

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Christine M. Foot 1/5/17
Name of Case Attorney Date

in the ORC (RAA) at 918-1113
Office & Mail Code Phone number

Case Docket Number CAA-01-2016-0073 & EPCRA-01-2016-0076

Site-specific Superfund (SF) Acct. Number _____

This is an original debt This is a modification

Name and address of Person and/or Company/Municipality making the payment:

Carlos Pasta, Inc.
50 Talbot
South Windsor, CT 06074

Total Dollar Amount of Receivable \$ 78,184 Due Date: 2/5/17

SEP due? Yes No Date Due _____

Installment Method (if applicable)

INSTALLMENTS OF:

- 1ST \$ _____ on _____
- 2ND \$ _____ on _____
- 3RD \$ _____ on _____
- 4TH \$ _____ on _____
- 5TH \$ _____ on _____

For RHC Tracking Purposes:

Copy of Check Received by RHC _____ Notice Sent to Finance _____

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

IFMS Accounts Receivable Control Number _____

If you have any questions call: _____
in the Financial Management Office Phone Number



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

Jan. 5, 2017

BY HAND

Wanda I. Santiago, Regional Hearing Clerk
U.S. Environmental Protection Agency-Region 1
5 Post Office Square, Suite 100
Mail Code OES04-2
Boston, MA 02109-3912

RECEIVED

JAN 05 2017

EPA ORC WS
Office of Regional Hearing Clerk

Re: In the Matter of: Carla's Pasta, Inc.; Docket Nos. CAA-01-2016 0073; EPCRA-01-2016-0076

Dear Ms. Santiago:

Enclosed for filing, please find a Consent Agreement and Final Order (CAFO) settling the matter referenced above.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Christine M. Foot".

Christine M. Foot
Enforcement Counsel
EPA Region 1

Enclosures

cc: Mark J. Zimmermann, Esq., Updike, Kelly & Spellacy, (via email, w/o enclosure)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

IN THE MATTER OF)
)
Carla's Pasta, Inc.)
50 Talbot Lane)
South Windsor, CT 06074)
)
Respondent.)
_____)

Docket Nos. CAA-01-2016-0073
EPCRA-01-2016-0076

CONSENT AGREEMENT
AND FINAL ORDER

RECEIVED

JAN 05 2017

EPA ORC WS
Office of Regional Hearing Clerk

CONSENT AGREEMENT

The United States Environmental Protection Agency, Region 1 ("EPA" or "Complainant") and Carla's Pasta, Inc. ("Carla's Pasta" or "Respondent") have agreed that settlement of this matter is in the public interest and that entry of this Consent Agreement and Final Order ("CAFO") pursuant to 40 C.F.R. § 22.18(b) 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. Part 22 ("Consolidated Rules of Practice") without further litigation is the most appropriate means of resolving this matter. This CAFO resolves Respondent's liability for a) alleged violations of the chemical accident prevention provisions of Section 112(r)(7) of the Clean Air Act ("CAA"), 42 U.S.C. § 7412(r)(7), and the implementing federal Risk Management Program regulations found at 40 C.F.R. Part 68 ("RMP Regulations"); and b) alleged violations of the chemical inventory reporting requirements of Section 312(a) of the Emergency Planning and Community Right-to-Know Act of 1986 ("EPCRA"), 42 U.S.C. § 11022(a), and 40 C.F.R. Part 370.

NOW THEREFORE, before any hearing or the taking of any testimony, without adjudication of any issue of fact or law, upon the record, and upon consent and agreement of the Parties, it is hereby ordered and adjudged as follows:

I. PRELIMINARY STATEMENT

1. EPA initiated this proceeding against Respondent pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d) and Section 325(c) of EPCRA, 42 U.S.C. § 11045(c).

2. EPA's Complaint, filed on September 28, 2016, alleged that Respondent failed to comply with Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), the Risk Management regulations promulgated thereunder at 40 C.F.R. Part 68, Section 312(a) of EPCRA, 42 U.S.C. § 11022(a), and the regulations promulgated thereunder at 40 C.F.R. Part 370, with regard to Respondent's operation of an ammonia-based refrigeration system at its pasta production facility located at 50 Talbot Lane in South Windsor, Connecticut ("the Facility").

3. EPA and Respondent agree to settle this matter through this CAFO, as authorized under 40 C.F.R. § 22.18(b).

II. TERMS OF SETTLEMENT

4. The provisions of this CAFO shall apply to and be binding on the Parties, their officers, directors, agents, servants, employees, successors, and assigns. From the Effective Date of this Agreement, Respondent must give written notice and a copy of this Agreement to any successors in interest prior to any transfer of ownership or control of any portion of or interest in the Facility. Simultaneously with such notice, Respondent shall provide written notice of such transfer, assignment, or delegation to the EPA. In the event of any such transfer, assignment, or delegation, Respondent shall not be released from the obligations or liabilities of this Agreement unless the EPA has provided written approval of the release of said obligations or liabilities.

5. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in the Complaint and that the Complaint states a claim upon which relief can be granted against Respondent. Respondent waives any defenses it might have as to jurisdiction and venue and, without admitting or denying the factual and legal allegations contained in the Complaint, consents to the terms of this CAFO.

6. Respondent hereby waives its rights to a judicial or administrative hearing on any issue of law or fact set forth in the Complaints and waives its rights to appeal the Final Order. Respondent consents to the issuance of this CAFO hereinafter recited and consents for purposes of settlement to the payment of the civil penalty, as required in Paragraph 9 below.

7. Respondent certifies that it has corrected the violations alleged in this CAFO and will continue to operate the Facility in compliance with Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and with Section 312 of EPCRA, 42 U.S.C. § 11022. Respondent further certifies that this compliance includes compliance with the “List of Bare Minimum Safety Measures,” appended to this CAFO as Attachment A. This list is not intended to be a complete list of important safety measures but rather a subset of easily verifiable items that EPA and the International Institute of Ammonia Refrigeration believe could most help facilities prevent ammonia releases and prepare for any releases that do occur.

Civil Penalty

8. Sections 113(a) and (d) of the CAA, 42 U.S.C. §§ 7413(a) and 7413(d), as amended, authorize EPA to assess a civil penalty of up to \$25,000 per day of violation for violations of Section 112(r) of the CAA, 42 U.S.C. § 7412(r). Likewise, Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), authorizes EPA to assess a civil penalty of up to \$25,000 per day of violation for violations of Section 312 of EPCRA, 42 U.S.C. § 11022. Pursuant to the Debt Collection

Improvement Act of 1996 (“DCIA”), 31 U.S.C. § 3701, and as amended by EPA’s 2008 and 2013 Civil Monetary Penalty Inflation Adjustment Rules, 40 C.F.R. Part 19, violations of Section 112(r) of the CAA, 42 U.S.C. § 7412(r) and of Section 312 of EPCRA, 42 U.S.C. § 11022, that occurred between January 12, 2009 and November 2, 2015 are subject to up penalties of up to \$37,500 per day of violation.

9. Pursuant to Section 113(e) of the CAA, 42 U.S.C. § 7413(e), and Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), and taking into account the relevant statutory penalty criteria, the facts alleged in the Complaint and such other circumstances as justice may require, EPA has determined that it is fair and proper to assess a civil penalty of \$78,184 for the violations alleged in this matter, and Respondent consents to payment of this penalty. The penalty shall be apportioned in the following manner: \$25,148 for the alleged EPCRA violations and \$53,036 for the alleged CAA violations

10. Within thirty (30) calendar days of the effective date of this CAFO, Respondent shall make a payment by cashier’s or certified check, or by wire transfer, in the amount of \$78,184 and shall include the case name and docket numbers (CAA-01-2016-0073; EPCRA-01-2016-0076) on the face of the check or wire transfer confirmation. A check should be payable to “Treasurer, United States of America.” The payment shall be remitted as follows:

If remitted by regular U.S. mail:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

If remitted by any overnight commercial carrier:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, Missouri 63101
Include the phrase "Government Lockbox 979077" on the shipping label.

If remitted by wire transfer: Any wire transfer must be sent directly to the Federal Reserve Bank in New York City using the following information:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

In addition, at the time of payment, Respondents should also forward notice of payment of the civil penalty as well as copies of the payment check or payment receipt to:

Wanda I. Santiago, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code ORA18-1
Boston, MA 02109-3912

and

Christine Foot, Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code OES04-2
Boston, MA 02109-3912

11. Collection of Unpaid CAA Civil Penalty: Pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), if Respondent fails to pay any portion of the civil penalty amount relating to the alleged CAA violations, it will be subject to an action to compel payment, plus interest, enforcement expenses, and a nonpayment penalty. Interest will be assessed on the civil penalty if it is not paid within thirty (30) calendar days of the effective date of this CAFO. In

that event, interest will accrue from the effective date of this CAFO at the “underpayment rate” established pursuant to 26 U.S.C § 6621(a)(2). In the event that a penalty is not paid when due, an additional charge will be assessed to cover the United States’ enforcement expenses, including attorneys’ fees and collection costs. In addition, a quarterly nonpayment penalty will be assessed for each quarter during which the failure to pay the penalty persists. Such nonpayment penalty shall be 10 percent of the aggregate amount of Respondent’s outstanding civil penalties and nonpayment penalties hereunder accrued as of the beginning of such quarter. In any such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

12. Collection of EPCRA Penalty: Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. In the event that any portion of the civil penalty amount relating to the alleged EPCRA violations is not paid when due, the penalty shall be payable, plus accrued interest, without demand. Interest shall be payable at the rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b)(2) and shall accrue from the original date on which the penalty was due to the date of payment. In addition, a penalty charge of six percent per year will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. Should assessment of the penalty charge on the debt be required, it will be assessed as of the first day payment is due under 31 C.F.R. § 901.9(d). In any such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

13. All penalties, interest, and other charges provided for under this CAFO, and any interest, nonpayment penalties, and charges described in this CAFO, shall represent penalties

assessed by EPA within the meaning of 26 U.S.C. § 162(f) and are not deductible for purposes of federal, state or local law. Accordingly, Respondent agrees to treat all payments made pursuant to this CAFO as penalties within the meaning of 26 C.F.R. § 1.162-21, and further agrees not to use these payments in any way as, or in furtherance of, a tax deduction under federal, state, or local law.

14. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this Consent Agreement and Final Order resolves only Respondent's liability for federal civil penalties for the violations and facts specifically alleged above.

15. By signing this Agreement, both parties agree that each party's obligations under this Consent Agreement and attached Final Order constitute sufficient consideration for the other party's obligations.

16. Penalties paid pursuant to this Agreement shall not be deductible for purposes of federal taxes.

17. This Agreement constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to the subject matter hereof.

18. The terms, conditions, and compliance requirements of this Agreement may not be modified or amended except upon the written agreement of both parties, and approval of the Regional Judicial Officer.

19. Any violation of this Order may result in a civil judicial action for an injunction or civil penalties of up to \$37,500 per day per violation, or both, as provided in Section 113(b)(2) of the Act, 42 U.S.C. § 7413(b)(2), as well as criminal sanctions as provided in Section 113(c) of

the Act, 42 U.S.C. § 7413(c). EPA may use any information submitted under this Order in an administrative, civil judicial, or criminal action.

20. Nothing in this Agreement shall relieve Respondent of the duty to comply with all applicable provisions of the CAA or EPCRA and other federal, state, or local laws, or statutes, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.

21. EPA reserves the right to revoke this Agreement and settlement penalty if and to the extent that the EPA finds, after signing this Agreement, that any information provided by Respondent was materially false or inaccurate at the time such information was provided to the EPA, and EPA reserves the right to assess and collect any and all civil penalties for any violation described herein. EPA shall give Respondent notice of its intent to revoke, which shall not be effective until received by Respondent in writing.

22. This CAFO in no way relieves Respondent or its employees of any criminal liability, and EPA reserves all its other criminal and civil enforcement authorities, including the authority to seek injunctive relief and the authority to undertake any action against Respondent in response to conditions which may present an imminent and substantial endangerment to the public health, welfare, or the environment.

23. Except as qualified by Paragraph 11, each party shall bear its own costs and fees in this proceeding including attorney's fees, and specifically waive any right to recover such costs from the other party pursuant to the Equal Access to Justice Act, 5 U.S.C § 504, or other applicable laws.

24. Respondent and Complainant agree to issuance of the attached Final Order. Upon filing, EPA will transmit a copy of the filed Consent Agreement to Respondent. In accordance with 40 C.F.R. § 22.31(b), the effective date of this CAFO is the date on which it is filed with the Regional Hearing Clerk.

25. Each undersigned representative of the parties certifies that he is fully authorized by the party responsible to enter into the terms and conditions of this CAFO and to execute and legally bind that party to it.

For Respondent:

X Carla Squatrito
Carla Squatrito, President
Carla's Pasta, Inc.

R 12.19.16
Date

For EPA:

Kan McGinnis for
Susan Studlien, Director
Office of Environmental Stewardship
U.S. Environmental Protection Agency
Region 1—New England

1-4-17
Date

ATTACHMENT A

List of Bare Minimum Safety Measures

Identifying Hazards

- Hazard Addressed: Releases or safety deficiencies that stem from a failure to identify hazards in design/operation of system
 - Facility has completed a process hazard analysis or review.

Operating Activities:

- Hazard Addressed: High risk of release from operating or maintenance activity
 - System has self-closing/quick closing valves on oil pots.
 - Facility has written procedures for maintenance and operation activities.
 - Only authorized persons have access to machinery room and the ability to alter safety settings on equipment.

Maintenance/Mechanical Integrity:

- Hazard Addressed: Leaks/releases from maintenance neglect
 - A preventative maintenance program is in place to, among other things, detect and control corrosion, deteriorated vapor barriers, ice buildup, and pipe hammering, and to inspect integrity of equipment/pipe supports.
 - All piping system openings except the relief header are plugged or capped, or valve is locked.
 - Equipment, piping, and emergency shutdown valves are labeled for easy identification, and pressure vessels have legible, accessible nameplates.
 - All atmospheric pressure relief valves have been replaced in the last five years with visible confirmation of accessible pressure relief valves [note – replacement every five years is the general rule but there are two other options in IIAR Bulletin 110, 6.6.3].

Machinery Room and System Design

- Hazard Addressed: Inability to isolate and properly vent releases
 - The System(s) has/have emergency shut-off and ventilation switches outside each machinery room.
 - The machinery room(s) has/have functional, tested, ventilation. Air inlets are positioned to avoid recirculation of exhaust air and ensure sufficient inlet air to replace exhausted air.
 - Documentation exists to show that pressure relief valves that have a common discharge header have adequately sized piping to prevent excessive backpressure on relief valves, or if built prior to 2000, have adequate diameter based on the sum of the relieve valve cross sectional areas.

Emergency Actions

- Hazard Addressed: Inability to regain control and reduce release impact
 - Critical shutoff valves are accessible, and a schematic is in place to show responders where to access them.
 - EPCRA Tier II reporting is up to date.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I

_____)	
IN THE MATTER OF)	
Carla's Pasta, Inc.)	Docket Nos. CAA-01-2016-0073
50 Talbot Lane)	EPCRA-01-2016-0076
South Windsor, CT 06074)	
Respondent.)	CONSENT AGREEMENT
_____)	AND FINAL ORDER

FINAL ORDER

Pursuant to 40 C.F.R. § 22.18(c) of EPA's Consolidated Rules of Practice, the attached Consent Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified.

The Respondent, as specified in the Consent Agreement, is hereby ordered to comply with the terms of the above Consent Agreement, effective on the date it is filed with the Regional Hearing Clerk.

Date: _____

1/4/17



LeAnn Jensen
Acting Regional Judicial Officer
U.S. Environmental Protection Agency, Region I

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1 – NEW ENGLAND

_____)	
In the Matter of:)	
Carla's Pasta, Inc.)	Docket Nos. CAA-01-2016-0073
50 Talbot Lane)	EPCRA-01-2016-0076
South Windsor, CT 06074)	
Respondent.)	CERTIFICATE OF SERVICE
_____)	

I hereby certify that the foregoing Consent Agreement and Final Order has been sent to the following persons on the date noted below:

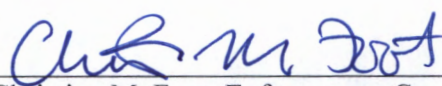
Original and one copy
(hand-delivered):

Ms. Wanda I. Santiago
Regional Hearing Clerk
U.S. EPA, Region I
5 Post Office Square, Suite 100
Mail Code ORA18-1
Boston, MA 02109-3912

Copy (certified mail, return
receipt requested):

Mark J. Zimmermann, Esq.
Updike, Kelly & Spellacy
100 Pearl Street
Hartford, CT 06103

Dated: 1/5/17


Christine M. Foot, Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code OES04-2
Boston, MA 02109-3912