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Release Reporting/CERCLA Enforcement: U.S. Environmental Protection Agency and Waseca, Minnesota, Facility Enter into Consent Agreement

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The United States Environmental Protection Agency ("EPA") and Birds Eye Foods, LLC ("Birds Eye") entered into a December 13th Consent Agreement and Final Order ("CAFO") addressing alleged violations of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") and Emergency Planning and Community Right-to-Know Act ("EPCRA").

The CAFO provides that Birds Eye violated Section 103(a) of CERCLA and Section 304(a) of EPCRA.

The alleged violations are stated to have been due, respectively, to a failure to immediately notify the National Response Center of a release which occurred at the facility between June 21 and July 19, 2013, and failing to immediately notify the Minnesota State Emergency Response Commission ("SERC") of the same release by failing to provide a written follow-up emergency notice to the Minnesota SERC as soon as practicable after the June 21 – July 19, 2013, release occurrence.

Birds Eye is stated to deny the factual allegations in a previously filed Complaint.

Section 103 of CERCLA requires any person in charge of a facility to immediately notify the National Response Center as soon as that person has knowledge of any release of hazardous substance from the facility in an amount equal to or greater than the reportable quantity of the hazardous substance. In order for a release to be considered reportable under CERCLA, there are three criteria that must be met, which include the following. The release must:

1. Be into the environment
2. Be equal to or exceed the reportable quantity for a particular substance
3. Occur within a 24-hour period

The terms "environment" and "facility" are very broadly defined by CERCLA.

The CAFO assesses a civil penalty of \$75,000 for the CERCLA violation and \$75,000 for the EPCRA violation.

A copy of the CAFO can be found [here](#).

