

**AGREED BOARD ORDER NO. 11-04**

**LOUISVILLE METRO AIR POLLUTION CONTROL BOARD**

**Incident Nos. 04704, 04986, 04991, 05058, 05166, 05178**

This Order is issued by the Louisville Metro Air Pollution Control Board (Board) pursuant to Kentucky Revised Statutes Chapter 77 (Air Pollution Control). This Agreement is made by and between the Board and Swift Pork Company (Company), and is effective on the date of its adoption by the Board.

**COMPANY:** Swift Pork Company d/b/a Swift & Company  
1770 Promontory Circle  
Greely, Colorado 80634

**REGULATIONS INVOLVED:**

5.15 (Chemical Accident Prevention Provisions)  
1.13 (Control of Objectionable Odors)

**NOTICE OF VIOLATION LETTERS:** No. 01938, dated March 18, 2008  
No. 02060, dated April 14, 2009  
No. 02089, dated September 2, 2009

**BACKGROUND AND DISCUSSION:**

Company is a Delaware corporation that operates an animal rendering plant located at 1200 Story Avenue in Louisville. The violations subject to this agreement relate to Company's Risk Management Program and several odor emissions.

District Regulation 5.15 adopts by reference Section 112(r) of the federal Clean Air Act. Under the authority of section 112(r)'s Chemical Accident Prevention Provisions, facilities that produce, handle, process, distribute, or store certain chemicals must develop a Risk Management Program and prepare a Risk Management Plan (RMP). Company's animal rendering plant, which operates an ammonia refrigeration system, is subject to those requirements, which also direct the District to conduct on-site audits of Company's RMP.

On November 13 and 16, 2007, the District conducted an on-site audit of Company's RMP. As a result of that audit, the District alleges that Company's RMP was deficient. The audit identified twenty-eight separate deficiencies. The deficiencies range in severity from a failure to properly identify the person responsible for implementing Company's RMP in violation of 40 C.F.R. § 68.15(c), to a failure to maintain operating procedures that include steps to avoid or correct deviations in operating limits in violation of 40 C.F.R. § 68.69(a), to a failure to show that equipment deficiencies were corrected before further use or in a safe and timely manner in violation of 40 C.F.R. § 68.73(e).

Subsequently, Company contracted with Process Compliance, Inc. (PCI), to review and correct the audit findings. In July 2008, Company provided PCI's evaluation to the District. The evaluation described actions implemented by Swift in response to the audit findings. According to PCI, Swift remedied nearly all of the audit findings by July 2008.

The District conducted a second audit of Company's RMP on August 19, 2009. That audit and subsequent communications with Company confirmed that adequate remedial actions have been taken. The District does not allege any violations based on the second audit. Further, a 2010 inspection by PCI of Company's mechanical integrity program confirmed that Company has improved its procedures associated with addressing issues with equipment deficiencies around the plant.

District Regulation 1.13 prohibits the emission into the ambient air of any substance that creates an objectionable odor beyond the property line. The District alleges that on at least fourteen days from October 2008 to April 2009, Company emitted or caused to be emitted into the ambient air a substance that created an objectionable odor beyond the Company's property line.

In November 2008, Company began installing new equipment and updating its operations to reduce odor emissions pursuant to an Agreed Board Order between Company and the District. These corrective measures are now fully in place to address the violations of District regulations listed above. Since April 2009, events of off-property odor emissions from the plant have been reduced.

To fully address the violations of District Regulations 5.15 and 1.13 alleged above, the parties agree to this Order assessing against Company an administrative settlement of \$37,250. On March 16, 2011, a public hearing was held before the Board on this proposed Order. Based upon the information presented at that hearing, the Board determines that the proposed resolution and requirements contained in this Order are reasonable under the circumstances.

NOW, THEREFORE BE IT ORDERED THAT:

1. Company pay \$37,250 to the Louisville Metro Air Pollution Control District by March 16, 2011.
2. Company has reviewed this Order and consents to all its requirements and terms. Company agrees to pay the cost of publishing legal notice of the public hearing.
3. In the event that it is necessary for the District to seek a court order to enforce this Order, Company agrees to pay filing fees and costs of such action.
4. This Order fully resolves the violations alleged in District Incident Nos. 04704, 04986, 04991, 05058, 05166, and 05178, as alleged above in this Order.

5. This Order resolves any odor violations occurring on or before February 17, 2011.

6. Neither this Order nor the actions taken hereunder shall constitute an admission by Company of any wrongdoing regarding any of the matters referenced in this Order.

Louisville Metro Air Pollution Control Board

Swift & Company

By: \_\_\_\_\_  
Robert W. Powell, M.D., Chair

By: \_\_\_\_\_  
John Cliff  
Plant Manager

Date: \_\_\_\_\_

Louisville Metro Air Pollution Control District

By: \_\_\_\_\_  
Paul Aud  
Air Pollution Control Officer

Date: \_\_\_\_\_

Approved as to form and legality:

By: \_\_\_\_\_  
Jennifer Swyers  
Assistant County Attorney