhydrous ammonia in a process and quantities exceeding the threshold quantity. Violations are stated to have been identified.

Welch neither admits nor denies the Conclusions of Law set forth above. Further, Welch is stated to certify that the Facility is now in compliance with all applicable requirements of Section 112(r)(7) of the Clean Air Act as related to the Findings of Fact and Conclusions of Law.

A civil penalty of \$34,350 is assessed.

A copy of the CAFO can be found [here](#).