

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 ARCH STREET  
PHILADELPHIA, PA 19103-2029

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EPA REGION III, PHILA. PA

In the Matter of: )

Ateeco, Inc. )  
d/b/a Mrs. T's Pierogies )  
600 East Centre St. )  
Shenandoah, PA 17976, )

Respondent. )

Ateeco, Inc. )  
d/b/a Mrs. T's Pierogies )  
600 East Centre St. )  
Shenandoah, PA 17976, )

Facility. )

U.S. EPA Docket No.  
CAA-03-2016-0056

Proceeding Pursuant to Sections  
112(r) and 113 of the Clean Air  
Act, 42 U.S.C. §§ 7412 and 7413,  
and 40 C.F.R. § 22.13(b) and  
22.18(b)

**CONSENT AGREEMENT**

**STATUTORY AUTHORITY**

This Consent Agreement is proposed and entered into 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"), as amended, 42 U.S.C. § 7413(d), and under the authority provided by 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 ("Part 22"). The Administrator has delegated these authorities to the Regional Administrator of EPA, Region III, who has in turn delegated them to the Director, Hazardous Site Cleanup Division, EPA Region III ("Complainant").

The parties agree to the commencement and conclusion of this cause of action by issuance of this Consent Agreement and Final Order (referred to collectively herein as "CA/FO") as prescribed by the Consolidated Rules of Practice pursuant to 40 C.F.R. § 22.13(b) and 22.18(b)(2) and (3), and having consented to the entry of this CA/FO, agree to comply with the terms of this CA/FO.

## **JURISDICTION**

1. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(2).
2. The Regional Judicial Officer has the authority to approve this settlement and conclude this proceeding pursuant to 40 C.F.R. § 22.4(b) and 22.18(b)(3).
3. For the purpose of this proceeding, Respondent Ateeco, Inc., d/b/a Mrs. T's Pierogies (referred to herein as "Respondent" or "Ateeco") admits to the jurisdictional allegations in this Consent Agreement and agrees not to contest EPA's jurisdiction with respect to the execution or enforcement of this Consent Agreement.
4. With the exception of Paragraph 3, above, for the purpose of this proceeding, Respondent neither admits nor denies the Findings of Fact and Conclusions of Law set forth in this Consent Agreement, but expressly waives its rights to contest said allegations.

## **LEGISLATIVE AND REGULATORY HISTORY AND DEFINITIONS**

5. On November 15, 1990, the President signed into law the Clean Air Act Amendments of 1990. The Clean Air Act Amendments added Section 112(r) to the CAA, 42 U.S.C. § 7412(r).
6. Pursuant to Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), the owners and operators of stationary sources producing, processing, handling or storing substances listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance ("EHS"), have a general duty, in the same manner and to the same extent as 29 U.S.C. § 654, to identify hazards which may result from accidental releases of such substances using appropriate hazard assessment techniques, to design and maintain a safe facility taking such steps as are necessary to prevent releases, and to minimize the consequences of accidental releases which do occur. Section 112(r)(1) is hereinafter referred to as the "General Duty Clause."
7. Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), requires the Administrator of EPA to promulgate regulations in order to prevent accidental releases of certain regulated substances. Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), mandates the Administrator to promulgate a list of regulated substances. Section 112(r)(5) of the CAA, 42 U.S.C. § 7412(r)(5), requires the Administrator to set threshold quantities for listed regulated substances. The list of regulated substances and threshold levels can be found in 40 C.F.R. § 68.130.
8. The General Duty Clause applies to any stationary source producing, processing handling or storing regulated substances or any other EHS. An EHS is any chemical, which

may, as a result of short-term exposures because of releases to the air, cause death, injury or property damage due to its toxicity, reactivity, flammability, volatility or corrosivity. Senate Comm. of Environment and Public Works, Clean Air Act Amendments of 1989, Senate Rep. No. 228, 101<sup>st</sup> Cong., 1<sup>st</sup> Sess. 211 (1989). EHSs include, but are not limited to, regulated substances listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), at 40 C.F.R. § 68.130, and chemicals listed on the list of extremely hazardous substances at 40 C.F.R. Part 355, Appendices A and B.

9. On June 20, 1996, EPA promulgated a final rule known as the Chemical Accident Prevention Provisions, 40 C.F.R. Part 68, which implements Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7). The regulations require owners and operators of stationary sources to develop and implement a risk management program that includes a hazard assessment, a prevention program, and an emergency response program. The risk management program is described in a risk management plan that must be submitted to EPA. The risk management plan must include a hazard assessment to assess the potential effects of an accidental release of any regulated substance, a program for preventing accidental releases of hazardous substances, and a response program providing for specific actions to be taken in response to an accidental release of a regulated substance, so as to protect human health and the environment.

10. Pursuant to Section 112(r)(7)(B)(iii) of the CAA, 42 U.S.C. § 7412(r)(7)(B)(iii), and its regulations at 40 C.F.R. §§ 68.10(a) and 68.150(a), the owner or operator of a stationary source at which a regulated substance is present in more than a threshold quantity must submit a risk management plan to EPA no later than the latter of June 21, 1999, or the date on which a regulated substance is first present above the threshold quantity in a process.

11. Section 113(d)(1)(B) of the CAA, 42 U.S.C. § 7413(d)(1)(B), authorizes EPA to commence an administrative action to assess civil penalties of not more than \$25,000 per day for each violation of Section 112(r) of the CAA that occurs before January 30, 1997. Section 113(d)(1)(B), as amended by the Debt Collection Improvement Act of 1996, authorizes EPA to commence an administrative action to assess civil penalties of \$37,500 per day for each violation of Section 112(r) of the CAA that occurs after January 12, 2009.

12. Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), defines “stationary source” as, inter alia, any buildings, structures, equipment, installations or substance emitting stationary activities which belong to the same industrial group, which are located on one or more contiguous properties, which are under the control of the same person (or persons under common control) and from which an accidental release may occur.

13. Section 302(e) of the CAA, 42 U.S.C. § 7602(e), defines “person” as including an individual, corporation, partnership, association, State, municipality, political subdivision of a State and any agency, department, or instrumentality of the United States and any officer, agent, or employee thereof.

14. The regulations at 40 C.F.R. § 68.3 define “process” 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. For purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release, shall be considered a single process.

15. The regulations at 40 C.F.R. § 68.3 define “threshold quantity” as the quantity specified for regulated substances pursuant to Section 112(r)(5) of the CAA, listed in 40 C.F.R. § 68.130, Table 1, and determined to be present at a stationary source as specified in 40 C.F.R. § 68.115.

16. The regulations at 40 C.F.R. § 68.3 define “regulated substance” as any substance listed pursuant to Section 112(r)(3) of the CAA in 40 C.F.R. § 68.130.

17. As used herein, the term “day” shall mean calendar day.

18. All terms not defined herein shall have the meanings set forth in the CAA.

### **EPA’S FINDINGS OF FACT**

19. Respondent Ateeco is a Pennsylvania Domestic Business Corporation, with its headquarters located in 600 East Centre St., Shenandoah, Pennsylvania, 17976.

20. Respondent, doing business as Mrs. T’s Pierogies, operates a food production company located in 600 East Centre St., Shenandoah, Pennsylvania, 17976 (the “Facility”), and has operated the Facility since at least 1957.

21. The Facility has an SIC code of 2038 (frozen specialties, not elsewhere classified) and NAICS code of 311412 (frozen specialty food manufacturing). The Facility employs approximately 150 full time employees. The Facility is located on approximately 2.46 acres and is bordered to the north by residential housing, to the east by residential housing and undeveloped land, to the south by undeveloped land and to the west by residential housing and a community park.

22. The main activity at the Facility is the production of food products (pierogies).

23. Respondent operates a 6,000-square-foot freezer and a 1,000-square-foot freezer in a storage warehouse facility that utilize an ammonia-based refrigeration system. The refrigeration process uses up to 19,000 pounds of anhydrous ammonia in its system for frozen storage of the food products. Respondent also uses propane as fuel for heating water to produce steam to cook its product. Respondent stores the propane in a 30,000-gallon tank.

24. On or about September 25, 2013, EPA conducted an inspection (the “Inspection”) of the Facility to assess compliance with Section 112(r)(1) (General Duty Clause) and (7) of

CAA, 42 U.S.C. § 7412(r)(1) and (7), and 40 C.F.R. Part 68, the Chemical Accident Prevention Provisions.

25. EPA's review of the documentation submitted by Respondent, and EPA's observations made during the Inspection, revealed violations of the Chemical Accident Prevention Provisions regarding the ammonia refrigeration system at the Facility and General Duty Clause violations regarding the 30,000-gallon propane tank.

26. On April 2, 2015, EPA and Respondent entered into an Administrative Settlement Agreement and Order on Consent, EPA Docket No. CAA-03-2015-0068 ("ASAOC"), pursuant to the authority of Section 113(a)(3)(B) of the CAA, 42 U.S.C. § 7413(a)(3)(B). The ASAOC required that Respondent take certain actions at the Facility as specified in Paragraph 45 of the ASAOC (hereafter the "Work").

27. Respondent completed the Work under the ASAOC on January 12, 2016, and submitted a completion report on February 12, 2016. The Final Report verified that Respondent fully complied with the requirements of Paragraph 45 of the ASAOC, in accordance with an EPA-approved Work Plan and Schedule. EPA approved the Completion Report pursuant to Paragraph 45.i, of the ASAOC, and provided a notice of termination, pursuant to Paragraph 69 of the ASAOC, by letter dated February 24, 2016.

#### **COUNT 1**

#### **EPA'S FINDINGS OF FACT AND CONCLUSIONS OF LAW** **ALLEGED VIOLATION OF SECTION 112(r)(7) OF THE CLEAN AIR ACT**

28. The findings of fact contained in Paragraphs 19 through 27 of this CA/FO are incorporated by reference herein as though fully set forth at length.

29. The Chemical Accident Prevention Provisions require owners or operators of stationary sources to comply with process safety information requirements at 40 C.F.R. § 68.65(d)(1)(vi) and (2), to compile process safety information pertaining to design codes and standards relevant to the equipment, and to document that the equipment in the process complies with recognized and generally accepted good engineering practices.

30. The American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Standard 15-2007: Safety Standard for Refrigeration Systems, ANSI (American National Standards Institute)/ASHRAE Standard 15-2007 (supersedes ANSI/ASHRAE Standard 15-2004), states at Section 8.11.3 that "Machinery rooms shall be vented to the outdoors, utilizing mechanical ventilation in accordance with Section 8.11.4 and 8.11.5." Section 8.11.4 states that "Openings for inlet air shall be positioned to avoid recirculation. Air supply and exhaust ducts to the machinery room shall serve no other area." Section 8.12.i. further states that "Ventilation fans shall be on a separate electrical circuit and have a control switch located immediately outside the machinery room door."

31. The American National Standard for Equipment, Design, and Installation of Closed-Circuit Ammonia Mechanical Refrigeration, of the International Institute of Ammonia Refrigeration (IIAR), ANSI/IIAR 2-2008, in both Addendum A and Addendum B, states in Section 13.3.3.2 that: "Openings for inlet air shall be positioned to be near machinery, to avoid recirculation of exhausted air, and to avoid including anything except for clean, uncontaminated ambient air."

32. The design codes and standards summarized above, are applicable to refrigeration processes and, for purposes of 40 C.F.R. § 68.65(d)(2), are "recognized and generally accepted good engineering practices."

33. During the Inspection, EPA observed that the design of the refrigeration system's compressor room was inadequate because the ventilation system was not designed to ensure proper cross-ventilation, as required by ANSI/IIAR 2-2008. The intake air supply on the roof was improperly located and the air intake fan and exhaust fans were located adjacent to one another on the roof, resulting in short-circuiting of the air flow.

34. EPA further observed during the Inspection that the Facility ventilation system was not on a separate electric circuit and a switch was not located outside the compressor room to operate the ventilation fans, as required by ANSI/ASHRAE Standard 15-2007.

35. The Facility's design of the refrigeration system's compressor room did not conform to ANSI/IIAR 2-2008. In addition, the Facility ventilation system was not on a separate electric circuit and a switch was not located outside the compressor room to operate the ventilation fans, in accordance with Section 8.12.i of ANSI/ASHRAE Standard 15-2007.

36. As a corporation, Respondent is, and at all times referred to herein was, a "person" as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e), and the owner/operator of the Facility.

37. The Facility is a "stationary source" pursuant to Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C).

38. Respondent has been the owner/operator of a "stationary source," since at least 1957.

39. The chemical anhydrous ammonia is a "regulated substance" for purposes of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), because it is listed pursuant to Section 112(r)(3) of the CAA, at 40 C.F.R. § 68.130. The threshold quantity listed at 40 C.F.R. § 68.130 for anhydrous ammonia is 10,000 pounds.

40. The quantity of the anhydrous ammonia stored at the Facility exceeds the threshold quantity of 10,000 pounds.

41. Respondent is subject to the requirements of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 C.F.R. Part 68, because Respondent is the owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process.

42. At the time of EPA's Inspection, Respondent had failed to comply with the process safety information requirements at 40 C.F.R. § 68.65(d)(1)(vi) and (d)(2) at the Facility, i.e., to compile process safety information pertaining to design codes and standards relevant to the equipment and to document that the equipment in the process complies with recognized and generally accepted good engineering practices.

43. Complainant further alleges Respondent is, therefore, subject to the assessment of penalties under Section 113 of the CAA, 42 U.S.C. § 7413.

## **COUNT 2**

### **EPA'S FINDINGS OF FACT AND CONCLUSIONS OF LAW** **ALLEGED VIOLATION OF SECTION 112(r)(1) OF THE CLEAN AIR ACT**

44. The findings of fact contained in Paragraphs 5 through 43 of this CA/FO are incorporated by reference herein as though fully set forth at length.

45. At all times relevant to this CA/FO, Respondent's Facility has used propane as fuel for heating water to produce steam to cook its product (pierogies). Respondent stores the propane in a 30,000-gallon tank.

46. The National Fire Protection Association (NFPA) 58, Liquefied Petroleum Gas Code, 2011 Edition ("NFPA 58") requires fire protection of the propane storage tank. NFPA 58, Section 6.25.3.1, states: "Fire protection shall be provided for installations with an aggregate water capacity of more than 4000 gallons (15.1 m<sup>3</sup>) and for ASME [American Society of Mechanical Engineers] containers on roof."

47. The applicable industry standards, NFPA 58, Section 6.25.3.2, indicates that: "The modes of fire protection shall be specified in a written fire safety analysis for new installations, and for existing installations that have an aggregate water capacity of more than 4000 gallons (15.1 m<sup>3</sup>) and for ASME containers on roofs." NFPA 58, Section 6.25.3.3, further states that: "The fire safety analysis shall be submitted by the owner, operator or their designee, to the authority having jurisdiction and local emergency responders."

48. EPA observed during the Inspection that there was no insulation or fire protection system for the 30,000-gallon propane tank.

49. During the Inspection, Respondent could not provide a written fire safety analysis for the propane tank when requested by inspectors, and Respondent's representative during the Inspection stated that he was unaware that a written fire safety analysis was required.

50. Respondent is a “person” as defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

51. The facility is a “stationary source” pursuant to Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C).

52. The chemical “propane,” CAS number 74-98-6, is an EHS because it is flammable.

53. The chemical “propane” stored at the Facility in the 30,000-gallon tank is an EHS for purposes of Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1).

54. Respondent is subject to the General Duty Clause of Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), because Respondent stores extremely hazardous substances at the Facility.

55. Respondent failed to prepare a written fire safety analysis consistent with NFPA 58, and thus, in violation of the requirement of CAA Section 112(r)(1), 42 U.S.C. § 7412(r)(1), to design and maintain a safe facility taking such steps as are necessary to minimize accidental releases to air. Respondent submitted a written Fire Safety Analysis Report for the Facility to EPA on June 2, 2015.

56. Complainant further alleges that Respondent is, therefore, subject to the assessment of penalties under Section 113 of the CAA, 42 U.S.C. § 7413.

57. EPA and the United States Department of Justice jointly determined 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. 42 U.S.C. § 7413(d); 40 C.F.R. § 19.4.

#### **SETTLEMENT**

58. In accordance with 40 C.F.R. § 22.18(c), and in full and final settlement and resolution of all allegations referenced in the foregoing EPA’s Findings of Fact and EPA’s Conclusions of Law set forth above, and in full satisfaction of any and all civil penalty claims pursuant thereto, for the purpose of this proceeding, Respondent consents to the assessment of a civil penalty for the violations of Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r), set forth above, in the amount of \$52,087 (“CAA Penalty”).



**PAYMENT TERMS**

59. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent agrees to:

- a. Within thirty (30) days of the Effective Date of this CA/FO (the "Final Due Date"), pay the CAA Penalty of \$52,087 referencing "EPA Docket No. CAA-03-2016-0056," and using one of the methods identified in Subparagraphs 59.b-e, below:
- b. *Check.*
  - (i) All checks shall be made payable to United States Treasury;
  - (ii) All payments made by check and sent by regular mail shall be addressed to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000  
Contact: Heather Russell, 513-487-2044
  - (iii) All payments made by check and sent by overnight delivery service shall be addressed for delivery to:

U.S. Bank  
Government Lockbox 979077  
U.S. EPA, Fines & Penalties  
1005 Convention Plaza  
Mail Station SL-MO-C2-GL  
St. Louis, MO 63101  
Contact: 314-418-1028
  - (iv) All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance  
US EPA, MS-NWD  
26 M.L. King Drive  
Cincinnati, OH 45268-0001

- c. *Electronic Wire Transfer.* All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York  
ABA = 021030004  
Account No. = 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

- d. *ACH.* All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX / Cashlink ACH Receiver  
ABA = 051036706  
Account No.: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 – Checking

Physical location of U.S. Treasury Lisby Facility:  
5700 Rivertech Court  
Riverdale, MD 20737  
Contact: Jesse White 301-887-6548 or REX, 1-866-234-5681

- e. *On-Line Payment Option.*

WWW.PAY.GOV/PAYGOV  
Enter sfo 1.1 in the search field. Open and complete the form.

- f. Additional payment guidance is available at:  
<http://www2.epa.gov/financial/additional-instructions-making-payments-epa>

- g. Within 24 hours of payment of the CAA Penalty, Respondent shall send proof of payment to:

Suzanne Parent  
Associate Regional Counsel  
U.S. Environmental Protection Agency, Region III  
1650 Arch Street (3RC42)  
Philadelphia, PA 19103-2029

and

Lydia Guy  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region III  
1650 Arch Street (3RC00)  
Philadelphia, PA 19103-2029

The term “proof of payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with “EPA Docket No. CAA-03-2016-0056.”

60. The CAA Penalty stated herein is based upon Complainant’s consideration of a number of factors, including, but not limited to, the penalty criteria set forth in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), and is consistent with 40 C.F.R. Part 19 and the *Combined Enforcement Policy for Clean Air Act Sections 112(r)(1), 112(r)(7) and 40 C.F.R. Part 68* (June 2012).

61. 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 of the CAA Penalty by the Final Due Date shall result in the assessment of late payment charges, including interest, penalties, and/or administrative costs of handling delinquent debts.

62. Interest on the civil penalty assessed in this CA/FO will begin to accrue on the date that a copy of this CA/FO is mailed or hand-delivered to Respondent. However, EPA will waive interest on any amount of the civil penalty that is paid by the Final Due Date. 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).

63. The costs of the Agency’s administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue in accordance with 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 Final Due Date and an additional \$15.00 for each subsequent thirty (30) day period the penalty remains unpaid.

64. A penalty charge of six (6) percent per year will be assessed monthly on any portion of the civil penalty which remains delinquent more than ninety (90) calendar days in accordance with 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, in accordance with 31 C.F.R. § 901.9(d).

### **GENERAL PROVISIONS**

65. For the purpose of this proceeding, Respondent expressly waives its right to a hearing and to appeal the Final Order under Section 113(d)(2) of the CAA, 42 U.S.C. § 7413(d)(2).

66. The provisions of the CA/FO shall be binding upon Respondent, its officers, directors, agents, servants, employees, and successors or assigns. By his or her signature below, the person signing this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of the Consent Agreement and accompanying Final Order.

67. This CA/FO resolves only those civil claims which are alleged herein. Nothing herein shall be construed to limit the authority of the Complainant to undertake action against any person, including Respondent, in response to any condition which Complainant determines may present an imminent and substantial endangerment to the public health, public welfare or the environment. Nothing in this CA/FO shall be construed to limit the United States' authority to pursue criminal sanctions.

68. By signing this Consent Agreement, the undersigned representative of the Respondent certifies that he or she is fully authorized to execute and enter into the terms and conditions of this Consent Agreement and has the legal capacity to bind Respondent to this Consent Agreement.

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

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

71. Each party to this action shall bear its own costs and attorney's fees.

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

73. Nothing in this Consent Agreement shall relieve either Respondent of the duty to comply with all applicable provisions of the CAA, and other federal, state, or local laws or statutes, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or

regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.

74. Nothing herein shall be construed to limit the power of EPA to undertake any action against either Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment, nor, in such case, shall this Consent Agreement be construed so as to limit any defense that Respondent may have under the CAA or otherwise.

FOR RESPONDENT ATEECO, INC.:

Mark Tarzwell

3-8-16

Name:

Date

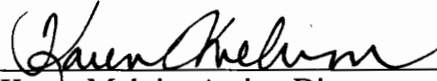
Title:

Mark Tarzwell  
Chief Operating Officer

FOR COMPLAINANT:

**MAR 15 2016**

\_\_\_\_\_  
DATE



\_\_\_\_\_  
Karen Melvin, Acting Director  
Hazardous Site Cleanup Division  
U.S. Environmental Protection Agency, Region 3

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

**In the Matter of:**

**Ateeco, Inc.  
d/b/a Mrs. T's Pierogies  
600 E Centre St.  
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**Respondent.**

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600 E Centre St.  
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**Facility.**

**U.S. EPA-Docket No.  
CAA-03-2016-0056**

**Proceeding Pursuant to Section  
112 (r) and 113 of the Clean Air  
Act, 42 U.S.C. §§ 7412 and 7413  
and 40 C.F.R. § 22.13(b) and  
22.18(b)**

**FINAL ORDER**

Complainant, the Acting Director of the Hazardous Site Cleanup Division, U.S. Environmental Protection Agency, Region III, and Respondent, Ateeco, 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 references to Sections 22.1(a)(2), 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.


Based on the representations of the parties in the attached Consent Agreement, the penalty agreed to herein is consistent with 40 C.F.R. Part 19, and is based upon consideration of, *inter alia*, EPA's *Combined Enforcement Policy for Clean Air Act Sections 112(r)(1), 112(r)(7), and 40 C.F.R. Part 68* (June 2012), and the statutory factors set forth in Section 113(e) of the Clean Air Act ("CAA"), 42 U.S.C. § 7413(e).



**NOW, THEREFORE, PURSUANT TO** Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty of **FIFTY TWO THOUSAND EIGHTY-SEVEN DOLLARS (\$52,087)**, plus any applicable interest, and comply with the terms and conditions of the Consent Agreement.

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: March 16, 2016

  
\_\_\_\_\_  
Joseph J. Lisa  
Regional Judicial Officer  
U.S. EPA, Region III

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

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In the Matter of: )  
)  
Ateeco, Inc. )  
d/b/a Mrs. T's Pierogies )  
600 East Centre St. )  
Shenandoah, PA 17976, )  
)  
)  
)  
)  
Respondent. )  
)  
Ateeco, Inc. )  
d/b/a Mrs. T's Pierogies )  
600 East Centre St. )  
Shenandoah, PA 17976, )  
)  
Facility. )  
)

U.S. EPA Docket No.  
CAA-03-2016-0056  
  
Proceeding Pursuant to Sections  
112(r) and 113 of the Clean Air  
Act, 42 U.S.C. §§ 7412 and 7413,  
and 40 C.F.R. § 22.13(b) and  
22.18(b)

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that on the date provided below, I hand-delivered and filed the original of Consent Agreement and Final Order, along with enclosures and/or attachments, for the above-referenced matter, with the Regional Hearing Clerk, EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029, and that a true and correct copy of the Consent Agreement and Final Order, along with its enclosures and/or attachments, was sent to:

Via Overnight Mail

Joel Burcat, Esq.  
Saul Ewing LLP  
Penn National Insurance Plaza  
2 North Second Street, 7th Floor  
Harrisburg, PA 17101-1619

3/14/14  
Date

Suzanne M. Parent  
Suzanne M. Parent  
Associate Regional Counsel