



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

JUN 29 2010  
PHILADELPHIA, PA

**CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

Robert Jones, Esq.  
PMC Group Building, 4<sup>th</sup> Fl.  
1288 Route 73 South  
Mt. Laurel, NJ 08054

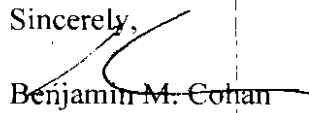
June 29, 2010

Re: Crystal, Inc. – PMC  
Docket No. CWA-03-2010-0294

Dear Mr. Jones:

Please find enclosed a true and correct copy of the Consent Agreement and Final Order (“settlement”) for the above referenced matter, which was filed with the Regional Hearing Clerk today, June 29, 2010 (i.e. the “Effective Date” of the settlement). Please see paragraphs 25-32 of the settlement for the payment terms and conditions. If you have any questions regarding compliance with the terms of the settlement, please call me. Please don’t forget to send copies of the checks to myself and Lydia Guy pursuant to paragraph 31 of the settlement. Thank you for your cooperation.

Sincerely,

  
Benjamin M. Cohan  
Sr. Assistant Regional Counsel

Enclosure  
cc: Joan Armstrong (3HS61)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION III

In The Matter of:

Crystal, Inc. – PMC  
601 W. Eighth Street  
Landsdale, PA 19446

Respondent.

**CONSENT AGREEMENT**

**PROCEEDING UNDER SECTION 311  
OF THE CLEAN WATER ACT, AS  
AMENDED, TO ASSESS A CLASS I  
CIVIL PENALTY FOR SPCC  
VIOLATIONS**

Docket No. CWA-03-2010-0294

**CONSENT AGREEMENT**

1. This Consent Agreement (“CA”) is proposed and entered into under the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Section 311(b)(6)(B)(i) of the Clean Water Act, as amended, (“CWA”), 33 U.S.C. § 1321(b)(6)(B)(i) and under the authority provided by Section 22.18(b) of the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation Termination or Suspension of Permits” (“Part 22 Rules”), 40 C.F.R. Part 22. The Administrator has delegated this authority to the Regional Administrator of EPA, Region III, who in turn has delegated it to the Director of the Region’s Hazardous Site Cleanup Division (“Complainant”).
2. The parties agree to the commencement and conclusion of this cause of action by issuance of this CA and Final Order (“FO”), which are collectively referred to as the “CA/FO”), as prescribed by the Consolidated Rules of Practice pursuant to 40 C.F.R. § 22.13(b), and having consented to the entry of this CA/FO, agree to comply with the terms of this CA/FO.
3. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CA/FO.
4. Respondent neither admits nor denies the specific factual allegations and conclusions of law set forth in this CA, except as provided in Paragraph 3. above.
5. Respondent agrees not to contest EPA’s jurisdiction with respect to the execution and issuance of this CA/FO, or the enforcement of the CA/FO.

6. For the purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this CA and any right to appeal the accompanying FO.
7. Respondent consents to the issuance of this CA/FO and agrees to comply with its terms.
8. Respondent shall bear its own costs and attorneys fees.

**Findings of Fact and Conclusions of Law**

9. Section 311(j)(1)(C) of the CWA, 33 U.S.C. § 1321(j)(1)(C), provides that the President shall issue regulations “establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil... from onshore facilities...and to contain such discharges . . . .”
10. Initially by Executive Order 11548 (July 20, 1970), 35 Fed. Reg. 11677 (July 22, 1970), and most recently by Section 2(b)(1) of Executive Order 12777 (October 18, 1991), 56 Fed. Reg. 54757 (October 22, 1991), the President delegated to EPA his Section 311(j)(1)(C) authority to issue the regulations referenced in the preceding Paragraph for non-transportation-related onshore facilities.
11. EPA subsequently promulgated the Spill Prevention, Control and Countermeasure (“SPCC”) regulations (“SPCC regulations”) which are codified at 40 C.F.R. Part 112 Subparts A, B, and C, pursuant to the delegated statutory authorities referred to above, and pursuant to its authorities under the CWA, which established certain procedures, methods and requirements upon each owner and operator of a non-transportation-related onshore facility if such facility, due to its location, could reasonably be expected to discharge oil into or upon the navigable waters of the United States and their adjoining shorelines in such quantity as EPA has determined in 40 C.F.R. § 110.3 may be harmful to the public health or welfare or the environment of the United States (“harmful quantity”).
12. Respondent is a corporation organized under the laws of Delaware. Respondent is a person within the meaning of Sections 311(a)(7) and 502(5) of the CWA, 33 U.S.C. §§ 1321(a)(7) and 1362(5), and 40 CFR § 112.2.
13. As part of its manufacturing operations, which involve wax and oil blending, Respondent is engaged in storing, transferring, or distributing oil or oil products at an onshore bulk oil storage facility located at 601 W. Eighth Street, Landsdale, PA (“the Facility”). Respondent operates a soap and wax manufacturing business at this Facility.
14. The Facility is located approximately 0.3 miles from an unnamed tributary of the West Branch of Neshaminy River.

15. The unnamed tributary of the West Branch of Neshaminy River is a navigable water of the United States within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7) and 40 C.F.R. § 112.2.
16. The Facility has an above ground storage capacity of approximately 612,500 gallons.
17. Respondent is the owner and operator of the Facility within the meaning of Section 311(a)(6) of the CWA, 33 U.S.C. § 1321(a)(6), and 40 CFR § 112.2.
18. The Facility is an onshore facility within the meaning of Section 311(a)(10) of the CWA, 33 U.S.C. § 1321(a)(10), and 40 CFR § 112.2.
19. The Facility is a non-transportation-related facility within the meaning of 40 CFR § 112.2 and Appendix A to 40 C.F.R. Part 112, as incorporated by reference within 40 CFR § 112.2.
20. The Facility is a non-transportation-related onshore facility which, due to its location, could reasonably be expected to discharge oil to a navigable water of the United States or its adjoining shorelines in a harmful quantity (“an SPCC-regulated facility”) within the meaning of 40 C.F.R. Part 112.
21. Pursuant to Section 311(j)(1)(C) of the CWA, 33 U.S.C. § 1321(j)(1)(C), and 40 C.F.R. § 112.1 Respondent, as the owner and operator of an SPCC-regulated facility, is subject to the SPCC regulations.
22. EPA conducted a compliance inspection at the Facility on June 11, 2008 (“the Inspection”).

## COUNT I

(Failure to implement requirements pertaining to Bulk Storage Containers)

23. 40 C.F.R. § 112.7(e)(2)(ii) requires, *inter alia*, that “[a]ll bulk storage tank installations should be constructed so that a secondary means of containment is provided for the entire contents of the largest single tank plus sufficient freeboard to allow for precipitation. Diked areas should be sufficiently impervious to contain spilled oil...”
24. At the time of the Inspection, the Facility had not provided sufficiently impervious secondary containment for the largest single container in all container installations plus sufficient freeboard to allow for precipitation, and Respondent is therefore in violation of the requirements of 40 C.F.R. § 112.7(e)(2)(ii).

Penalty

25. In settlement of Complainant's claims for civil penalties for the violations alleged in this CA, and in accordance with the statutory penalty factors set forth in Section 311(b)(8) of the CWA, Respondent agrees to pay a civil penalty in the amount of seven thousand, seven hundred dollars (\$7,700) based upon the payment terms set forth below. Respondent further consents to the issuance of the attached Final Order.
26. Payment of the \$7,700 civil penalty required herein may be paid in three (3) installments with interest at the rate of 1% per annum on the outstanding principal balance in accordance with the following schedule:
- a. 1<sup>st</sup> Payment: The first payment in the amount of two thousand, five hundred and sixty-six dollars and sixty-six cents (\$2,566.66), consisting of a principal payment of \$2,566.66 and an interest payment of \$0.00, shall be paid within thirty (30) days of the date on which this CA/FO is mailed or hand delivered to Respondent;
  - b. 2<sup>nd</sup> Payment: The second payment of two thousand, five hundred and seventy five dollars and ten cents (\$2,575.10), consisting of a principal payment of \$2,566.66 and an interest payment of eight dollars and forty-four cents (\$ 8.44), shall be paid within sixty (60) days of the date on which this CA/FO is mailed or hand delivered to Respondent;
  - c. 3<sup>rd</sup> Payment: The third payment of two thousand, five hundred and seventy three dollars and one cent (\$2,573.01), consisting of a principal payment of \$2,566.68 and an interest payment of six dollars and thirty-three cents (\$ 6.33), shall be paid within ninety (90) days of the date on which this CA/FO is mailed or hand delivered to Respondent;

Pursuant to the above schedule, Respondent will remit total principal payments for the civil penalty in the amount of seven thousand, seven hundred dollars (\$7,700) and total interest payments in the amount of fourteen dollars and seventy-seven cents (\$ 14.77).

27. If Respondent fails to make one of the installment payments in accordance with the schedule set forth in Paragraph 26, above, the entire unpaid balance of the penalty and all accrued interest shall become due immediately upon such failure, and Respondent shall immediately pay the entire remaining principal balance of the civil penalty along with any interest that has accrued up to the time of such payment. In addition, Respondent shall be liable for and shall pay administrative handling charges and late payment penalty charges pursuant to Section 311(b)(6)(H) of the CWA, 33 U.S.C. § 1321(b)(6)(II), and 40 C.F.R. Part 13 (Claims Collection Standards), in the event of any such failure or default.
28. Notwithstanding Respondent's agreement to pay the assessed civil penalty and applicable interest in accordance with the installment schedule set forth in the

Paragraph 26, above, Respondent may pay the entire civil penalty of \$7,700 within thirty (30) calendar days after the date on which a copy of this CA/FO is mailed or hand-delivered to Respondent and, thereby, avoid the payment of interest pursuant to 40 C.F.R. § 13.11(a) -- as calculated in paragraph 26, above. In addition, Respondent may, at any time after commencement of payments under the installment schedule, elect to pay the entire principal balance, together with accrued interest to the date of such full and final payment.

29. Respondent shall remit each installment payment for the civil penalty and interest, pursuant to Paragraph 26, above, and/or the full penalty, pursuant to Paragraphs 27 and 28, above, and/or any administrative fees and late payment penalties, in accordance with Section 311(b)(6)(H) of the CWA, 33 U.S.C. § 1321(b)(6)(H), and 40 C.F.R. Part 13 (Claims Collection Standards) according to the following "Payment Terms."

**Payment Terms**

30. Payment shall be made by a corporate check, or by an electronic funds transfer ("EFT"). If paying by check, Respondent shall submit a cashier's or certified check, payable to "Environmental Protection Agency," and bearing the notation "OSLTF - 311." If Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

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

If Respondent sends payment by a private delivery service, the payment shall be addressed to:

U.S. Environmental Protection Agency  
U.S. Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
St. Louis, MO 63101  
Attn: Natalie Pearson (314/418-4087)

If paying by EFT, the Respondent shall make the transfer to:

Federal Reserve Bank of New York  
ABA 021030004  
Account 68010727

33 Liberty Street  
New York, NY 10045

If paying by EFT, field tag 4200 of the Fedwire message shall read: "(D 68010727 Environmental Protection Agency)." In the case of an international transfer of funds, the Respondent shall use SWIFT address FRNYUS33.

If paying through the Department of Treasury's Online Payment system, please access "www.pay.gov," enter sfo 1.1 in the search field. Open the form and complete the required fields and make payments. Note that the type of payment is "civil penalty," the docket number "CWA-03-2010-0294" should be included in the "Court Order # or Bill #" field and "3" should be included as the Region number.

31. If paying by check, Respondent shall note on the penalty payment check the title and docket number (CWA-03-2010-0294) of this case. Respondent shall submit a copy of the check (or, in the case of an EFT transfer, a copy of the EFT confirmation) to the following person:

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

Respondent must also provide a copy of its check to the attorney representing EPA in this matter at the following address:

Benjamin Cohan  
Sr. Assistant Regional Counsel (3RC10)  
U.S. Environmental Protection Agency  
Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029

32. Failure by Respondent to pay the penalty assessed by the Final Order in full by due dates set forth herein may subject Respondent to a civil action to collect the assessed penalty, plus interest, attorney's fees, costs and an additional quarterly nonpayment penalty pursuant to Section 311(b)(6)(H) of the CWA, 33 U.S.C. §1321(b)(6)(H). In any such collection action, the validity, amount and appropriateness of the penalty agreed to herein shall not be subject to review.

#### **Certification of Compliance**

33. Within thirty (30) days of the Effective Date, Respondent shall submit to Benjamin M. Cohan, Sr. Assistant Regional Counsel (at the address listed in Paragraph 31), a

Certification of Compliance stating that it is in compliance with the statutory requirements for each violation alleged in this CA. The Certification of Compliance must include the following language:

Except as provided below, I certify that the information contained in or accompanying this Certification of Compliance is true, accurate and complete. As to (the/those) portion(s) of this Certification of Compliance, for which I cannot personally verify (its/their) accuracy, I certify under the penalty of law that this Certification of Compliance and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Signature: Robert Jones  
Name(print): ROBERT JONES  
Title: CORPORATE COUNSEL

#### General Provisions

34. The provisions of the FO, if issued, shall be binding upon Respondent and Respondent's successors or assigns.
35. The Final Order does not constitute a waiver, suspension or modification of the requirements of Section 311 of the CWA, 33 U.S.C. §1321, or any regulations promulgated thereunder, and does not affect the right of the Administrator or the United States to pursue any applicable injunctive or other equitable relief or criminal sanctions for any violation of law. Payment of the penalty pursuant to this Consent Agreement resolves only Respondent's liability for federal civil penalties for the violations and facts alleged in this CA.
36. The undersigned representative of Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Agreement and bind Respondent hereto. By his/her signature hereto, Respondent certifies that he/she is fully authorized to enter into the terms and conditions set forth in this CA and bind the Respondent hereto.
37. As used in this CA, the term "Effective Date" shall mean the date on which the Final Order is served on Respondent.



For the Respondent:

Crystal, Inc. -- PMC

Date: 6-23-10

By: 

Name: William M. Hood

Title: Vice President

For the Complainant:

U.S. Environmental Protection Agency  
Region III

Date:

6/15/10

By:



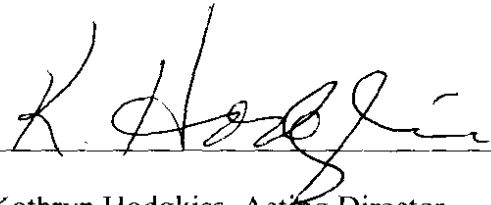
Benjamin M. Cohan  
Sr. Assistant Regional Counsel

After reviewing the foregoing Consent Agreement and other pertinent information, Hazardous Site Cleanup Division, EPA Region III, recommends that the Regional Administrator or the Regional Judicial Officer issue the Final Order attached hereto.

Date:

6/25/10

By:



Kathryn Hodgkiss, Acting Director  
Hazardous Site Cleanup Division  
EPA Region III

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION III

|                      |   |                                     |
|----------------------|---|-------------------------------------|
| In The Matter of:    | : | <b>FINAL ORDER</b>                  |
|                      | : |                                     |
| Crystal, Inc. – PMC  | : | <b>PROCEEDING UNDER SECTION 311</b> |
| 601 W. Eighth Street | : | <b>OF THE CLEAN WATER ACT, AS</b>   |
| Landsdale, PA 19446  | : | <b>AMENDED, TO ASSESS A CLASS I</b> |
|                      | : | <b>CIVIL PENALTY FOR SPCC</b>       |
|                      | : | <b>VIOLATIONS</b>                   |
|                      | : |                                     |
| Respondent.          | : | <b>Docket No. CWA-03-2010-0294</b>  |

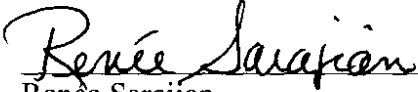
**FINAL ORDER**

Pursuant to Section 311(b)(6) of the CWA, 33 U.S.C. §1321(b)(6) and the delegated authority of the undersigned, and in accordance with the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation Termination or Suspension of Permits,” codified at 40 CFR Part 22, the foregoing Consent Agreement is hereby approved.

Nothing in the foregoing Consent Agreement relieves Respondent from otherwise complying with the applicable requirements set forth in the CWA.

Respondent is ordered to pay the civil penalty pursuant to the foregoing Consent Agreement.

Date: 6/28/10

  
Renee Sarajian  
Regional Judicial Officer/Presiding Officer

**CERTIFICATE OF SERVICE**

**IN RE:**

Crystal, Inc. – PMC  
601 W. Eighth Street  
Landsdale, PA 19446

U.S. EPA  
Region III  
Philadelphia, PA


Docket No. CAA-03-2010- 0294

Respondents

I, the undersigned, hereby certify that, on the date provided below, the original and one true and correct copy of the foregoing Consent Agreement and Final Order were hand-delivered to and filed with the Regional Hearing Clerk, U.S. EPA - Region III, 1650 Arch Street, Philadelphia, PA, and that a true and correct copy was served via Certified Mail, Return Receipt Requested, upon the following person:

Robert Jones, Esq.  
PMC Group, Inc.  
PMC Group Building, 4<sup>th</sup> Floor  
1288 Route 73 South  
Mt. Laurel, NJ 08054

Date: 2/29/10

  
Benjamin M. Cohan  
Sr. Assistant Regional Counsel  
U.S. EPA , Region III  
(215) 814-2695