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# Release Reporting/CERCLA Enforcement: U.S. Environmental Protection Agency and Louisville, Kentucky, Food Manufacturing Facility Enter into Consent Agreement

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The United States Environmental Protection Agency (“EPA”) and Ferrara Candy Company (“FCC”) entered into an August 2nd Consent Agreement (“CA”) addressing alleged violations of the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”) and Emergency Planning and Community Right-to-Know Act (“EPCRA”). See Docket No. EPCRA-04-2021-0604(b).

FCC operates a food manufacturing facility (“Facility”) in Louisville, Kentucky.

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

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

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

The CA provides that on August 2, 2020, a release of anhydrous ammonia above the reportable quantity under EPCRA and CERCLA occurred at the Facility. Further, it is provided that the release resulted in the potential for exposure to persons beyond the site or sites on which the Facility is located. It is further alleged that FCC failed to immediately notify the State Emergency Response Commission and National Response Center as soon as it had knowledge of the release of anhydrous ammonia in an amount equal to or greater than its reportable quantity at the Facility.

FCC is therefore alleged to have violated:

- Section 304(a) of EPCRA
- Section 103(a) of CERCLA

FCC neither admits nor denies the factual allegations set forth in the CA.

A civil penalty of \$1,553 is assessed for the alleged CERCLA violation and \$6,217 for the alleged EPCRA violation.

A copy of the CA can be downloaded [here](#).