

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

TO BE FILLED OUT BY ORIGINATING OFFICE:

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Gail P. Wilson 8-26-10
Name of Contact person Date

in the Region IV EPA Office of Regional Counsel at 215 814-2493
Office Phone number

Non-SF Jud. Order/Consent Decree. DOJ COLLECTS

Administrative Order/ Consent Agreement FMD COLLECTS PAYMENT

SF Jud. Order/Consent Decree. FMD COLLECTS

This is an original debt This is a modification

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

Allen Family Foods, Inc.

The Total Dollar Amount of Receivable \$50,582.00
(If in installments, attach schedule of amounts and respective due dates)

The Case Docket Number EPCRA-03-2010-0324

The Site-Specific Superfund Acct. Number _____

The Designated Regional HQ Program Office HSLD - Office of Enforcement, Oil and Production Branch

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number _____

If you have any questions call: _____
Name of Contact Date

in the Financial Management Office, phone number: _____

JUDICIAL ORDERS: Copies of this form with an attached copy of the front page of the final judicial order should be mailed to:

- | | |
|---|------------------------------|
| 1. U.S. Environmental Protection Agency
Cincinnati Finance Center
25 W. Martin Luther King Drive (MS-002)
Cincinnati, OH 45268
Attn: Lori Weidner | 2. Originating Office (ORC) |
| | 3. Designated Program Office |

ADMINISTRATIVE ORDERS: Copies of this form with an attached copy of the front page of the administrative order should be sent to:

- | | |
|---------------------------|------------------------------|
| 1. Originating Office | 2. Designated Program Office |
| 3. Regional Hearing Clerk | 3. Regional Counsel |



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

August 25, 2010

VIA FIRST CLASS MAIL

Lori Weidner, Cincinnati Finance Management Center (CFMC)
U.S. Environmental Protection Agency
Cincinnati Finance Center
Attn: Lori Weidner
26 W. Martin Luther King Drive
Cincinnati, OH 45268

Re: **CAFO for EPCRA Sections 311 and 312**
Allen Family Foods, Inc.- U.S. EPA Docket No.: EPCRA-03-2010-0324

Dear Ms. Weidner:

Please find enclosed the following in connection with the above captioned case:

1. a true and correct copy of the Consent Agreement and Final Order ("CAFO");
2. a Certificate of Service for the CAFO; and
3. the original of an EPA Enforcement Accounts Receivable Control Number Form ("EARCNF").

Sincerely,

A handwritten signature in black ink, appearing to read "Gail P. Wilson".

Gail P. Wilson
Senior Assistant Regional Counsel

Enclosures

cc: Region III Regional Hearing Clerk



*Printed on 100% recycled/recyclable paper with 100% post-consumer fiber and process chlorine free.
Customer Service Hotline: 1-800-438-2474*

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


In the Matter of:) EPA Docket No. EPCRA-03-2010-
) 0324
Allen Family Foods, Inc.)
126 North Shipley Street)
Seaford, Delaware 19973-3100,)
)
Respondent.) CONSENT AGREEMENT AND
) FINAL ORDER
)
Allen Family Foods, Inc.)
274 Neilson Street)
Hurlock, Maryland 21643)
)
Facility.)

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the date provided below, I hand delivered and filed the original of the signed Consent Agreement and Final Order for the above captioned matter with the Regional Hearing Clerk, U.S. EPA, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029, and that true and correct copies of the Consent Agreement and Final Order were sent by first class mail to:

Tom Brinson, Environmental Manager
Allen Family Foods, Inc.
274 Neilson Street
Hurlock, Maryland 21643

8-25-10
Date


Gail P. Wilson
Senior Assistant Regional Counsel
Counsel for Complainant
(215) 814-2493

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

In the Matter of:)	EPA Docket No. EPCRA-03-2010-
Allen Family Foods, Inc.)	0324
126 North Shipley Street)	
Seaford, Delaware 19973-3100,)	
)	
Respondent.)	CONSENT AGREEMENT AND
)	FINAL ORDER
)	
Allen Family Foods, Inc.)	
274 Neelson Street)	
Hurlock, Maryland)	
21643)	
)	
Facility.)	

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" or the "Agency") by Section 325 of the Emergency Planning and Community Right-to-Know Act of 1986 ("EPCRA"), 42 U.S.C. § 11045, and under the authority of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits" ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. The Administrator has delegated these authorities to the Regional Administrator, who has in turn, delegated them to the Director, Hazardous Site Cleanup Division.

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

FINDINGS OF FACT

1. Respondent, Allen Family Foods, Inc. ("Respondent") is a Delaware corporation with its headquarters located at 126 North Shipley Street, Seaford Delaware, 19973-3100.
2. As a corporation, Respondent is a "person" as defined by Section 329(7) of EPCRA, 42 U.S.C. §11049(7) and 40 C.F.R. § 370.66.
3. At all times relevant to this CAFO, Respondent owned and operated a poultry processing and distribution facility located at 274 Nealson Street, Hurlock, Maryland (the "Facility"), with an SIC Code of 2015 (poultry slaughtering and processing) and an NAICS Code of 311615 (poultry processing).
4. The Facility is a "facility" as defined by Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and 40 C.F.R. § 370.66.
5. On August 26, 2008, EPA conducted an inspection of the Facility to evaluate the Facility's compliance with Sections 302, 303, 311 and 312 of EPCRA, 42 U.S.C. §§ 11002, 11003, 11021, 11022.
6. On September 29, 2009, EPA sent a letter to Respondent, pursuant to Sections 311 and 312 of EPCRA, 42 U.S.C. §§ 11021, 11022, and their regulations at 40 C.F.R. Part 370. The purpose of the letter was to notify Respondent of EPA's belief that violations had occurred at the Facility and to afford Respondent an opportunity to demonstrate why an enforcement action should not be taken. Respondent supplied information in response to EPA's letter on October 15, 2009.

EPA'S FINDINGS OF FACT RELATED TO THE VIOLATION OF SECTION 311 OF EPCRA – CALENDAR YEARS 2005, 2006, 2007-SERC, LEPC AND LOCAL FIRE DEPARTMENT

7. The findings of fact contained in paragraphs 1 through 6 of this CAFO are incorporated by reference herein as though fully set forth at length.
8. Section 311 of EPCRA, 42 U.S.C. § 11021, as implemented by 40 C.F.R. Part 370, requires an owner or operator of a facility required to prepare or have available a Material Safety Data Sheet ("MSDS") for a hazardous chemical in accordance with the Occupational Safety and Health Administration ("OSHA") Hazard Communication Standard, 29 U.S.C. §§ 651 *et seq.*, and 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 that also qualifies as an extremely hazardous substance ("EHS")) in a quantity equal to or greater than its applicable minimum threshold for reporting (the "threshold") established by 40 C.F.R. § 370.10, to submit, either MSDSs for, or a list identifying, those hazardous chemicals to the appropriate State Emergency Response Commission

("SERC"), Local Emergency Planning Committee ("LEPC"), and Local Fire Department with jurisdiction over the facility, on or before October 17, 1987, or within three months after meeting the threshold.

9. The SERC for the Facility is the Maryland Department of the Environment, located at 1800 Washington Boulevard, in Baltimore, Maryland.

10. The LEPC for the Facility is Dorchester County Emergency Management, located at 829 Field Crest Road, in Cambridge, Maryland.

11. The Local Fire Department for the Facility is the Hurlock Volunteer Fire Department, located at 300 Charles Street, in Hurlock, Maryland.

12. Sulfuric acid (CAS No. 7664-93-9) is a "hazardous chemical" as defined by Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and is also an extremely hazardous substance ("EHS") as defined in Section 329(3) of EPCRA, 42 U.S.C. § 11049(3), and 40 C.F.R. § 370.66, and as listed in 40 C.F.R. Part 355, Appendices A and B.

13. Sulfuric acid was produced, used or stored at the Facility during calendar years 2005, 2006 and 2007.

14. At all times relevant to this CAFO, Respondent was a person engaged in a business where chemicals were used, distributed, or produced for use or distribution.

15. At all times relevant to this CAFO, Respondent was an "employer" as that term is defined at 29 C.F.R. § 1910.1200(c).

16. Respondent is the owner or operator of a facility that is required to prepare or have available an MSDS for hazardous chemicals under the OSHA Hazard Communication Standard, 29 U.S.C. §§ 651 et seq., and 29 C.F.R. § 1910.1200.

17. Pursuant to 40 C.F.R. § 370.10(a)(1), the reporting threshold for the EHS sulfuric acid is 500 pounds.

18. Upon information and belief, during each of the calendar years 2005, 2006 and 2007 Respondent had present at its Facility lead acid batteries containing 1594 pounds of sulfuric acid each year for a total of 4782 pounds for all three years.

19. At any one time during calendar years 2005, 2006 and 2007, Respondent had present at the Facility lead acid batteries containing the hazardous chemical sulfuric acid in quantities exceeding its threshold.

20. Respondent was required to submit to the SERC, the LEPC and the Local Fire Department notice that it had lead acid batteries containing sulfuric acid, a hazardous

chemical, present at the Facility in quantities exceeding its threshold, no later than three months after Respondent had the hazardous chemical present at the Facility in amounts equal to or greater than its threshold.

21. Respondent failed to submit to the SERC, the LEPC and the Local Fire Department no later than three months after Respondent had lead acid batteries containing sulfuric acid present at the Facility in amounts equal to or greater than its threshold, either MSDSs for the hazardous chemical or a list identifying the hazardous chemical as present at the Facility in a quantity exceeding its threshold for any of the years 2005, 2006, or 2007.

**EPA'S CONCLUSION OF LAW RELATED TO THE
VIOLATION OF SECTION 311 OF EPCRA – CALENDAR YEARS 2005, 2006,
2007-SERC, LEPC AND LOCAL FIRE DEPARTMENT**

22. Respondent's failure to submit to the SERC, LEPC and Local Fire Department either an MSDS for lead acid batteries containing sulfuric acid, or a list identifying the hazardous chemical as present at the Facility in a quantity exceeding its threshold for any of the calendar years 2005, 2006 or 2007, constitutes a violation of Section 311 of EPCRA, 42 U.S.C. § 11021, and is, therefore, subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

**EPA'S FINDINGS OF FACT RELATED TO THE
VIOLATION OF SECTION 312 OF EPCRA - CALENDAR YEAR 2007 – SERC,
LEPC AND LOCAL FIRE DEPARTMENT**

23. The findings of fact contained in paragraphs 1 through 21 of this CAFO are incorporated by reference herein as though fully set forth at length.

24. Section 312 of EPCRA, 42 U.S.C. § 11022, requires the owner or operator of a facility required to prepare or have available a MSDS for a hazardous chemical in accordance with the OSHA Hazard Communication Standard, 29 U.S.C. §§ 651 *et seq.*, and 29 C.F.R. § 1910.1200, and at which facility a hazardous chemical (including, but not limited to, a hazardous chemical that also qualifies as an EHS) is present at any one time in a quantity equal to or greater than its applicable minimum threshold for reporting established by 40 C.F.R. § 370.10 (the "threshold"), to submit on or before March 1, 1988, and by March 1st of each year thereafter, a completed Emergency and Hazardous Chemical Inventory Form identifying the hazardous chemical and providing the information described in Section 312(d)(1) of EPCRA, 42 U.S.C. § 11022(d)(1), to the appropriate SERC, LEPC, and Local Fire Department with jurisdiction over the facility.

25. By March 1, 2008, Respondent was required to submit to the SERC, LEPC, and Local Fire Department, an Emergency and Hazardous Chemical Inventory Form identifying the hazardous chemical sulfuric acid contained in lead acid batteries as

present at the Facility during calendar year 2007 in a quantity greater than its threshold, and providing the information required by Section 312(d) of EPCRA, 42 U.S.C. § 11022(d), about the hazardous chemical.

26. Respondent failed to submit to the SERC, LEPC and the Local Fire Department, by March 1, 2008, a complete and accurate Emergency and Hazardous Chemical Inventory Form identifying the hazardous chemical sulfuric acid contained in lead acid batteries as present at the Facility in a quantity greater than its respective threshold at any one time during calendar year 2007 and providing the required information concerning the hazardous chemical.

**EPA'S CONCLUSION OF LAW RELATED TO THE
VIOLATION OF SECTION 312 OF EPCRA-CALENDAR YEAR 2007-SERC,
LEPC, AND LOCAL FIRE DEPARTMENT**

27. Respondent's failure to submit to the SERC, LEPC, and Local Fire Department by March 1, 2008, a complete and accurate Emergency and Hazardous Chemical Inventory Form identifying the hazardous chemical sulfuric acid contained in lead acid batteries as present at the Facility in a quantity greater than its threshold at any one time during calendar year 2007 and providing the required information concerning the hazardous chemical, constitutes a violation of Section 312 of EPCRA, 42 U.S.C. § 11022, and is, therefore, subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

**EPA'S FINDINGS OF FACT RELATED TO THE
VIOLATION OF SECTION 312 OF EPCRA - CALENDAR YEAR 2006-SERC,
LEPC AND LOCAL FIRE DEPARTMENT**

28. The findings of fact contained in paragraphs 1 through 26 of this CAFO are incorporated by reference herein as though fully set forth at length.

29. By March 1, 2007, Respondent was required to submit to the SERC, LEPC, and Local Fire Department, an Emergency and Hazardous Chemical Inventory Form identifying the hazardous chemical sulfuric acid contained in lead acid batteries as present at the Facility during calendar year 2006 in a quantity greater than its threshold, and providing the information required by Section 312(d) of EPCRA, 42 U.S.C. § 11022(d), about the hazardous chemical.

30. Respondent failed to submit to the SERC, LEPC and Local Fire Department by March 1, 2007, a complete and accurate Emergency and Hazardous Chemical Inventory Form identifying the hazardous chemical sulfuric acid contained in lead acid batteries as present at the Facility in a quantity greater than its threshold at any one time during calendar year 2006, and providing the required information concerning the hazardous chemical.

**EPA'S CONCLUSION OF LAW RELATED TO THE
VIOLATION OF SECTION 312 OF EPCRA - CALENDAR YEAR 2006-SERC,
LEPC AND LOCAL FIRE DEPARTMENT**

31. Respondent's failure to submit to the SERC, LEPC and Local Fire Department by March 1, 2007, a complete and accurate Emergency and Hazardous Chemical Inventory Form identifying the hazardous chemical sulfuric acid contained in lead acid batteries present at the Facility in a quantity greater than its threshold at any one time during calendar year 2006, and providing the required information concerning the hazardous chemical, constitutes a violation of Section 312 of EPCRA, 42 U.S.C. § 11022, and is, therefore, subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

**EPA'S FINDINGS OF FACT RELATED TO THE
VIOLATION OF SECTION 312 OF EPCRA - CALENDAR YEAR 2005-SERC,
LEPC AND LOCAL FIRE DEPARTMENT**

32. The findings of fact contained in paragraphs 1 through 30 of this CAFO are incorporated by reference herein as though fully set forth at length.

33. By March 1, 2006, Respondent was required to submit to the SERC, LEPC, and Local Fire Department, an Emergency and Hazardous Chemical Inventory Form identifying the hazardous chemical sulfuric acid contained in lead acid batteries as present at the Facility during calendar year 2005 in a quantity greater than its threshold, and providing the information required by Section 312(d) of EPCRA, 42 U.S.C. § 11022(d), about the hazardous chemical.

34. Respondent failed to submit to the SERC, LEPC and the Local Fire Department by March 1, 2006, a complete and accurate Emergency and Hazardous Chemical Inventory Form identifying the hazardous chemical sulfuric acid contained in lead acid batteries as present at the Facility in a quantity equal to or greater than its threshold at any one time during calendar year 2005, and providing the required information concerning the hazardous chemical.

**EPA'S CONCLUSION OF LAW RELATED TO THE
VIOLATION OF SECTION 312 OF EPCRA - CALENDAR YEAR 2005-SERC,
LEPC AND LOCAL FIRE DEPARTMENT**

35. Respondent's failure to submit to the SERC, LEPC and Local Fire Department by March 1, 2006, a complete and accurate Emergency and Hazardous Chemical Inventory Form identifying the hazardous chemical sulfuric acid contained in lead acid batteries as present at the Facility in a quantity equal to or greater than its threshold at any one time during calendar year 2005, and providing the required information concerning the hazardous chemical, constitutes a violation of Section 312 of EPCRA, 42 U.S.C. § 11022, and is, therefore, subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

CIVIL PENALTY

36. 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, and in full satisfaction of 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 Sections 311 and 312 of EPCRA, 42 U.S.C. §§ 11021, 11021, set forth above, in the amount of \$50,582.00. Respondent consents to the issuance of this Consent Decree and consents for purposes of settlement to the payment of the civil penalty.

PAYMENT TERMS

37. In order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with the civil penalties described in this CAFO, Respondent shall pay the civil penalty, totaling \$50,582.00, no later than thirty (30) days after the effective date of the Final Order (the "final due date") by either cashier's check, certified check, or electronic wire transfer, in the following manner:

- a. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, *i.e.*, EPCRA-03-2010-0324;
- 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 to:

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

Contact: Eric Volck 513-487-2105

- d. 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

- e. 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 W. M.L. King Drive
Cincinnati, OH 45268-0001

- f. 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

- g. 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 facility:
5700 Rivertech Court
Riverdale, MD 20737
Contact: Jesse White 301-887-6548 or REX, 1-866-234-5681

- h. On-Line Payment Option:

WWW.PAY.GOV/PAYGOV

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

- i. Additional payment guidance is available at:

http://www.epa.gov/ocfo/finservices/make_a_payment.htm

38. Respondent shall submit copies of the check, or verification of wire transfer or ACH, to the following persons:

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

Gail P. Wilson,
Senior Assistant Regional Counsel
(3RC43)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029.

39. The EPCRA civil penalty stated herein is based upon EPA's consideration of a number of factors, including, but not limited to, the following: the nature, circumstances, extent, and gravity of the violations and, with respect to the violator, ability to pay, any prior history of such violations, the degree of culpability, economic benefit or savings (if any) resulting from the violation, and such matters as justice may require, with specific reference to 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*, dated September 30, 1999 ("ERP").

40. 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 by the final due date or to comply with the conditions of this CAFO shall result in the assessment of late payment charges, including interest, penalties and/or administrative costs of handling delinquent debts.

41. 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).

42. 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 B of EPA's *Resource 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.

43. A penalty charge of six percent per year will be assessed monthly on any portion of the civil penalty that 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).

44. Failure of Respondent to pay the penalty assessed by the Final Order in full by the final due date may subject Respondent to a civil action to collect the assessed penalties, plus interest, pursuant to Section 325 of EPCRA, 42 U.S.C. § 11045. In any such collection action, the validity, amount and appropriateness of the penalty shall not be subject to review.

GENERAL PROVISIONS

45. For the purposes of this proceeding, Respondent admits to the jurisdictional allegations set forth above.

46. Respondent agrees not to contest the EPA's jurisdiction with respect to execution or enforcement of the CAFO.

47. Except as provided in Paragraph 45 above, for purposes of this proceeding, Respondent neither admits nor denies factual allegations set forth in this Consent Agreement, but expressly waives its rights to contest said allegations.

48. For purposes of this proceeding, Respondent expressly waives its right to a hearing and to appeal this Final Order under Section 325 of EPCRA, 42 U.S.C. § 11045.

49. The provisions of this CAFO 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 the party represented to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of the Consent Agreement and accompanying Final Order.

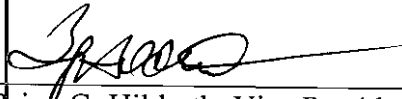
50. This CAFO does not constitute a waiver, suspension or modification of the requirements of Sections 311 and 312 of EPCRA, 42 U.S.C. §§ 11021, 11022, or any regulations promulgated thereunder.

51. This CAFO is a complete and final settlement of all civil and administrative claims and causes of action set forth in this CAFO for alleged violations of

Sections 311 and 312 of EPCRA, 42 U.S.C. § 11021, 11022. Nothing herein shall be construed to limit the authority of EPA to undertake action against any person, including Respondent, in response to any condition that EPA determines may present an imminent and substantial endangerment to the public health, public welfare or the environment. Nothing in this CAFO shall be construed to limit the United States' authority to pursue criminal sanctions. Nothing in this agreement shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondent's violation of this agreement, other statutes and regulations, or any other applicable provision of law.

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

FOR ALLEN FAMILY FOODS, INC.

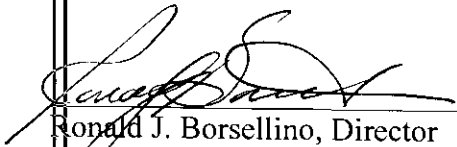


Brian G. Hildreth, Vice President-Finance
Allen Family Foods, Inc.

Date

7/9/10

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY



Ronald J. Borsellino, Director
Hazardous Site Cleanup Division

Date 8/4/10

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

In the Matter of:
Allen Family Foods, Inc.
126 North Shipley Street
Seaford, Delaware 19973-3100,

EPA Docket No. EPCRA-03-2010-0324

Respondent.

FINAL ORDER

Allen Family Foods, Inc.
274 Neelson Street
Hurlock, Maryland 21643

Facility.

FINAL ORDER

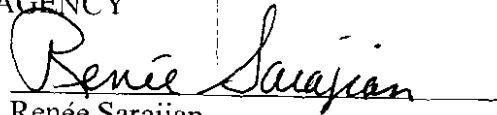
Pursuant to Section 325 of the Emergency Planning and Community Right-to-Know Act, as amended, ("EPCRA"), 42 U.S.C. § 11045, and the delegated authority of the undersigned, and in accordance with 40 C.F.R. Part 22, and based on the representations of the Consent Agreement, the foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. The Respondent is ordered to comply with the terms of the referenced Consent Agreement.

Effective Date

This Final Order shall become effective upon the date of its filing with the Regional Hearing Clerk.

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 8/23/10



Renée Sarajian
Regional Judicial Officer
EPA, Region III