



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
5 POST OFFICE SQUARE, SUITE 100
BOSTON, MA 02109-3912

September 28, 2016

BY HAND

Wanda Santiago, Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 1 (ORA 18-1)
5 Post Office Square, Suite 100
Boston, MA 02109-3912



Re: Administrative Complaint, Compliance Order, and Notice of Opportunity for Hearing, *In the matter of Carla's Pasta, Inc.*, Docket Nos. CAA-01-2016-0073; EPCRA-01-2016-0076

Dear Ms. Santiago:

Enclosed for filing is the original and one copy of the Complaint relating to the above-referenced matter.

Kindly file the documents in the usual manner. Thank you very much for your help.

Very truly yours,

A handwritten signature in blue ink that reads "Christine M. Foot".

Christine M. Foot
Enforcement Counsel

Enclosures

cc: Carla Squatrito, President, Carla's Pasta, Inc. (by certified mail)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

RECEIVED

SEP 29 2016

EPA ORC
Office of Regional Hearing Clerk

WS

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

**ADMINISTRATIVE COMPLAINT
AND NOTICE OF
OPPORTUNITY FOR HEARING**

I. STATEMENT OF AUTHORITY

1. Complainant, the United States Environmental Protection Agency, Region 1 ("EPA"), issues this Administrative Complaint and Notice of Opportunity for Hearing ("Complaint") to Carla's Pasta, Inc. ("Respondent") under Section 113(d) of the Clean Air Act ("CAA"), 42 U.S.C. § 7413(d), and Section 325(c) of the Emergency Planning and Community Right-to-Know Act of 1986 ("EPCRA"), 42 U.S.C. § 11045(c). This action is subject to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22 ("Consolidated Rules of Practice"). The authority to issue this Complaint has been delegated to the Director of the Office of Environmental Stewardship, EPA Region 1.

2. The Complaint notifies Respondent that EPA intends to assess penalties for Respondent's failure 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, and EPCRA, in

Respondent's handling of anhydrous ammonia at the company's South Windsor, Connecticut pasta production facility.

3. The Notice of Opportunity for Hearing describes Respondent's option to file an Answer to the Complaint and to request a formal hearing.

II. STATUTORY AND REGULATORY BASIS

CAA Statutory and Regulatory Authority

4. Section 112(r) of the CAA, 42 U.S.C. § 7412(r), authorizes EPA to promulgate regulations and programs in order to prevent and minimize the consequences of accidental releases of certain regulated substances. In particular, Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), mandates that EPA promulgate a list of substances that are known to cause, or may reasonably be anticipated to cause, death, injury, or serious adverse effects to human health or the environment if accidentally released. Section 112(r)(5) of the CAA, 42 U.S.C. § 7412(r)(5), requires that EPA establish, for each listed substance, the threshold quantity over which an accidental release is known to cause, or may reasonably be anticipated to cause, death, injury, or serious adverse effects to human health. Finally, Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), requires EPA to promulgate requirements for the prevention, detection, and correction of accidental releases of regulated substances, including a requirement that owners or operators of certain stationary sources prepare and implement a Risk Management Plan ("RMP").

5. The regulations promulgated pursuant to Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), are found at 40 C.F.R. Part 68 ("Part 68").

6. Section 112(r)(7)(E) of the CAA, 42 U.S.C. § 7412(r)(7)(E), renders it unlawful for any person to operate a stationary source subject to the regulations promulgated under the authority of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), in violation of such regulations.

7. Forty C.F.R. § 68.130 lists the substances regulated under Part 68 (“RMP chemicals” or “regulated substances”) and their associated threshold quantities, in accordance with the requirements of Sections 112(r)(3) and (7) of the CAA, 42 U.S.C. §§ 7412(r)(3) and (7). This list includes anhydrous ammonia as an RMP chemical and identifies a threshold quantity of 10,000 pounds.

8. A “process” is defined by 40 C.F.R. § 68.3 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.

9. Under 40 C.F.R. § 68.10, an owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process must comply with the requirements of Part 68 by no later than the latest of the following dates: (a) June 21, 1999; (b) three years after the date on which a regulated substance is first listed under 40 C.F.R. § 68.130; or (c) the date on which a regulated substance is first present above a threshold quantity in a process.

10. Each process in which a regulated substance is present in more than a threshold quantity (“covered process”) is subject to one of three risk management programs. Program 1 is the least comprehensive, and Program 3 is the most comprehensive. Pursuant to 40 C.F.R. § 68.10(b), a covered process is subject to Program 1 if, among other things, the distance to a toxic or flammable endpoint for a worst-case release assessment is *less* than the distance to any public receptor. Under 40 C.F.R. § 68.10(d), a covered process is subject to Program 3 if the

process does not meet the eligibility requirements for Program 1 and is either in a specified NAICS code or is subject to the Occupational Safety and Health Administration (“OSHA”) process safety management (“PSM”) standard at 29 C.F.R. § 1910.119. Under 40 C.F.R. § 68.10(c), a covered process that meets neither Program 1 nor Program 3 eligibility requirements is subject to Program 2.

11. Anhydrous ammonia in an amount over the threshold quantity of 10,000 pounds is subject to OSHA’s PSM requirements at 29 C.F.R. § 1910.119.

12. Forty C.F.R. § 68.12 mandates that the owner or operator of a stationary source subject to the requirements of Part 68 submit an RMP to EPA, as provided in 40 C.F.R. § 68.150. The RMP documents compliance with Part 68 in a summary format. For example, the RMP for a Program 3 process documents compliance with the elements of a Program 3 Risk Management Program, including 40 C.F.R. Part 68, Subpart A (including General Requirements and a Management System to Oversee Implementation of RMP); 40 C.F.R. Part 68, Subpart B (Hazard Assessment to Determine Off-Site Consequences of a Release); 40 C.F.R. Part 68, Subpart D (Program 3 Prevention Program); and 40 C.F.R. Part 68, Subpart E (Emergency Response Program).

13. Additionally, 40 C.F.R. § 68.190(b) also requires the owner or operator of a stationary source to revise and update the RMP submitted to EPA at least once every five years from the date of its initial submission or most recent update. Other aspects of the prevention program must also be periodically updated.

EPCRA Statutory and Regulatory Authority

14. Pursuant to Sections 312 and 328 of EPCRA, 42 U.S.C. §§ 11022 and 11048, EPA promulgated the Hazardous Chemical Reporting: Community Right-to-Know Rule, 40 C.F.R. Part 370.

15. Under Section 312(a) of EPCRA, 42 U.S.C. § 11022(a), and 40 C.F.R. §§ 370.10, 370.20, 370.40, 370.42, 370.44, and 370.45, any facility that is required to prepare, or have available, a material safety data sheet (“MSDS”) for a hazardous chemical under the Occupational Safety and Health Act of 1970 and regulations promulgated thereunder must prepare and submit an emergency and hazardous chemical inventory form (“Inventory Form”) to the local emergency planning committee (“LEPC”), the state emergency response commission (“SERC”), and the local fire department. Pursuant to 40 C.F.R. §§ 370.40 and 370.45, the Inventory Form must be submitted annually on or before March 1st and is required to contain information with respect to the preceding calendar year.

16. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), provides for the assessment of penalties for each violation of Section 312 of EPCRA, 42 U.S.C. § 11022.

II. GENERAL ALLEGATIONS

17. Respondent Carla’s Pasta, Inc. operates a dry pasta manufacturing facility located at 50 Talbot Lane in South Windsor, Connecticut (“Facility”). The Facility uses an ammonia refrigeration system for the processing and storage of dry pasta products.

18. The Facility is located on an approximately seven acre parcel of land immediately surrounded by commercial and light industrial businesses. The nearest residences are located within one and one-quarter miles of the Facility. The Facility is located less than a mile from Stoughtons Brook. The Facility consists primarily of a one-story, 82,500 square foot structure

(maintenance shop consists of two floors) used for administration, dry pasta product manufacturing, and frozen/refrigerated food storage. The Facility building is secured by badge entry, but the parking lots and surrounding area of the Facility are not secured.

19. At all times relevant to the violations alleged herein, the Facility used a two-stage ammonia refrigeration process, originally consisting of compressors, one evaporative condenser, a high pressure thermos-syphon receiver, and intermediate pressure intercooler, a low pressure ammonia recirculation package, evaporators, and other equipment. The refrigeration system was expanded in 2013 to add spiral freezer units, ammonia freezer evaporators, and direct expansion ammonia evaporators, resulting in two new compressors and a second evaporative condenser.

20. Respondent is a corporation organized under the laws of Connecticut and is a “person” within the meaning of Section 302(e) of the CAA, 42 U.S.C. § 7602(e), and Section 329(7) of EPCRA, 42 U.S.C. § 11049(7), and 40 C.F.R. § 370.66.

21. The Facility is a building or structure from which an accidental release may occur and is therefore a “stationary source,” as defined at Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), and 40 C.F.R. § 68.3. The Facility is also a “facility,” as that term is defined by Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and 40 C.F.R. § 370.66.

22. At all times relevant to the violations alleged herein, Respondent was the “owner or operator” of the Facility, as defined at Section 112(a)(9) of the CAA, 42 U.S.C. § 7412(a)(9).

23. Respondent uses anhydrous ammonia in a refrigeration process (“the Process”), as defined by 40 C.F.R. § 68.3.

24. Respondent performed an inventory of the refrigeration system in April of 2013 and determined that prior to the expansion of the Facility’s refrigeration system, it contained approximately 8,000 pounds of anhydrous ammonia.

25. Respondent did not submit Tier II Inventory Forms pursuant to Section 312 of EPCRA, 42 U.S.C. § 11022, for either reporting year 2011 or 2012.

26. After expanding the ammonia refrigeration system, Respondent filed a Program 3 RMP for the expanded Process on May 20, 2013, and reported that it used 12,000 pounds of anhydrous ammonia.

27. In 2014, Respondent submitted a Tier II Inventory Form for reporting year 2013 pursuant to Section 312 of EPCRA, 42 U.S.C. § 11022, reporting that the Facility used approximately 12,305 pounds of anhydrous ammonia in the Process.

28. Accordingly, the Process is a “covered process” subject to the provisions of Part 68 because Respondent “uses,” “stores,” and “handles” the RMP chemical anhydrous ammonia at the Facility in an amount greater than 10,000 pounds.

29. According to Respondent’s May 20, 2013 RMP, there are public receptors within the distance to the endpoint for a worst case release of the amount of anhydrous ammonia used in the Process.

30. Additionally, the Process is subject to OSHA’s PSM requirements at 29 C.F.R. § 1910.119 because it uses anhydrous ammonia in an amount over the threshold quantity of 10,000 pounds.

31. Therefore, in accordance with 40 C.F.R. § 68.10(a)–(d), Respondent’s use, storage, and handling of anhydrous ammonia in the Process is subject to the requirements of RMP Program 3.

32. Ammonia presents a significant health hazard because it is corrosive to the skin, eyes, and lungs. Exposure to 300 parts per million is immediately dangerous to life and health. Ammonia is also flammable at concentrations of approximately 16% to 25% by volume in air. It

can explode if released in an enclosed space with a source of ignition present, or if a vessel containing anhydrous ammonia is exposed to fire. In light of the potential hazards posed by the mishandling of anhydrous ammonia, industry trade associations have issued standards outlining the recognized and generally accepted good engineering practices (“RAGAGEP”) in the ammonia refrigeration industry. In collaboration with the American National Standards Institute (“ANSI”), the International Institute of Ammonia Refrigeration (“IIAR”) has issued (and updates) “Standard 2: Equipment, Design, and Installation of Closed-Circuit Ammonia Mechanical Refrigerating Systems,” along with other applicable standards and guidance. Also in collaboration with the American National Standards Institute, the American Society of Heating, Refrigerating and Air-Conditioning Engineers (“ASHRAE”) has issued (and updates) “Standard 15: Safety Standard for Refrigeration Systems.” These standards are consistently relied upon by refrigeration experts and are sometimes incorporated into state building, fire, and mechanical codes.¹

33. On August 28, 2014, authorized representatives of EPA inspected the Facility to assess Respondent’s compliance with Section 112(r) of the CAA and with Sections 302–312 of EPCRA (“Inspection”). The Inspection and EPA’s review of documents provided during the Inspection revealed some potentially dangerous conditions relating to the Process, including that Respondent:

¹ For example, the Connecticut State Building Code incorporates both the 2003 International Building Code and the 2003 International Mechanical Code, with certain amendments. Conn. Agencies Regs. § 29-252-1d (2005). The 2003 International Building Code states that “[m]echanical appliances, equipment and systems shall be constructed, installed and maintained in accordance with the International Mechanical Code.” Int’l Bldg. Code § 2801.1 (2003). The 2003 International Mechanical Code, in turn, specified that “refrigerating systems shall comply with this code and, except as modified by this code, ASHRAE 15 and IIAR 2.” Int’l Mech. Code § 1101.6 (2003).

- a. Did not have, or have available for EPA review, all of the necessary information and documentation pertaining to the Process to allow Respondent to adequately identify hazards posed by, and adequately maintain, the Process. For example, Respondent failed to provide pressure relief valve (“PRV”) design calculations for any of the PRVs located on the roof;
- b. Failed to install adequate safety shower and eyewash stations inside or immediately outside the Machinery Room doors;
- c. Had not posted adequate signage for the Machinery Room. The garage door to the Machinery Room lacked all necessary signage, the exterior Machinery Room door lacked an ammonia warning sign and signage restricting access to authorized personnel, and both the exterior and interior Machinery Room doors lacked signs explaining the meaning of the alarms and displayed the wrong National Fire Protection Association (“NFPA”) placard (displaying markings of 3-1-0 rather than 3-3-0);
- d. Had not installed the pressure-relief devices in a safe manner. The dual relief valves on three surge drums on the roof were directed sideways, such that they could spray refrigerant on persons in the vicinity;
- e. Failed to ensure that the Machinery Room was airtight, in that metal support trusses penetrated the cinderblock walls and were not sealed tightly around the supports, which would allow ammonia to travel outside of the room in the event of a release;

- f. Failed to ensure that the king valves for the high pressure receiver, which are located in overhead lines, are easily accessible from the ground or a working platform;
- g. Failed to adequately label all ammonia piping to indicate the contents, physical state, and direction of flow of the substance in the piping, in that portions of the ammonia piping in the Machinery Room and on the roof lacked, or had damaged and worn, labeling;
- h. Failed to keep the Machinery Room free of combustibles and flammables, in that it contained cardboard boxes, waste oil and new compressor oil, and a flammables storage cabinet used to store various chemicals;
- i. Failed to develop and implement an appropriate Process Hazard Analysis (“PHA”). Respondent’s 2013 PHA did not include a system to schedule and timely address, track, and document actions taken in response to the action items identified, or to communicate the recommendations and action items to employees who may be affected by them;
- j. Had not developed, drafted, implemented, and certified sufficient written practices and standard operating procedures (“SOPs”) for safely conducting various activities associated with the Process. Respondent filed an RMP for the Process in 2013 but did not draft and implement SOPs until July 2014. Therefore, the Facility operated for over one year without any written SOPs for the Process;
- k. Did not have an adequate mechanical integrity program in place in that Respondent failed to track the maintenance, including replacement and testing

frequency, of the PRVs for the Process in the Facility's computerized maintenance management system or through another system;

- l. Had not maintained the paint and insulation on piping to prevent corrosion, in that several sections of exposed piping on the roof had evidence of corrosion, and multiple sections of piping had damaged or missing insulation;
- m. Had not maintained an adequate ventilation system, in that the main ventilation air inlet was partially obstructed by a work bench and by cardboard boxes stored on the bench;
- n. Failed to maintain the Facility in a safe manner free from hazards, in that at the time of the Inspection, there was an active leak from one of the condenser units on the roof that was dripping water onto the condenser electrical control panel and piping, causing corrosion; and
- o. Had not developed an adequate emergency response program. The Facility's Emergency Response Plan ("ERP"), dated July 31, 2014, stated that Facility employees would not respond to an ammonia release at the Facility. The ERP indicated that the South Windsor Fire Department and a HAZMAT team would respond to releases, but the Facility had not contacted or coordinated with a HAZMAT response team, the ERP does not provide a contact phone number for such a HAZMAT team, and Facility representatives were uncertain whether the July 2014 ERP had been distributed to the South Windsor Fire Department. Also, the ERP misidentified the relevant LEPC, listing a "South Windsor LEPC," while the Facility is part of the Capital Region LEPC.

III. VIOLATIONS

Count 1: Failure to Comply with Safety Information Requirements

34. Complainant realleges and incorporates by reference paragraphs 1 through 33 above.

35. Pursuant to 40 C.F.R. § 68.65, the owner or operator of a Program 3 process is required, among other things, to compile written process safety information before completing the PHA, in order to perform an adequate PHA and to enable proper maintenance of process equipment. This includes documenting information pertaining to the hazards of the RMP chemical in the process; information pertaining to the technology and equipment of the process, including that the equipment complies with recognized and generally accepted good engineering practices (“RAGAGEP”); and information showing that any equipment that was designed according to outdated standards is designed, maintained, inspected, tested, and operated in a safe manner. This compilation enables appropriate identification and understanding of hazards posed by regulated substances in the process and the technology and equipment of the process.

36. As described in Paragraph 33(a) above, at the time of Inspection, Respondent had not compiled all of the necessary process safety information pertaining to the equipment of the Process. Specifically, Respondent failed to provide PRV design calculations for the PRVs located on the roof.

37. Additionally, as described in Paragraphs 33(b) through (h) above, Respondent also failed to document that the process complies with the RAGAGEP in effect at the time of the Inspection and Respondent’s 2013 PHA, as discussed below.

38. As described in Paragraph 33(b) above, at the time of the Inspection, the Facility did not have safety shower and eyewash stations inside or immediately outside the Machinery Room access doorways. The recommended industry practice and standard of care at the time of the

2013 PHA was to provide an eyewash and body shower outside the Machinery Room in an area readily accessible by the Machinery Room exit. See, e.g., Am. Nat'l Standards Inst./Int'l Inst. of Ammonia Refrigeration, Standard 2-2008: Equipment, Design, and Installation of Closed-Circuit Ammonia Mechanical Refrigerating Systems § 13.1.6 (2012 ed.) [hereinafter "IIAR 2-2008 (2012 ed.)"] (further recommending that no unit be farther than 10 seconds or 55 feet from a hazard); Int'l Inst. of Ammonia Refrigeration, Bulletin No. 109: Minimum Safety Criteria for a Safe Ammonia Refrigeration System § 4.10.10 (1997) [hereinafter "IIAR Bull. 109"].

39. As described in Paragraph 33(c) above, at the time of the Inspection, Respondent did not have sufficient signs on the doors to the Machinery Room. Specifically, the Facility failed to provide any signage on the garage access door to the Machinery Room and lacked certain signage on the exterior and interior Machinery Room doors, as well as displayed the wrong NFPA placard. The recommended industry practice and standard of care for ammonia refrigeration systems is to post signs warning of the presence of ammonia and restricting entry to authorized personnel at each entrance to the Machinery Room, see, e.g., IIAR 2-2008 (2012 ed.), supra, § 13.1.2.4; Am. Nat'l Standards Inst./Am. Soc'y of Heating, Refrigerating and Air-Conditioning Eng'rs, Standard 15-2010: Safety Standard for Refrigeration Systems §§ 8.11.8, 11.2.4 (2010) [hereinafter "ASHRAE 15-2010"] and to post other signs with information about the operation of the system, including signs explaining the alarms, and the NPFA placard, outside the principal Machinery Room door. See, e.g., IIAR 2-2008 (2012 ed.), supra, §§ 13.1.10.4 (systems need "informative signs, emergency signs, charts and labels in accordance with NFPA 704"), 13.2.4.1 (alarms), App. L (summarizing signage and providing examples); ASHRAE 15-2010, supra, § 8.11.2.1 (meaning of alarms at each entrance).

40. As described in Paragraph 33(d) above, at the time of the Inspection, Respondent had not installed the pressure-relief devices at the Facility in a safe manner. The dual relief valves on three surge drums were directed to the sides, which could result in the spraying of refrigerant on persons in the vicinity. The recommended industry practice and standard of care for ammonia refrigeration systems is to point the discharge relief header up and away from where people may be nearby. IIAR 2-2008 (2012 ed.), supra, § 11.3.6.4; ASHRAE 15-2010, supra, § 9.7. See also IIAR Bull. 109, supra, § 4.9.6.

41. As described in Paragraph 33(e) above, during the Inspection EPA observed unsealed penetrations in the Machinery Room walls. The recommended industry practice and standard of care for ammonia refrigeration systems is to ensure that all pipes that pierce interior walls, ceilings, and/or floors are tightly sealed to the wall, ceiling, or floor through which they pass. See, e.g., IIAR 2-2008 (2012 edition), supra, § 13.1.1.6 (“no airflow to or from an occupied space through a machinery room unless the air is ducted and sealed in such a manner as to prevent any refrigerant leakage from entering the airstream”); ASHRAE 15-2010, supra, § 8.12(f).

42. As described in Paragraph 33(f) above, at the time of the Inspection, Respondent failed to locate the king valve shutoffs so that they were easily accessible from the ground or a working platform. The recommended industry practice and standard of care is to have isolation valves, including the King Valve, readily accessible and operable, either directly or via a chain, from a permanent work surface. See, e.g., IIAR 2-2008 (2012 ed.), supra, § 13.1.2.3; IIAR Bull. 109, supra, § 4.10.3 (main shut-off valve(s) should be readily accessible).

43. As described above in Paragraph 33(g), at the time of the Inspection, portions of the piping in the Machinery Room and on the roof lacked, or had damaged or worn, labeling

indicating the contents, physical state, and direction of flow of the substance in the piping. The recommended industry practice and standard of care is to label all system pipes. See, e.g., IIAR 2-2008 (2012 ed.), supra, § 10.6; ASHRAE 15-2010, supra, § 11.2.2; IIAR Bull. 109, supra, § 4.7.6 (all piping needs attached markers indicating the use of the pipe and direction of flow). See generally, Int'l Inst. of Ammonia Refrigeration, Bulletin No. 114: Guidelines for Identification of Ammonia Refrigeration Piping and System Components (1991).

44. Additionally, as described in Paragraph 33(h) above, during the Inspection EPA observed the presence of combustible and flammable materials in the Machinery Room. The recommended industry practice and standard of care for ammonia refrigeration systems is to avoid the storage of flammable or combustible materials in machinery rooms. See, e.g., IIAR 2-2008 (2012 edition), supra, § 13.1.3.1.

45. Accordingly, Respondent violated the Process Safety Information requirements of 40 C.F.R. § 68.65 and Section 112(r)(7)(E) of the CAA, 42 U.S.C. § 7412(r)(7)(E).

Count 2: Failure to Adequately Identify, Evaluate, and Control Hazards

46. Complainant realleges and incorporates by reference paragraphs 1 through 45 above.

47. Pursuant to 40 C.F.R. § 68.67, the owner or operator of a Program 3 process is required, among other things, to perform an initial PHA on each covered process. The PHA must identify, evaluate and control the hazards involved in the process. The owner or operator must update the PHA every five years and when a major change in the process occurs. Additionally, the owner or operator must establish a system for addressing the recommendations identified in the PHA, including defining a schedule for completing the action items, taking the actions as soon as possible, and documenting the resolution of the recommendations.

48. As described in Paragraph 33(i) above, Respondent failed to develop and implement an appropriate PHA. The Facility's 2013 PHA did not include a system to schedule and timely address, track, and document actions taken in response to the action items identified, or to communicate the recommendations and action items to employees who may be affected by them.

49. Accordingly, Respondent violated the PHA requirements of 40 C.F.R. § 68.67(e) and Section 112(r)(7)(E) of the CAA, 42 U.S.C. § 7412(r)(7)(E).

Count 3: Failure to Comply with Program 3 Operating Procedure Requirements

50. Complainant realleges and incorporates by reference paragraphs 1 through 49.

51. Pursuant to 40 C.F.R. § 68.69, the owner or operator of a Program 3 process is required to develop and implement written operating procedures that provide instructions or steps for safely conducting activities associated with the covered process. These operating procedures must address steps for each operating phase, operating limits, safety and health considerations, and safety systems. The owner or operator must make these procedures available to employees involved in the process, keep them up-to-date with current practice, and certify annually that they are current.

52. As described in Paragraph 33(j) above, Respondent filed an RMP for the Process in May of 2013 but did not draft and implement SOPs until July of 2014. Therefore, the Facility operated for over one year without any written procedures for the Process.

53. By failing to comply with operating procedure requirements, Respondent violated 40 C.F.R. § 68.69 and Section 112(r)(7)(E) of the CAA, 42 U.S.C. § 7412(r)(7)(E).

Count 4: Failure to Comply with Program 3 Mechanical Integrity Requirements

54. Complainant realleges and incorporates by reference paragraphs 1 through 53 above.

55. Pursuant to 40 C.F.R. § 68.73, the owner or operator of a Program 3 process must establish and implement written procedures to maintain the ongoing integrity of certain process equipment and train employees accordingly. The owner or operator must inspect and test the equipment either in accordance with the manufacturer's recommendations, and good engineering practices, or more frequently if needed based on prior operating experience. The owner or operator must also document the inspections or tests on process equipment, correct deficiencies, ensure that any new equipment is installed properly, and ensure that maintenance materials and spare parts are suitable for the process application.

56. As described in Paragraph 33(k), at the time of the Inspection, Respondent failed to comply with the mechanical integrity requirements for the Process, including by failing to track the replacement and testing frequency of the PRVs for the Process in the Facility's computerized maintenance management system or through another system. In addition, Respondent failed to operate the Process in accordance with RAGAGEP, as detailed below.

57. As described in Paragraph 33(l) above, at the time of the Inspection, EPA observed several sections of exposed piping with evidence of corrosion in the roof area, and multiple sections of piping with damaged or missing insulation. The recommended industry practice and standard of care for ammonia refrigeration systems is to ensure proper inspection and maintenance of ammonia piping to prevent pipe corrosion and insulation failure, see, e.g., IIAR Bull. 109, supra, §§ 4.7.4 (uninsulated piping with corrosion should be cleaned down and painted with rust preventive paint) and 4.7.5 (failing insulation should be removed and the pipe inspected), IIAR 2-2008 (2012 ed.), supra, § 14.3.1 ("suction lines, low-temperature liquid lines, accumulators, surge drums and similar cold surfaces shall be insulated to prevent condensation and corrosion), and to maintain a mechanical integrity and preventative maintenance program

that includes annually checking the integrity of piping and insulation. See, e.g., Int'l Inst. of Ammonia Refrigeration, Bulletin No. 110: Guidelines for Start-up, Inspection and Maintenance of Ammonia Mechanical Refrigerating Systems § 6.7 (1993).

58. As described in Paragraph 33(m), at the time of the Inspection, Respondent failed to maintain an adequate ventilation system in that the main ventilation air inlet was partially obstructed by a work bench and by cardboard boxes stored on the bench. The recommended industry practice and standard of care for ammonia refrigeration systems is to maintain a ventilation system with the air sweep necessary for safe operation in normal conditions and to clear ammonia fumes in case of emergency. See, e.g., IIAR 2-2008 (2012 ed.), supra, §§ 13.3.8 & .9 (normal and emergency ventilation capacities), 13.3.3 (location and maintenance of inlet air openings to ensure circulation of clean, uncontaminated ambient air); ASHRAE 15-2010, supra, §§ 8.11.4 & .5 (openings for inlet air should be sufficient to allow the inlet air to replace that exhausted).

59. As described in Paragraph 33(n), at the time of the Inspection, Respondent failed to eliminate an active leak from a condenser unit on the roof that was dripping water onto the condenser electrical control panel and piping causing corrosion. The recommended industry practice and standard of care for ammonia refrigeration systems is to ensure electrical equipment is free from exposure to condensation or drips from machinery or piping. See, e.g., IIAR 2-2008 (2012 ed.), supra, § 13.1.5.1 (machinery or piping which could cause condensation or drips shall not be located over electrical equipment).

60. By failing to establish and implement a sufficient mechanical integrity program, failing to maintain and operate the components of the ammonia process in accordance with RAGAGEP, and by not correcting equipment deficiencies before further use or in a safe and

timely manner, Respondent violated 40 C.F.R. § 68.73 and Section 112(r)(7)(E) of the CAA, 42 U.S.C. § 7412(r)(7)(E).

Count 5: Failure to have an Adequate Emergency Response Program

61. Complainant realleges and incorporates by reference paragraphs 1 through 60 above.

62. Pursuant to 40 C.F.R. § 68.90, the owner or operator of a Program 3 process must comply with the emergency response program requirements of 40 C.F.R. § 68.95 unless such owner's or operator's employees will not be responding to accidental releases and various other requirements are met, including: (1) for a stationary source with any regulated toxic substance held in a process above the threshold quantity, the stationary source is included in the community emergency response plan developed under 42 U.S.C. § 11003; (2) for a stationary source with only regulated flammable substances held in a process above the threshold quantity, the owner or operator has coordinated response actions with the local fire department; and (3) appropriate mechanisms are in place to notify emergency responders when there is a need for a response.

63. As described above in Paragraph 33(o), at the time of EPA's Inspection, Respondent did not have an adequate emergency response program in place. Respondent's ERP indicates that its employees will not respond to accidental releases at the Facility. However, Facility personnel had not adequately coordinated with emergency responders, given that while Respondent's ERP indicated that the South Windsor Fire Department and a HAZMAT team would respond to releases, Facility representatives were uncertain whether the July 2014 ERP was distributed to the South Windsor Fire Department, the Facility had not contacted or coordinated with a HAZMAT response team, the ERP did not provide a contact phone number for a HAZMAT team, and the ERP misidentified its LEPC.

64. By failing to develop and implement an adequate emergency response program for the Process at the Facility, Respondent violated 40 C.F.R. § 68.90 and Section 112(r)(7)(E) of the CAA, 42 U.S.C. § 7412(r)(7)(E).

Count 6: Failure to Submit Hazardous Chemical Inventory Forms

65. Complainant realleges and incorporates by reference paragraphs 1 through 64 above.

66. At all times relevant to the violations cited herein, Respondent was storing more than 500 pounds of anhydrous ammonia in the System.

67. Anhydrous ammonia is a "hazardous chemical," as defined at 40 C.F.R. § 370.66 and 29 C.F.R. § 1910.1200(c) and an "extremely hazardous substance," as defined in 40 C.F.R. Part 355.

68. At all times relevant to the violations cited herein, Respondent was required, pursuant to OSHA, to prepare and have available onsite an MSDS for anhydrous ammonia.

69. During calendar years 2011 and 2012, Respondent stored ammonia at the Facility in a quantity that exceeded the minimum threshold level of 500 pounds set forth in 40 C.F.R. § 370.10(a)(1).

70. Respondent was required to prepare and submit an emergency and hazardous chemical Inventory Form (Tier II form) to the SERC, LEPC, and the local fire department with jurisdiction over the Facility in order to report the data required by Section 312(d) of EPCRA, 42 U.S.C. § 11022(d), for the 2011 and 2012 calendar years, on or before March 1st of the following calendar year.

71. Respondent failed to prepare and submit an Inventory Form for each of the years 2011 and 2012 by March 1st of the following year to the SERC, LEPC, and the local fire

department, in violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a), and 40 C.F.R. §§ 370.20, 370.40, 370.44, and 370.45.

IV. PROPOSED CIVIL PENALTY

72. 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.

73. Section 113(d) of the CAA, 42 U.S.C. § 7413(d), as adjusted for inflation by the DCIA and 40 C.F.R. Part 19, prescribes a \$295,000 penalty limit for violations from January 12, 2009 through December 6, 2013, a \$320,000 penalty limit for violations from December 7, 2013 through November 2, 2015, and a twelve-month duration limitation on EPA’s authority to initiate an Administrative Penalty Order. However, these limitations may be waived where the Administrator and the Attorney General jointly determine that a matter involving a larger penalty or a longer period of violation is appropriate for an administrative penalty action. EPA and the United States Department of Justice (“DOJ”) have jointly determined that an administrative penalty action is appropriate in this case.

74. For penalty purposes, the duration of the violations varies by count, as specified below, for up to approximately 465 days total. This number of days could increase if Respondent is unable to document that it has corrected the violations. In light of the above-referenced findings, EPA seeks to assess civil penalties of up to \$37,500 per day, up to a maximum of \$320,000 without further DOJ approval, for CAA and EPCRA violations, as follows:

CAA

- a. Count 1: Failure to Comply with Safety Information Requirements in violation of 40 C.F.R. § 68.65 – at least 465 days of violation, from Respondent’s RMP filing on May 20, 2013 to the Inspection on August 28, 2014. This violation is significant because the failure to comply with process safety information requirements, including documenting that Process equipment conforms with RAGAGEP, undermined the ability of the Facility to prevent or respond to a release.
- b. Count 2: Failure to Adequately Identify, Evaluate, and Control Hazards in violation of 40 C.F.R. § 68.67 – at least 465 days of violation, from Respondent’s RMP filing on May 20, 2013 to the Inspection on August 28, 2014. This violation is significant because failing to put in place a system to formally track the completion of PHA action items is necessary to assure that hazards are controlled and that the overall RMP program is current and implemented properly. The failure to track and correct hazards undermines the Facility’s ability to prevent or respond to a release.

- c. Count 3: Failure to Comply with Program 3 Operating Procedures Requirements in violation of 40 C.F.R. § 68.69 – 436 days of violation, from Respondent’s RMP filing on May 20, 2013 to the date that SOPs for the Facility were put in place on August 28, 2014. This violation is significant because the failure to develop and implement SOPs, which provide clear instructions to safely conduct activities involved in each covered process, can result in careless operation and maintenance of the covered process. The failure to develop, implement, and regularly review methods for safely operating the Process created a risk of undermining the Facility’s ability to prevent or respond to releases.
- d. Count 4: Failure to Comply with Mechanical Integrity Requirements for the Covered Process in violation of 40 C.F.R. § 68.73 – at least 465 days of violation, from Respondent’s RMP filing on May 20, 2013 to the Inspection on August 28, 2014. This violation is significant because the failure to establish a comprehensive program for performing appropriate checks and inspections of the entire covered Process to ensure that equipment is installed and maintained properly, and consistently with RAGAGEP, undermined the ability of the Facility to prevent or respond to releases.
- e. Count 5: Failure to Have an Adequate Emergency Response Program in violation of 40 C.F.R. § 68.90 – at least 465 days of violation, from Respondent’s RMP filing on May 20, 2013 to the Inspection on August 28, 2014. This violation is substantial because failing to adequately prepare for a timely response by coordinating with responders capable of responding to an anhydrous ammonia

release undermined response protocols and the safety of the Facility and surrounding community.

EPCRA

- f. Failure to Submit Hazardous Chemical Inventory Forms in violation of 40 C.F.R. §§ 370.20, 370.40, 370.44, and 370.45 – at least 2 days of violation for failing to submit Tier II Inventory Forms for the calendar years 2011 and 2012. The failure to report in a timely manner, as required by Section 312 of EPCRA, 42 U.S.C. § 11022, may deprive the community of its right to know about chemicals used or stored near or in the neighborhood that may affect public health and the environment, and may prevent comprehensive planning by federal, state, and local authorities to properly prepare for accidental chemical release.

68. Prior to any hearing on this case, EPA will file a document specifying a proposed penalty and explaining how the proposed penalty was calculated, as required by the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation/Termination or Suspension of Permits; Final Rule,” 40 C.F.R. Part 22 (“Consolidated Rules of Practice”), a copy of which is enclosed with this Complaint.

69. In determining the amount of the CAA penalty to be assessed, EPA will take into account the statutory factors listed in Section 113(e) of the CAA, 42 U.S.C. § 7413(e). These factors include the size of the business, the economic impact of the penalty on the business, the violator’s full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence, payment by the violator of penalties previously assessed

for the same violation, the economic benefit of noncompliance, the seriousness of the violation, and such other factors as justice may require.

70. In determining the amount of the EPCRA penalty to be assessed, EPA will calculate the penalty in accordance with Section 325(c) of EPCRA, 42 U.S.C. § 11045(c) and will consider the following factors: the nature, circumstances, extent, and gravity of the violations, and with respect to the Respondent, its ability to pay, history of prior violations, degree of culpability, any economic benefit or savings resulting from the violations, and other such factors as justice may require.

71. An appropriate penalty will be derived pursuant to the following penalty policies: (1) “Combined Enforcement Policy for Clean Air Act Sections 112(r)(1), 112(r)(7), and 40 C.F.R. Part 68” (2012), and (2) “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” (1999), including updated penalty matrices that reflect inflation adjustments, and EPA inflation adjustment guidance. Copies of the penalty policies are enclosed with this Complaint. These policies each provide a rational, consistent, and equitable calculation methodology for applying the statutory penalty factors identified above to a particular case.

V. NOTICE OF OPPORTUNITY TO REQUEST A HEARING

72. As provided by Section 113(d)(2)(a) of the CAA, 42 U.S.C. § 7413(d)(2)(a), and in accordance with 40 C.F.R. § 22.14 of the Consolidated Rules of Practice, Respondent has the right to request a hearing to contest the issues raised in this Complaint. Any such hearing would be conducted in accordance with the Consolidated Rules of Practice, 40 C.F.R. Part 22. Any request for a hearing must be included in Respondent’s written Answer to this Complaint and

filed with the Regional Hearing Clerk at the address listed below within 30 days of receipt of this Complaint.

73. The Answer must clearly and directly admit, deny, or explain each of the factual allegations contained in this Complaint with regard to which Respondent has any knowledge. If Respondent has no knowledge of a particular fact and so states, the allegation is considered denied. Failure to deny an allegation constitutes an admission. Respondent's Answer must also state all facts and circumstances, if any, which constitute grounds for a defense and, if desired, must specifically request an administrative hearing. If Respondent denies any material fact or raises any affirmative defense, Respondent will be considered to have requested a hearing. The Answer must be sent to:

Wanda Santiago, Regional Hearing Clerk
U.S. Environmental Protection Agency—Region I
5 Post Office Square, Suite 100 (ORA18-1)
Boston, Massachusetts 02109-3912

74. After an Answer has been filed, except for a Consent Agreement and Final Order settling the case, a copy of all other documents that Respondent files in this action must be sent to the Headquarters Hearing Clerk, in the following manner:

For U.S. Postal Service mailings –
Headquarters Hearing Clerk
U.S. Environmental Protection Agency
Office of Administrative Law Judges
Mail Code 1900R
1200 Pennsylvania Ave., NW
Washington, DC 20460

For UPS, FedEx, DHL, or other courier, or personal delivery –
Headquarters Hearing Clerk
U.S. Environmental Protection Agency
Office of Administrative Law Judges
Ronald Reagan Building, Rm. M1200
1300 Pennsylvania Ave., NW
Washington, DC 20460

75. Respondent should also send a copy of the Answer and all other documents which Respondent files in this action to Christine M. Foot, the attorney assigned to represent EPA in this matter, at:

Christine M. Foot, Enforcement Counsel
U.S. Environmental Protection Agency—Region I
5 Post Office Square, Suite 100 (OES04-2)
Boston, Massachusetts 02109-3912

76. The filing and service of documents, other than the complaint, rulings, orders, and decisions, in all cases before the Region 1 Regional Judicial Officer governed by the Consolidated Rules of Practice may be filed and served by email, consistent with the “Standing Order Authorizing Filing and Service by E-mail in Proceedings Before the Region 1 Regional Judicial Officer,” a copy of which has been provided with the Complaint.

77. If Respondent fails to file a timely Answer to this Complaint, it may be found to be in default, which constitutes an admission of all the facts alleged in the Complaint and a waiver of the right to a hearing.

VI. INFORMAL SETTLEMENT CONFERENCE

78. Whether or not Respondent intends to request a hearing, Respondent may confer informally with EPA concerning the facts of this case, or the amount of the proposed penalty, and the possibility of settlement. Such a conference provides Respondent with an opportunity to respond informally to the charges, and to provide any additional information that may be relevant to this matter or the penalty. EPA has the authority to adjust the penalty, where appropriate, to reflect any settlement reached in an informal conference. The terms of such an agreement would be embodied in a binding Consent Agreement and Final Order. Respondent is encouraged to contact Christine Foot, Enforcement Counsel, at (617) 918-1333 or at foot.christine@epa.gov, to discuss the legal matters relating to this Complaint or to arrange an

informal settlement conference. Please note that a request for an informal settlement conference does not extend the thirty-day period within which a written Answer must be submitted to avoid default, although it may be possible to request an extension of that deadline to allow time for the parties to meet. Christine Foot, Enforcement Counsel, at the above address and telephone, has been designated to represent Complainant and is authorized to receive service of process in this action.

Susan Studlien

Susan Studlien, Director
Office of Environmental Stewardship
U.S. Environmental Protection Agency
Region 1 – New England

09/28/2016

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)	
)	CERTIFICATE OF SERVICE
Respondent.)	

I hereby certify that the foregoing Administrative Complaint and Notice of Opportunity for a Hearing has been sent to the following persons on the date noted below:

Original and One Copy (Hand-Delivered):	Wanda Santiago Regional Hearing Clerk U.S. EPA, Region I 5 Post Office Square, Suite 100 (ORA18-1) Boston, Massachusetts 02109-3912
Copy, including 40 C.F.R. Part 22 and Penalty Policies (Certified Mail, Return Receipt Requested):	Carla Squatrito President Carla's Pasta, Inc. 50 Talbot Lane South Windsor, CT 06074

Dated: 9/28/16



Christine Foot
Enforcement Counsel
U.S. EPA, Region I
5 Post Office Square, Suite 100 (OES04-2)
Boston, Massachusetts 02109-3912