

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for William D. Chin 9/25/18
Name of Case Attorney Date

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

Case Docket Number CAA-01-2018-0064

Site-specific Superfund (SF) Acct. Number _____

This is an original debt This is a modification

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

Peter Brown
High Liner Foods (USA) Inc.
183 International Drive
Portsmouth, NH 03801

Total Dollar Amount of Receivable \$ 7,200 Due Date: 10/25/18

SEP due? Yes No Date Due _____

Installment Method (if applicable)

INSTALLMENTS OF:

1ST \$ _____ on _____

2nd \$ _____ on _____

3rd \$ _____ on _____

4th \$ _____ on _____

5th \$ _____ on _____

For RHC Tracking Purposes:

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

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

IFMS Accounts Receivable Control Number _____

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



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
5 Post Office Square, Suite 100
Boston, Massachusetts 02109-3912**

September 25, 2018

VIA HAND DELIVERY

Wanda I. Santiago
Regional Hearing Clerk
U.S. EPA, Region I
5 Post Office Square, Suite 100
Mail Code: ORC04-6
Boston, MA 02109-2912

Re: In the Matter of: High Liner Foods (USA), Inc.
Docket No.: CAA-01-2018-0064

Dear Ms. Santiago:

Enclosed for filing please find the original and one copy of an Expedited Settlement Agreement resolving the above referenced matter and a certificate of service.

Sincerely,

A handwritten signature in blue ink that reads "William D. Chin".

William D. Chin
Enforcement Counsel
U.S. EPA, Region I

cc: Peter Brown (High Liner Foods)

RECEIVED

SEP 25 2018

EPA ORC WS
Office of Regional Hearing Clerk

In the Matter of: High Liner Foods (USA) Inc.
Docket No. CAA-01-2018-0064

CERTIFICATE OF SERVICE

I certify that I hand-delivered to the office of the Regional Hearing Clerk the original and one copy of the Expedited Settlement Agreement (ESA) in the above-captioned case, and arranged to send a copy of the ESA with a cover letter via first class mail to Respondent at the address set forth below:


BY HAND-DELIVERY: (original and one copy)

Wanda I. Santiago
Regional Hearing Clerk
U.S. EPA, Region 1
5 Post Office Square, Suite 100
Mail Code: ORC04-6
Boston, MA 02109-3912

VIA FIRST CLASS MAIL: (copy)

Peter Brown
President
High Liner Foods (USA) Inc.
183 International Drive
Portsmouth, NH 03801

Dated: 9/25/18



William D. Chin
Enforcement Counsel
U.S. EPA, Region 1
5 Post Office Square, Suite 100
Mail Code: OES04-4
Boston, MA 02109-3912
617-918-1728



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

RECEIVED

SEP 25 2018

EPA ORC WS
Office of Regional Hearing Clerk

EXPEDITED SETTLEMENT AGREEMENT

DOCKET NO: CAA-01-2018-0064
This ESA is issued to: High Liner Foods (USA), Inc.
One Highliner Avenue
Portsmouth, NH 03801

This Expedited Settlement Agreement (ESA) is being entered into by the U.S. Environmental Protection Agency Region 1 (EPA), by its duly delegated official, and by High Liner Foods (USA), Inc. (Respondent) pursuant to Section 113(a)(3) and (d) of the Clean Air Act (Act), 42 U.S.C. § 7413(a)(3) and (d), and by 40 C.F.R. § 22.13(b). EPA and the United States Department of Justice have jointly determined that EPA may pursue this type of case as an administrative penalty action under Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1).

ALLEGED VIOLATIONS

On or about March 20, 2017, an authorized representative of the EPA conducted a compliance inspection of Respondent's facility located at One Highliner Avenue, Portsmouth, New Hampshire, to determine compliance with the Risk Management Program regulations, promulgated at 40 C.F.R. Part 68 under Section 112(r) of the Act. EPA has determined that Respondent violated the RMP regulations as noted on the enclosed Risk Management Plan Inspection Findings and Alleged Violations Summary (Summary), which is hereby incorporated by reference.

SETTLEMENT

In consideration of the penalty assessment factors set forth in Section 113(e) of the Act, 42 U.S.C. § 7413(e), and upon consideration of the entire record, the parties enter into the ESA in order to settle the violations described in the enclosed Summary for the total penalty amount of **\$7,200**.

This settlement is subject to the following terms and conditions:

For purposes of this proceeding, Respondent waives any objections that it may have regarding jurisdiction; neither admits nor denies the specific factual allegations contained herein and in the Summary; consents to the assessment of the penalty as stated above; waives its rights to contest the allegations contained herein or in the Summary, to a hearing afforded by Section 113(d)(2)(A) of the Act, 42 U.S.C. § 7413(d)(2)(A), and to appeal this ESA. Each party to this action shall bear its own costs and fees, if any.

Respondent also certifies, subject to civil and criminal penalties for making a false submission to the

United States Government, that Respondent has corrected the violations listed in the enclosed Summary.

This signed ESA must be sent electronically and also by certified mail to:

William D. Chin
Enforcement Counsel
U.S. EPA, Region 1
5 Post Office Square – Suite 100
Mail Code: OES04-4
Boston, MA 02109-3912
chin.bill@epa.gov

Upon Respondent's submission of the signed original ESA, signature by EPA, filing with the Regional Hearing Clerk and timely payment of the penalty, EPA will take no further civil penalty action against Respondent for the alleged violations of the Act referenced in the Summary.

Nothing in this ESA 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 ESA does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of the Act and regulations promulgated or permits issued thereunder.

If the signed original ESA is not returned to the EPA Region 1 at the above address by Respondent within 30 days of the date of Respondent's receipt of it, the proposed ESA is withdrawn, without prejudice to EPA's ability to file an enforcement action for the violations identified herein and in the Summary.

Respondent agrees to submit payment in full of \$7,200 within 30 days of the filing of a fully executed copy of this ESA with the Regional Hearing Clerk.

Payment instructions are included on the enclosed "Payment Instructions," which is hereby incorporated by reference.

Failure to pay the penalty when due may subject Respondent to a civil action pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), to collect the penalty, including accrued interest, attorney's fees, collection costs, and nonpayment penalties.

For the purpose of the identifying requirement of 26 U.S.C. § 162(f)(2)(A)(ii) of the Internal Revenue Code, performance of the corrective actions for the violations identified in the Summary is restitution or required to come into compliance with the law.

This ESA is binding on the parties signing below.

This ESA is effective upon filing with the Regional Hearing Clerk.

FOR RESPONDENT:

Signature: James C. Stewart
Name (print): JAMES C. STEWART
Title (print): VP Operations
Cost to correct violation(s): # 29,421.00 / 100

Date: 9-11-18

FOR COMPLAINANT:

Tim Conway
Tim Conway
Acting Director
Office of Environmental Stewardship
U.S. EPA, Region 1

Date: 9/17/18

I hereby ratify the ESA and incorporate it herein by reference. It is so ORDERED.

LeAnn Jensen
LeAnn Jensen
Regional Judicial Officer
U.S. EPA, Region 1

Date: 7/21/18

PAYMENT INSTRUCTIONS

Respondent may pay the penalty by check (mail or overnight delivery), wire transfer, ACH, or online payment. Additional 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

If paid by check, the docket number of the ESA must be included on the check. (The docket number is located at the top of this ESA.)

Concurrently with payment, Respondent must send photocopies of the check, or proof of other payment method to the following addressees:

Wanda I. Santiago
Regional Hearing Clerk
U.S. EPA, Region 1
5 Post Office Square – Suite 100
Mail Code: ORA04-6
Boston, MA 02109-3912
santiago.wanda@epa.gov

William Chin
Enforcement Counsel
U.S. EPA, Region I
5 Post Office Square – Suite 100
Mail Code: OES04-4
Boston, MA 02109-3912
chin.bill@epa.gov



U.S. ENVIRONMENTAL PROTECTION AGENCY
RISK MANAGEMENT PROGRAM INSPECTION FINDINGS,
ALLEGED VIOLATIONS AND PROPOSED PENALTY FORM

REASON FOR INSPECTION: This inspection was conducted to evaluate compliance with the accidental release prevention requirements of Section 112(r) of the Clean Air Act (CAA), 42 U.S.C. § 7412(r), the regulations set forth at 40 C.F.R. Part 68, and the Emergency Planning and Community Right-To-Know Act (EPCRA). High Liner Foods (USA) Inc. (High Liner) was selected for inspection due to a small release of ammonia that occurred at its facility in August 2016. In addition, High Liner reported 37,000 pounds (lbs.) of anhydrous ammonia on its 2016 Risk Management Plan (RMP) submittal.

FACILITY NAME: High Liner Foods (USA) Inc.	<input checked="" type="checkbox"/> PRIVATE GOVERNMENTAL/MUNICIPAL # of EMPLOYEES: 240
FACILITY ADDRESS: 1 Highliner Avenue Portsmouth, NH 03801	INSPECTION START DATE AND TIME: 03/20/2017 INSPECTION END DATE AND TIME : 03/20/2017
RESPONSIBLE OFFICIAL, TITLE, PHONE NUMBER: Karl McHugh, VP & Complex Manager, 603-319-5750 Erika Pouliot, EHS Manager, 603-818-5250 Nick Greene, EHS Coordinator, 063-319-5608	EPA FACILITY ID#: 1000 0000 4639
FACILITY REPRESENTATIVE(S), TITLE(S), PHONE NUMBER(S): Karl McHugh, VP & Complex Manager, 603-319-5750 Erika Pouliot, EHS Manager, 603-818-5250 Nick Greene, EHS Coordinator, 063-319-5608	INSPECTOR NAME(S), TITLE(S): Leonard V. Wallace, IV, US EPA Region 1 David F. Oberhauser, US EPA Region 1/SEE Mark Briggs, ERG

INSPECTION FINDINGS

IS FACILITY SUBJECT TO RMP REGULATION (40 CFR Part 68)?	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO
DID FACILITY SUBMIT AN RMP AS PROVIDED IN 68.150 TO 68.185 AND UPDATE THE RMP AS PROVIDED IN 68.190 TO 69.195?	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO
DATE RMP INITIALLY FILED WITH EPA: 04/29/1999	DATE OF RMP UPDATE: 02/12/2016	
1) PROCESS/NAICS CODE: 325211	PROGRAM LEVEL: 1 2 3 <input checked="" type="checkbox"/>	
REGULATED SUBSTANCE: Anhydrous Ammonia	MAX. QUANTITY IN PROCESS: 37,000 lbs.	
DID FACILITY CORRECTLY ASSIGN PROGRAM LEVELS TO PROCESSES?	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO
ATTACHED CHECKLIST(S):		
<input type="checkbox"/> PROGRAM LEVEL 1 PROCESS CHECKLIST	<input type="checkbox"/> PROGRAM LEVEL 2 PROCESS CHECKLIST	<input checked="" type="checkbox"/> PROGRAM LEVEL 3 PROCESS CHECKLIST
OTHER ATTACHMENTS: _____		
INSPECTION SYMBOL KEY: Y - YES, N - NO, N/A - NOT APPLICABLE, S - SATISFACTORY, M - MARGINAL, U -		

**U. S. ENVIRONMENTAL PROTECTION AGENCY
REGION I
5 POST OFFICE SQUARE
BOSTON, MA 02109-3912**

Process Checklist (Findings) and Alleged Violations and Proposed Penalty Form:
High Liner (USA) Inc., Portsmouth, NH

1. Program Level 3 Alleged Violations and Unadjusted Penalties

Section C – Prevention Program – Safety information [68.65]	
<p>Has the owner or operator documented that equipment complies with recognized and generally accepted good engineering practices [68.65(d)(2)]?</p> <p>– For example, at the time of the inspection, pedestrian gates into the cooling tower area did not have signage to restrict access to authorized personnel. <i>See e.g.</i>, ANSI/IIAR 2-2014, § 7.2.2; ANSI/IIAR 2-2008 (Addendum B), § 13.1.2.4; and ANSI/IIAR 2-2008, § 13.1.1.7.</p>	\$ 1500.00
Section C – Prevention Program – Safety information [68.65]	
<p>Has the owner or operator documented that equipment complies with recognized and generally accepted good engineering practices [68.65(d)(2)]?</p> <p>– At the time of the inspection, there were unprotected and unsupported ammonia piping and valves: (1) near the bottom of the HPR and oil separator in the cooling tower area; and (2) below the intercooler pressure vessel in AMR 1. <i>See e.g.</i>, ANSI/IIAR 2-2014, §§ 7.2.4 and 13.4.2; ANSI/ASHRAE 15-2013, § 11.1; IIAR Bulletin 109, § 4.7.3 and Section 7 Inspection Checklist (Piping); and ANSI/IIAR 2-2008, § 13.2.3.9.</p>	\$ 1500.00
Section C – Prevention Program – Safety information [68.65]	
<p>Has the owner or operator documented that equipment complies with recognized and generally accepted good engineering practices [68.65(d)(2)]?</p> <p>– For example, at the time of the inspection, the intake air vents for AMR 1 were located adjacent to the cooling tower area containing ammonia pressure vessels, condensers, and piping. <i>See e.g.</i>, ANSI/IIAR 2-2014, § 6.14.5.4; ANSI/ASHRAE 15-2013, § 8.11.4; and ANSI/IIAR 2-2008, § 10.4.1.</p>	\$ 1500.00
Section C – Prevention Program – Safety information [68.65]	
<p>Has the owner or operator documented that equipment complies with recognized and generally accepted good engineering practices [68.65(d)(2)]?</p> <p>– For example, at the time of the inspection, the ammonia detectors in AMRs 1 and 2 were mounted on the wall approximately eight feet below the ceiling (i.e., not where ammonia-containing equipment and piping are located and not where ammonia would be expected accumulate during a release). <i>See e.g.</i>, ANSI/IIAR 2-2014, § 17.4; ANSI/ASHRAE 15-2013, § 8.11.2.1; and ANSI/IIAR 2-2008 (Addendum B), § 13.2.2.1.</p>	\$ 1500.00
Section C – Prevention Program – Mechanical Integrity [68.73]	
<p>Has the owner or operator corrected deficiencies in equipment that were outside acceptable limits defined by the process safety information before further use or in a safe and timely manner when necessary means were taken to assure safe operation [68.73(e)]?</p> <p>– At the time of the inspection, the facility had ice buildup on the piping insulation and jacketing below the receiver in AMR 1, which indicated a breach in the insulation. An insulation breach could result in excessive corrosion of ammonia piping. <i>See e.g.</i>, ANSI/IIAR 2-2014, §§ 5.10.1 and 13.4.2; ANSI/ASHRAE 15-2013, § 8.10.4; and IIAR Bulletin 109, § 4.7.5 and Section 7 Inspection Checklist (Piping).</p>	\$ 1200.00

Total unadjusted penalty: \$7,200

2. Size-Threshold Quantity Multiplier

The Size-Threshold Quantity multiplier is a factor that considers the size of the facility and the amount of regulated chemicals at the facility.

Expedited Settlement Penalty Matrix: Private Industries

# of Employees	1 – 5*	>5 – 10*	> 10*
0 – 9	0.4	0.6	0.8
10 – 100	0.6	0.8	1.0
> 100	1.0	1.0	1.0

* Largest Multiple of Threshold Quantity of any Regulated Chemical(s) on Site.

Size/Threshold Quantity multiplier from Expedited Settlement Penalty Matrix: **1.0**

3. Proposed Penalty

The Proposed Penalty is the amount of the non-negotiable penalty that is calculated by multiplying the Total Penalty and the Size/Threshold Quantity multiplier.

$$\begin{aligned} \text{Proposed Penalty} &= \$7,200 \text{ (Unadjusted Penalty)} \\ &x \quad 1.0 \text{ (Size/Threshold Quantity Multiplier)} \\ &= \underline{\underline{\$7,200}} \end{aligned}$$