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BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)	
)	
Jerome Cheese Company)	Docket No. CAA-10-2014-0175
)	
Jerome, Idaho)	CONSENT AGREEMENT
)	
Respondent.)	
)	

I. AUTHORITY

1.1. This Consent Agreement is issued under the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA") by Section 113(d) of the Clean Air Act ("CAA" or "the Act"), 42 U.S.C. § 7413(d).

1.2. Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d) and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties," 40 C.F.R. Part 22, EPA hereby issues, and Jerome Cheese Company ("Respondent") hereby agrees to the issuance of, the Final Order contained in Part V of this CAFO.

II. PRELIMINARY STATEMENT

2.1. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b), issuance of this Consent Agreement commences this proceeding, which will conclude when the Final Order becomes effective.

2.2. The Director of the office of Compliance and Enforcement, EPA Region 10 ("Complainant") has been delegated the authority pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), to sign consent agreements between EPA and the party against whom an administrative penalty for violations of the CAA is proposed to be assessed.

2.3. EPA and the United States Department of Justice jointly determined, pursuant to 42 U.S.C. § 7413(d) and 40 C.F.R. § 19.4, that this matter, although it involves alleged violations that occurred more than one year before the initiation of this proceeding, is appropriate for an administrative penalty assessment.

2.4. Part III of this Consent Agreement contains a concise statement of the factual and legal basis for alleging violations of the CAA, together with specific references to the provisions of the CAA and implementing regulations Respondent is alleged to have violated.

III. ALLEGATIONS

3.1. Respondent is a corporation formed in the State of Minnesota.

3.2. Respondent owns and operates a cheese manufacturing facility located at 547 West Nez Perce Avenue, Jerome, Idaho (the "facility").

3.3. Section 112(r) of the CAA, and its implementing regulations at 40 C.F.R. Part 68, require the owner and operator of a stationary source at which a regulated substance is present in more than a threshold quantity (TQ) to develop and implement a risk management plan (RMP) to detect and prevent or minimize accidental releases of such substances from the stationary source and to provide a prompt emergency response to any such releases in order to protect human health and the environment.

3.4. 40 C.F.R. § 68.3 defines “regulated substance” as any substance listed pursuant to Section 112(r)(3) of the CAA and 40 C.F.R. § 68.130.

3.5. Anhydrous ammonia is a regulated substance with a TQ of 10,000 pounds, as listed in 40 C.F.R. § 68.130.

3.6. Under 40 C.F.R. § 68.150, any facility that uses, stores, manufactures, or handles more than the TQ of a regulated substance must submit an RMP to EPA no later than the date on which the anhydrous ammonia is first present above the TQ in a single process.

3.7. Respondent has a Program 3 covered process, as defined in 40 C.F.R. § 68.10(d).

3.8. 40 C.F.R. § 68.12(a) and (d) require that, in addition to submitting a single RMP as provided in §§ 68.150 to 68.185, facilities with a Program 3 covered process shall among other things, develop a management system as provided in § 68.15, conduct a hazard assessment as provided in §§ 68.20 to 68.42, and implement the prevention program as required of §§ 68.65 to 68.87.

3.9. Respondent has been subject to the RMP requirements since June 21, 1999, the date on which the facility first used, stored, manufactured, or handled more than the TQ of 10,000 pounds of anhydrous ammonia in a single process.

3.10. Respondent submitted an RMP to EPA on June 21, 1999, July 7, 2009, May 10 2011, May 18, 2011, and February 9, 2012.

3.11. Respondent failed to document names and positions of employees responsible for Risk Management Plans as required by 40 C.F.R. § 68.15(c).

3.12. Respondent failed to review and update the off-site consequence analyses at least once every five years as, as required by 40 C.F.R. § 68.36(a).

3.13. Respondent failed to include information pertaining to equipment safety systems such as the Hansen refrigerant float switches, the alarm systems and emergency shutdown panels for the compressors as required by 40 C.F.R. § 68.65(d)(1)(viii).

3.14. Respondent failed to update and revalidate the Process Hazard Analysis every five years, as required by 40 C.F.R. § 68.67(f).

3.15. Respondent failed to provide refresher training at least every three years, or more often if necessary, as required by 40 C.F.R. § 68.71(b).

3.16. Respondent failed to establish and implement written procedures to maintain the ongoing integrity of the process equipment listed in § 73(a) as required by 40 C.F.R. § 68.73(b).

3.17. Respondent failed to follow recognized and generally accepted good engineering practices for the ammonia refrigeration system, as required by 40 C.F.R. § 73(d)(2).

3.18.. Respondent failed to document that the inspection and testing procedures ensure that the frequency of inspections and testing of the ammonia refrigeration process equipment is consistent with applicable manufacturers' recommendations, good engineering practices and prior operating experience,, as required by 40 CFR § 73(d)(3).

3.19. Respondent failed to certify that the stationary source has evaluated compliance with the provisions of the prevention program at least every three years to verify that the developed procedures and practices are adequate and being followed, as required by 40 CFR § 68.79(a).

3.20. Respondent failed to retain the two most recent compliance reports, as required by 40 CFR § 68.79(e).

3.21. Under Section 113(d) of the CAA, 42 U.S.C. § 7413(d) and 40 C.F.R. Part 19, EPA may assess a civil penalty of not more than \$37,500 per violation, per day.

IV. TERMS OF SETTLEMENT

4.1. Respondent admits the jurisdictional allegations of this Consent Agreement.

4.2. Respondent neither admits nor denies the specific factual allegations contained in this Consent Agreement.

4.3. As required by Section 113(e)(1) of the CAA, 42 U.S.C. § 7413(e)(1), EPA has taken into account the size of the business, the economic impact of the penalty on the business, Respondent's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence, payment by Respondent of penalties previously assessed for the same violation, the economic benefit of noncompliance, the seriousness of the violations, and such other factor as justice may

require. After considering these factors, EPA has determined and Respondent agrees that appropriate penalty to settle this action is \$88,000.

4.4. Respondent agrees to pay the total civil penalty set forth in Paragraph 4.3. within 30 days of the effective date of the Final Order.

4.5. Payment under this Consent Agreement and the Final Order may be paid by check, mail or overnight delivery), wire transfer, ACH, or online payment. Payment instructions are available at: <http://www2.epa.gov/financial/makepayment>. Payments made by a cashier's check or certified check must be payable to the order of "Treasurer, United States of America" and delivered to the following address:

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

Respondent must note on the check the title and docket number of this actions.

4.6. Concurrently with payment, Respondent must serve photocopies of the check, or proof of other payment method, described in Paragraph 4.5. to the Regional Hearing Clerk and EPA at the following two addressees:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Mail Stop ORC-158
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101

Javier Morales
U.S. Environmental Protection Agency
Mail Stop OCE-048
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101

4.7. If Respondent fails to pay any portion of the penalty assessed by this Consent Agreement and the Final Order in full by its due, the entire unpaid balance of penalty and accrued interest shall become immediately due and owing, if such a failure to pay occurs, Respondent may be subject to a civil action pursuant to Section 113(d)(5) of

the CAA, 42 U.S.C. § 7413(d)(5), to collect the assessed penalty under the CAA. In any such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

4.8. If Respondent fails to pay any portion of the penalty assessed by this Consent Agreement in full by its due date, Respondent shall be responsible for payment of the following amounts:

4.8.1. Interest. Any unpaid portion of the assessed penalty shall bear interest at the rate established pursuant to 26 U.S.C. § 6621(a)(2) from the effective date of the Final Order, provided, however, that no interest shall be payable on any portion of the assessed penalty that is paid within 30 days of the effective date of the Final Order contained herein.

4.8.2. Attorney Fees, Collection Costs, Nonpayment Penalty. Pursuant to 42 U.S.C. § 7413(d)(5), should Respondent fail to pay the assessed penalty and interest on a timely basis, Respondent shall also be required to pay the United States' enforcement expenses, including but not limited to attorneys fees and costs incurred by the United States for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be ten percent of the aggregate amount of Respondent's outstanding penalties and nonpayment penalties accrued from the beginning of such quarter.

4.9. The penalty described in Paragraph 4.3., including any additional cost incurred under Paragraph 4.8., represents an administrative civil penalty assessed by EPA and shall not be deductible for purposes of federal taxes.

4.10. The undersigned representative of Respondent certifies that he or she is authorized to enter into the terms and conditions of this Consent Agreement and to bind Respondent to this document.

4.11. The undersigned representative of Respondent also certifies that, as of the date of Respondent's signature of this Consent Agreement, Respondent has corrected the violation(s) alleged in Part III.

4.12. Except as described in Paragraph 4.8., each party shall bear its own costs and attorneys fees in bringing or defending this action.

4.13. For the purpose of this proceeding Respondent expressly waives any right to contest the allegations contained in this Consent Agreement and its right to appeal the Final Order accompanying this Consent Agreement.

4.14. The provisions of this Consent Agreement and the Final Order shall bind Respondent and its agents, servants, employees, successors, and assigns.

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)	
)	DOCKET NO. CAA-10-2014-0175
Jerome Cheese Company,)	
)	FINAL ORDER
)	
Jerome, Idaho)	
)	
Respondent.)	

1.1. The Administrator has delegated the authority to issue this Final Order to the Regional Administrator of EPA Region 10, who has redelegated this authority to the Regional Judicial Officer in EPA Region 10.

1.2. The terms of the foregoing Consent Agreement are ratified and incorporated by reference into this Final Order. Respondent is ordered to comply with the terms of settlement.

1.3. This Consent Agreement and this Final Order constitute a settlement by EPA of all claims for civil penalties under the CAA for the violations alleged in Part III of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(a), nothing in this Final Order shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of the CAA and regulations promulgated or permits issued thereunder and any applicable implementation plan requirements.

4,15. The above provisions in Part IV are SITPULATED AND AGREED upon
by Respondent and EPA Region 10.

DATED:

9-29-14

FOR RESPONDENT:



Name, Position Chief Executive Officer

JEROME CHEESE COMPANY

DATED:

9/29/2014

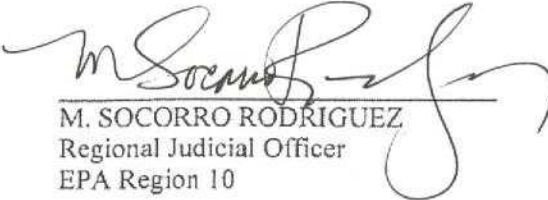
FOR COMPLAINANT:



EDWARD J. KOWALSKI, Director
Office of Compliance and Enforcement
EPA Region 10

1.4. This Final Order shall become effective upon filing with the Regional Hearing Clerk.

SO ORDERED this 20th day of September, 2014.


M. SOCORRO RODRIGUEZ
Regional Judicial Officer
EPA Region 10

Certificate of Service

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER, In the Matter of : JEROME CHEESE COMPANY, Docket No.: CAA-10-2014-0175**, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:


The undersigned certifies that a true and correct copy of the document was delivered to:

Robert Hartman
U.S. Environmental Protection Agency
1200 Sixth Avenue, ORC-158
Suite 900
Seattle, Washington 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt to:

Amanda Matchett
Corporate Counsel
Davisco Foods International, Inc.
704 North Main Street
Le Sueur, Minnesota 56058-0069

DATED this 30th day of Sept, 2014


Signature

Candace H. Smith
Regional Hearing Clerk
EPA Region 10

