

**BEFORE THE UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION III**

<b>In the Matter of:</b>	:	
	:	
<b>B&amp;G Foods, Inc.</b>	:	<b>U.S. EPA Docket No.</b>
<b>Four Gatehall Drive, Suite 110</b>	:	<b>EPCRA-03-2008-0413</b>
<b>Parsippany, NJ 07054</b>	:	
	:	
	:	<b>CONSENT AGREEMENT</b>
	:	
<b>Respondent,</b>	:	
	:	
<b>B&amp;G Foods, Inc.</b>	:	
<b>800 Delaware Avenue</b>	:	
<b>Hurlock, Maryland 21643</b>	:	<b>Proceeding under EPCRA</b>
	:	<b>§ 325(c), 42 U.S.C. § 11045(c)</b>
<b>Facility.</b>	:	

**CONSENT AGREEMENT**

**Preliminary Statement**

1. This Consent Agreement is entered into by the Director of the Office of Enforcement, Compliance and Environmental Justice Division, U.S. Environmental Protection Agency - Region III ("Complainant" or "EPA") and B&G Foods, Inc. ("Respondent" or "B&G") pursuant to Sections 312, 313 and 325(c) of the Emergency Planning and Community Right-to-Know Act of 1986 ("EPCRA"), 42 U.S.C. §§ 11022, 11023 and 11045(c), the regulations implementing EPCRA Sections 312 and 313, as set forth at 40 C.F.R. Parts 370 and 372, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. Pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3), this Consent Agreement and the accompanying Final Order (collectively referred to as the "CAFO") simultaneously commence and conclude this proceeding to resolve the violations of EPCRA Sections 312 and 313, as alleged herein, by Respondent at its facility located at 800 Delaware Avenue, Hurlock, Maryland.

2. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.

3. Except as provided in paragraph 2, above, Respondent neither admits nor denies

the specific factual allegations and legal conclusions set forth in this CAFO.

4. Respondent agrees not to contest EPA's jurisdiction with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this CAFO.

5. For purposes of this proceeding only, Respondent hereby expressly waives any right to contest any issue of law or fact set forth in this Consent Agreement and any right to appeal the accompanying Final Order.

6. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.

7. Respondent shall bear its own costs and attorney's fees.

#### **Findings of Fact and Conclusions of Law**

8. Complainant has determined that Respondent has violated EPCRA Sections 312 and 313, 42 U.S.C. §§ 11022 and 11023 . In accordance with Sections 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant adopts the following findings of fact and conclusions of law:

- A. B&G does business in Maryland and is a corporation, incorporated under the laws of the State of Delaware. As a Delaware corporation, Respondent is a "person" as defined in Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).
- B. Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and 40 C.F.R. Sections 370.2 and 372.3 define "facility" to mean, in relevant part, all buildings, equipment, structures, and other stationary items that are located on a single site and that are owned or operated by the same person.
- C. Respondent owns and operates, and at the time of the violations alleged herein, owned and operated a manufacturing facility located at 800 Delaware Avenue, Hurlock, Maryland (the "Facility").
- D. Respondent's Facility is a "facility" as defined in Section 329(4) of EPCRA and 40 C.F.R. § 370.2 and 372.3.
- E. Section 313 of EPCRA and 40 C.F.R. Section 372 require, *inter alia*, that the owner or operator of a facility that: 1) has 10 or more employees; 2)

has a primary Standard Industrial Classification (“SIC”) code (as in effect on July 1, 1985) between codes 20 and 39; and 3) manufactures, processes or otherwise uses a toxic chemical listed in 40 C.F.R. § 372.65, in excess of the threshold quantities set forth in Section 313(f) of EPCRA, 42 U.S.C. Section 11023(f), during the calendar year for which the form is required, to complete and submit a toxic chemical release form (“Form R”) or appropriate alternative threshold report (“Form A”) for each such toxic chemical to EPA and the state in which the facility is located, by July 1 of the following calendar year.

- F. At the time of the violations alleged herein, Respondent employed 10 or more full-time employees at the Facility.
- G. At the time of the violations alleged herein, the Facility had an SIC code of 2035. This SIC code falls between the primary SIC codes of 20 (2000) and 39 (3900) (as in effect on July 1, 1985).
- H. For each toxic chemical listed in 40 C.F.R. § 372.65 manufactured by Respondent at its Facility in excess of the threshold quantity set forth in Section 313(f) of EPCRA during any calendar year, Respondent has been required by EPCRA Section 313, at all times relevant to this Consent Agreement, to complete and submit to EPA and the State of Maryland either a Form R or Form A, by July 1 of the following calendar year.
- I. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), provides that any person who violates EPCRA Section 313 shall be liable to the United States for a civil penalty.
- J. B&G self-disclosed violations of EPCRA Section 313 in its November 27, 2006 letter to EPA, pursuant to EPA’s *Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations*, dated April 11, 2000 (“*Self-Disclosure Policy*”).
- K. Respondent disclosed that it failed to submit its Forms R for the toxic chemicals specified more fully below to the EPA and the State of Maryland by the July 1 deadline for calendar years 2002 through 2005.
- L. EPA evaluated B&G’s Self-Disclosure letter and subsequent correspondence and determined that B&G did not meet criterion D.5 of the Self-Disclosure Policy, in that the Facility failed to correct the violations within sixty (60) days from the date of discovery. EPA also discovered

that B&G failed to submit its Form Rs to the EPA and the State of Maryland by the July 1 deadline for calendar year 2006.

**COUNT I - COUNT VIII**

- M. The allegations contained in Paragraphs 8.A. through 8.L. of this CAFO are incorporated herein by reference as fully set forth at length.
- N. The chemical substances polycyclic aromatic compounds and benzo(g,h,i)perylene are “toxic chemicals” as defined in EPCRA Section 313(c) - (d), 42 U.S.C. § 11023(c) - (d), and 40 C.F.R. § 372.3, and are listed in 40 C.F.R. § 372.65.
- O. The threshold quantity for the toxic chemicals polycyclic aromatic compounds and benzo(g,h,i)perylene which were “otherwise used” at a covered facility during calendar years 2002 through 2006 were 100 pounds and 10 pounds, respectively, as provided in 40 C.F.R. § 372.27.
- P. During the calendar years 2002 through 2006, the amount of polycyclic aromatic compounds and benzo(g,h,i)perylene “otherwise used” by Respondent exceeded the threshold quantity for reporting set forth in Section 313(f) of EPCRA, as that term is defined at 40 C.F.R. § 372.3.
- Q. Pursuant to EPCRA Section 313, Respondent was required to submit to EPA and the State of Maryland by July 1 of the following calendar year a completed Form R or Form A to report reasonable estimates of its polycyclic aromatic compounds and benzo(g,h,i)perylene releases, based on available data, from the Facility during calendar years 2002 through 2006.
- R. Respondent failed to submit to EPA and the State of Maryland, on or before July 1 of 2003 through and including 2007, Form Rs for releases from the Facility during calendar years 2002 through and including 2006.
- S. Respondent's failure to submit Form Rs for polycyclic aromatic compounds and benzo(g,h,i)perylene released at its Facility during calendar years 2002 through and including 2006 constitutes eight violations of Section 313 of EPCRA, for which Respondent is liable for a civil penalty pursuant to EPCRA Section 325(c).

**COUNT IX - COUNT X**

- T. Section 312 of EPCRA, 42 U.S.C. §11022 and 40 C.F.R. §§ 370.20 and 370.25, require the owner and/or operator of a facility that is required to prepare or have available a material safety data sheet (“MSDS”) for a hazardous chemical in accordance with the Occupational Safety and Health Act, 29 U.S.C. § 651 *et seq.*, and its implementing regulations at 29 C.F.R. § 1910.1200, and at which facility is present at any one time a hazardous chemical (including but not limited to, a hazardous chemical which also qualifies as an Extremely Hazardous Substance) in a quantity equal to or greater than its applicable threshold, to submit on or before March 1, 1988 and annually (by March 1) thereafter, to the appropriate State Emergency Response Commission (“SERC”), Local Emergency Planning Committee (“LEPC”) and local fire department with jurisdiction over the facility, a completed Emergency and Hazardous chemical Inventory Form (Tier I or Tier II Report) identifying the hazardous chemical and providing the information described in Section 312(d)(1) of EPCRA, 42 U.S.C. §11022(d)(1).
- U. Anhydrous ammonia, sodium hydroxide and #6 fuel oil are hazardous chemicals as defined by EPCRA Sections 312(c) and 329(5), 42 U.S.C. §§ 11022(c) and 11049(5), and 40 C.F.R. § 370.2.
- V. During calendar years 2004 and 2005, anhydrous ammonia, sodium hydroxide and #6 fuel oil were present at the Facility in excess of the minimum threshold limit of 500 pounds for anhydrous ammonia and 10,000 pounds for sodium hydroxide and #6 fuel oil, as designated by 40 C.F.R. Part 370, and the Facility was, therefore, required under EPCRA Section 312, 42 U.S.C. § 11022, to submit Tier II Reports to the LEPC, SERC, and the local fire department.
- W. B&G self-disclosed violations of EPCRA Section 312 in its November 27, 2006 letter to EPA, pursuant to the *Self-Disclosure Policy*.
- X. Respondent disclosed that it failed to submit the required Tier II Reports for anhydrous ammonia, sodium hydroxide and #6 fuel oil to the SERC and local fire department for calendar years 2004 and 2005.
- Y. EPA evaluated B&G’s Self-Disclosure letter and subsequent correspondence and determined that B&G did not meet criterion D.5 of the Self-Disclosure Policy, in that the Facility failed to correct the violations

within sixty (60) days from the date of discovery of the violations.

- Z. Respondent violated Section 312 of EPCRA by failing to submit the required Tier II Reports for anhydrous ammonia, sodium hydroxide and #6 fuel oil to the SERC and local fire department for calendar years 2004 and 2005 by the deadline for reporting.
- AA. Respondent's failure to submit Tier II Reports for anhydrous ammonia, sodium hydroxide and #6 fuel oil to the SERC and local fire department for calendar years 2004 and 2005 constitutes two violations of Section 312 of EPCRA, for which Respondent is liable for a civil penalty pursuant to EPCRA Section 325(c).

#### Civil Penalty

9. In settlement of EPA's civil claims for penalties for the violations alleged in this CAFO, Respondent consents to the assessment of a civil penalty of NINETY FOUR THOUSAND FIVE HUNDRED NINE DOLLARS (\$94,509). Respondent agrees to pay the above-mentioned civil penalty in accordance with paragraphs 12 through 16, below. Such civil penalty shall become due and payable immediately upon Respondents receipt of a true and correct copy of the CA/FO. In order to avoid the assessment of interest, administrative costs and late payment penalties in connection with such civil penalty, as described in paragraphs 13 through 16, below, Respondent must pay such civil penalty no later than THIRTY (30) CALENDAR DAYS after the date on which this CA/FO is mailed or hand-delivered to Respondent.

10. The aforesaid settlement amount is based upon Complainant's consideration of a number of factors, including, but not limited to, the particular facts and circumstances of this case and EPA's *Enforcement Response Policy for Section 313 of the Emergency Planning and Community Right-to-know Act (1986)* (August 10, 1982), EPA's *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* (September 30, 1999), and EPA's *Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations*, dated April 11, 2000 ("*Self-Disclosure Policy*"). The settlement in this proceeding is consistent with the provisions and objectives of EPCRA and 40 C.F.R. § 370 and 372.

11. EPA hereby agrees and acknowledges that the settlement of the proposed penalty as set forth above shall be a full and final satisfaction of all civil claims for penalties which Complainant may have under Sections 312 and 313 of EPCRA for the violations alleged in the Consent Agreement.

12. Payment of the civil penalty amount required under the terms of Paragraph 9, above, shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:

- a. All payments by Respondent shall reference its name and address and the Docket Number of this action (EPCRA-03-2008-0413).
- b. All checks shall be made payable to **"United States Treasury"**
- c. All payments made by check and sent by regular mail shall be addressed and mailed to:

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

Contact: Natalie Pearson, 314-418-4087

- d. All payments made by check and sent by overnight delivery service shall be addressed and mailed to:

U.S. Environmental Protection Agency – Fines and Penalties  
U.S. Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
St. Louis, MO 63101

Contact: Natalie Pearson, 314-418-4087

- e. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, NY 10045

Field Tag 4200 of the Fedwire message should read "D 68010727  
Environmental Protection Agency"

- f. All electronic payments made through the automated clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

Automated Clearinghouse (ACH) for receiving US currency  
PNC Bank  
808 17th Street, NW  
Washington, DC 20074  
Contact: Jesse White, 301-887-6548

ABA = 051036706  
Transaction Code 22 - Checking  
Environmental Protection Agency  
Account 310006  
CTX Format

- g. On-Line Payment Option:

WWW.PAY.GOV

Enter sfo 1.1 in the search field. Open and complete the form.

- h. The customer service phone numbers for the above payment centers are:

212-720-5000 (wire transfers, Federal Reserve Bank of New York)  
800-762-4224 (ACH/Wire Info, PNC Bank)

Additional payment guidance is available at:

[http://www.epa.gov/ocfo/finservices/make\\_a\\_payment\\_cin.htm](http://www.epa.gov/ocfo/finservices/make_a_payment_cin.htm)

- i. At the same time that payment is made, Respondents shall mail copies of any corresponding check, or written notification confirming any electronic wire transfer to:

Ms. Lydia Guy  
Regional Hearing Clerk (3RC00)  
U.S. EPA, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029;



and

Ms. Cheryl Jamieson  
Associate Regional Counsel for Regulatory Enforcement  
Office of Regional Counsel (3RC00)  
U.S. Environmental Protection Agency, Region III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029.

13. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment or to comply with the conditions in this Consent Agreement and Final Order shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.

14. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a copy of this CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).

15. The costs of the EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.

16. A late payment penalty charge of six percent per year will be assessed monthly on any portion of the civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

17. The Respondent agrees not to deduct for federal tax purposes the civil monetary penalty specified in this Consent Agreement and the accompanying Final Order.

18. Failure by the Respondent to comply with the requirements of this CAFO pursuant to terms of the CAFO, may subject the Respondent to an additional enforcement action, including, but not limited to, the issuance of an Administrative Complaint and the imposition of

penalties as provided by Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), or the accompanying final order.

**Certifications**

19. The individual who signs this Consent Agreement on behalf of Respondent certifies that the Facility referred to in this Consent Agreement is currently in compliance with all applicable requirements of EPCRA Sections 312 and 313.

**Other Applicable Laws**

20. Nothing in this CAFO shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations.

**Reservation of Rights**

21. This Consent Agreement and the accompanying Final Order resolve only the civil claims for the specific violations alleged in this CAFO. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under EPCRA and the regulations promulgated thereunder, to enforce the provisions of this CAFO and any other federal laws or regulations for which EPA has jurisdiction, following the filing of this CAFO with the Regional Hearing Clerk.

**Full and Final Satisfaction**

22. This CAFO shall constitute full and final satisfaction of all civil claims for penalties which Complainant may have under Section 325 of EPCRA for the specific violations alleged in paragraphs 8.A through 8.AA, above. Compliance with this CAFO shall not be a defense to any action commenced at any time for any other violation of the federal laws and regulations administered by EPA.

**Parties Bound**

23. This Consent Agreement and the accompanying Final Order shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents, and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully

authorized by the party represented to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and the accompanying Final Order.

**Effective Date**

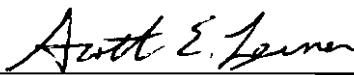
24. The effective date of this Consent Agreement and the accompanying Final Order is the date on which the Final Order, signed by the Regional Administrator of EPA - Region III, or his designee, the Regional Judicial Officer, is filed with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

**Entire Agreement**

25. This Consent Agreement and the accompanying Final Order constitute the entire agreement and understanding of the parties regarding settlement of all claims pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the parties other than those expressed in this CAFO.

**For Respondent:**

Date: 9/17/2008

By:   
Scott E. Lerner  
Executive Vice President,  
General Counsel & Secretary  
B&G Foods, Inc.  
Four Gatehall Drive, Suite 110  
Parsippany, NJ 07054

**For Complainant:**

**U.S. Environmental Protection Agency  
Region III**

Date: 9/24/08

By: Cheryl L. Jamieson  
Cheryl L. Jamieson  
Sr. Assistant Regional Counsel  
U.S. EPA Region III  
1650 Arch Street  
Philadelphia, PA 19103

Accordingly, I hereby recommend that the Regional Administrator, or his designee, the Regional Judicial Officer, issue the attached Final Order.

Date: 9/24/08

By: Samantha Phillips Beers  
Samantha Phillips Beers, Director  
Office of Enforcement, Compliance and  
Environmental Justice  
U.S. EPA Region III

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III**

<b>In the Matter of:</b>	:	
	:	
<b>B&amp;G Foods, Inc.</b>	:	<b>Docket No. EPCRA-03-2008-0413</b>
<b>Four Gatehall Drive, Suite 110</b>	:	
<b>Parsippany, NJ 07054</b>	:	
	:	<b>FINAL ORDER</b>
<b>Respondent,</b>	:	
	:	
<b>B&amp;G Foods, Inc.</b>	:	
<b>800 Delaware Avenue</b>	:	<b>Proceeding under EPCRA § 325(c),</b>
<b>Hurlock, Maryland 21643</b>	:	<b>42 U.S.C. § 11045(c)</b>
	:	
<b>Facility.</b>	:	

**FINAL ORDER**

Complainant, the Director of the Office of Enforcement, Compliance and Environmental Justice Division, U.S. Environmental Protection Agency - Region III, and Respondent, B&G Foods, Inc., have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22 (with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

NOW, THEREFORE, PURSUANT TO Section 22.18(b)(3) of the *Consolidated Rules of Practice* and Section 325(c) of the Emergency Planning and Community Right-to-know Act of 1986 ("EPCRA"), 42 U.S.C. § 11045(c), and having determined, based on the representations of the parties in the attached Consent Agreement, that the civil penalty agreed to therein was based upon a consideration of the EPA's *Enforcement Response Policy for Section 313 of the Emergency Planning and Community Right-to-know Act (1986)* (August 10, 1992) and EPA's *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* (September 30, 1999), IT IS HEREBY ORDERED that Respondent pay a civil penalty of Ninety Four Thousand Five Hundred Nine Dollars (\$94,509), and comply with the terms and conditions of the Consent Agreement.

*In the Matter of: B&G Foods, Inc.*

Docket No. EPCRA-03-2008-0413

The effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

Date: 9/25/08

Renée Sarajian  
Renée Sarajian  
Regional Judicial Officer  
U.S. EPA - Region III

**In the Matter of B&G Foods, Inc., Docket No. EPCRA-03-2008-0413**

**CERTIFICATE OF SERVICE**

I hereby certify that on this date I caused to be sent the attached Consent

Agreement and Final Order to the following parties:

Original By Hand Delivery to:

Regional Hearing Clerk, Region III,  
U.S. Environmental Protection Agency  
1650 Arch Street  
Philadelphia, PA 19103

Copy by Hand Delivery to:

Regional Judicial Officer, Region III  
U.S. Environmental Protection Agency  
1650 Arch Street  
Philadelphia, PA 19103

Copy by Federal Express:

Ivan DeVoren, Esq.  
Cira Centre  
2929 Arch Street  
Philadelphia, PA 19104-2808

Date: 9/25/08

Bevin Esposito  
Bevin Esposito  
Lead Paralegal Specialist



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

**VIA FEDERAL EXPRESS**

Ivan DeVoren, Esq.  
Dechert LLP  
Circa Centre  
2929 Arch Street  
Philadelphia, PA 19104-2808

SEP 25 2008

Re: B&G Foods, Inc., Docket No. EPCRA-03-2008-0413

Dear Mr. DeVoren:

I have enclosed the final Consent Agreement and Final Order ("CA/FO") resolving the above-referenced matter. Pursuant to Paragraph 9 of the CA/FO, Respondent must pay the civil penalty no later than 30 calendar days after the date on which the CA/FO is mailed to Respondent.

Please contact me at (215) 814-2375 if you have any questions regarding this matter.

Sincerely,

A handwritten signature in cursive script that reads "Cheryl L. Jamieson".

Cheryl L. Jamieson,  
Associate Regional Counsel for  
Regulatory Enforcement

Enclosure

cc: Scott E. Lerner  
Executive Vice President, General Counsel & Secretary  
B&G Foods, Inc.  
Four Gatehall Drive, Suite 110  
Parsippany, NJ 07054





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

**SUBJECT:** Consent Agreement and Final Order:  
In the Matter of B&G Foods, Inc.  
U.S. EPA Docket No. EPCRA-03-2008-0413

**FROM:** William Early, Regional Counsel *W.E.*  
Office of Regional Counsel (3RC00)

Samantha Beers, Director *SB*  
Office of Enforcement, Compliance and Environmental Justice (3EC00)

**TO:** Renée Sarajian  
Regional Judicial Officer (3RC00)

The attached Consent Agreement and Final Order (“CA/FO”) will simultaneously initiate and resolve an administrative enforcement action, pursuant to Section 325 of the Emergency Planning and Community Right-to-Know Act (“EPCRA”), 42 U.S.C. § 11045, and the implementing federal regulations. The CA/FO resolves claims arising from B&G Foods, Inc.’s (“B&G” or “Respondent”) failure to submit Toxic Release Inventory Forms R to EPA and the State of Maryland, reporting polycyclic aromatic compounds and benzo(g,h,i)perylene releases from its Facility during calendar years 2002 through 2006, in violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and Respondent’s failure to submit Tier II Reports for anhydrous ammonia, sodium hydroxide and #6 fuel oil to the State Emergency Planning Commission and the local fire department for calendar years 2004 and 2005, in violation of Section 312 of EPCRA, 42 U.S.C. § 11022. The Facility is located at 800 Delaware Avenue, Hurlock, Maryland. This CA/FO is being entered into pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) without prior issuance of a Complaint.

Under the terms of the CA/FO, Respondent has agreed to pay a civil penalty of NINETY FOUR THOUSAND FIVE HUNDRED NINE DOLLARS (\$94,509).

We recommend that you sign the attached Final Order and return it to the Office of Regional Counsel for further processing.

Attachment

cc: Bevin Esposito, U.S. EPA Region III  
Ivan DeVoren, Esq., Dechert LLP



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Customer Service Hotline: 1-800-438-2474*