

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Catherine Smith 9/18/14  
Name of Case Attorney Date

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

Case Docket Number CAA-01-2014-0050

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:

Joseph E. Swift  
Crystal Ice Company, Inc.  
178 Front Street  
New Bedford, MA 02740

Total Dollar Amount of Receivable \$ 6840 Due Date: 10/7/14

SEP due? Yes  No  Date Due \_\_\_\_\_

Installment Method (if applicable)

INSTALLMENTS OF:

1<sup>st</sup> \$ \_\_\_\_\_ on \_\_\_\_\_  
2<sup>nd</sup> \$ \_\_\_\_\_ on \_\_\_\_\_  
3<sup>rd</sup> \$ \_\_\_\_\_ on \_\_\_\_\_  
4<sup>th</sup> \$ \_\_\_\_\_ on \_\_\_\_\_  
5<sup>th</sup> \$ \_\_\_\_\_ 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 17, 2014

**VIA HAND DELIVERY**

Ms. Wanda Santiago  
Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region I  
5 Post Office Square, Suite 100 (ORA 18-1)  
Boston, MA 02109

RECEIVED  
SEP 17 2014  
EPA ORC  
Office of Regional Hearing Clerk

Re: In the Matter of Crystal Ice Company, Inc., 178 Front Street,  
New Bedford, Massachusetts, Docket Number CAA-01-2014-0050

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 black ink, appearing to read "Catherine Smith".

Catherine Smith  
Senior Enforcement Counsel  
U.S. Environmental Protection Agency  
Region I

Enclosures: Expedited Settlement Agreement  
Certificate of Service

cc: Joseph E. Swift, Crystal Ice Company, Inc.



## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

### REGION 1

5 Post Office Square, Suite 100  
Boston, Massachusetts 02109-3912

### **EXPEDITED SETTLEMENT AGREEMENT**

**DOCKET NO:** CAA-01-2014-0050

**This ESA is issued to:** Crystal Ice Company, Inc., 178 Front Street, New Bedford, MA 02740  
**for violating Section 112(r)(7) of the Clean Air Act.**

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This Expedited Settlement Agreement ("ESA") is being entered into by the United States Environmental Protection Agency (EPA), Region 1, by its duly delegated official, Susan Studlien, Director, Office of Environmental Stewardship, and by Respondent, Crystal Ice Company, Inc., 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). On October 18, 2013, EPA obtained the concurrence of the U.S. Department of Justice, pursuant to Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), to pursue this administrative enforcement action.

### ALLEGED VIOLATIONS

On November 17, 2011, authorized representatives of the EPA conducted a compliance inspection of Respondent's facility located at 178 Front Street, New Bedford, Massachusetts to determine compliance with the Risk Management Program ("RMP") regulations promulgated at 40 C.F.R. Part 68 under Section 112(r) of the Act. EPA found that the Respondent had violated regulations implementing Section 112(r) of the Act by failing to comply with the regulations as noted on the attached "Risk Management Program Inspection Findings, Alleged Violations And Proposed Penalty Form" ("Form"), which is hereby incorporated by reference.

### SETTLEMENT

In consideration of Respondent's size of business, its full compliance history, its good faith effort to comply, and other factors as justice may require, and upon consideration of the entire record, the parties enter into the ESA in order to settle the violation, described in the attached Form, for the total penalty amount of \$6,840.

This settlement is subject to the following terms and conditions:

The Respondent, by signing below, waives any objections that it may have regarding jurisdiction, neither admits nor denies the specific factual allegations contained herein and in the Form, and consents to the assessment of the penalty as stated above. Respondent waives its rights 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 the Respondent has corrected the violations listed in the attached Form. Respondent agrees to submit payment of the \$6,840 penalty within 20 days of receiving a fully executed copy of this Settlement Agreement. Respondent may pay the penalty by cashier's check, certified check, or wire transfer.

If payment is made by check, make payable to “Treasurer, United States of America,” include Docket Number CAA-01-2014-0050, and send to:

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

If payment is made by wire transfer, include the Docket Number CAA-01-2014-0050 in Field Tag 6000 and “D 68010727 Environmental Protection Agency” in Field Tag 4200. The wire transfer account is:

Federal Reserve Bank of New York  
33 Liberty Street  
New York NY 10045  
ABA: 021030004  
Account: 68010727  
SWIFT address: FRNYUS33

Respondent must also send a copy of the check or wire transfer receipt to:

Len Wallace  
Environmental Protection Specialist  
Office of Environmental Stewardship (OES 05-1)  
U.S. Environmental Protection Agency Region 1  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912

and

Wanda I. Santiago  
Regional Hearing Clerk (ORA 18-1)  
U.S. Environmental Protection Agency, Region 1  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912

Upon Respondent’s submission of the signed original ESA, EPA will take no further civil penalty action against Respondent for the violations of the Act alleged above and in the Form. This ESA shall not be construed as a covenant not to sue, a release, waiver, or limitation of any rights, remedies, powers, or authorities, civil or criminal that EPA has under the Act or any other statutory, regulatory, or common law enforcement authority of the United States, except as stated above.

If the signed ESA is not returned to the EPA Region 1 office at the above address by the Respondent within 30 days of the date of receipt, the proposed ESA is withdrawn, without prejudice to EPA’s ability to file an enforcement action for the cited violations. If you do not sign and return the ESA and pay the penalty on time, EPA may pursue more formal enforcement

measures, including seeking civil penalties of up to \$37,500 per day for each violation. This ESA is binding on the parties signing below.

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

FOR RESPONDENT:

  
\_\_\_\_\_

Date: 8-29-2014

Name (print): JOSEPH E. SWIFT

Title (print): PRESIDENT

FOR COMPLAINANT:

  
\_\_\_\_\_

Date: 09/09/14

Susan Studlien, Director  
Office of Environmental Stewardship  
U.S. EPA Region 1

I hereby ratify the ESA resolving *In the Matter of Crystal Ice Company, Inc.* No. CAA-01-2014-0050 and incorporate it herein by reference. It is so ORDERED.

  
\_\_\_\_\_

Date: 9/16/14

LeAnn Jensen  
Acting Regional Judicial Officer  
U.S. EPA Region I



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

REASON FOR INSPECTION: This inspection is for the purpose of determining compliance with the accidental release prevention requirements of Section 112(r)(7) of the Clean Air Act (Act), 42 U.S.C. i 7412(r)(7), and the regulations set forth at 40 C.F.R. Part 68. The scope of this inspection may include, but is not limited to: reviewing and obtaining copies of documents and records; interviews and taking of statements; reviewing chemical storage, handling, processing, and use; taking samples and photographs; and any other inspection activities necessary to determine compliance with the Act.

FACILITY NAME: Crystal Ice Company, Inc.	<input checked="" type="checkbox"/> PRIVATE # of EMPLOYEES: 15	<input type="checkbox"/> GOVERNMENTAL/MUNICIPAL
FACILITY ADDRESS: 178 Front Street New Bedford, MA 02740	INSPECTION START DATE AND TIME: 11/17/2011	INSPECTION END DATE AND TIME : 11/17/2011
RESPONSIBLE OFFICIAL, TITLE, PHONE NUMBER: Joseph E. Swift, President 508.997.7522	EPA FACILITY ID#: 1000 0019 5629	
FACILITY REPRESENTATIVE(S), TITLE(S), PHONE NUMBER(S): Robert Hicks, Manager 508.997.7522	INSPECTOR NAME(S), TITLE(S): Leonard B. Wallace IV Kelly J. Patten	

**INSPECTION FINDINGS**

IS FACILITY SUBJECT TO RMP REGULATION (40 CFR Part 68)?  YES  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?  
 YES  NO

DATE RMP INITIALLY FILED WITH EPA: 6/21/2006      DATE OF RMP UPDATE: 6/3/2011

1) PROCESS/NAICS CODE: 312311	PROGRAM LEVEL: 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input checked="" type="checkbox"/>
REGULATED SUBSTANCE: anhydrous ammonia	MAX. QUANTITY IN PROCESS: 22,000 lbs
2) PROCESS/NAICS CODE: _____	PROGRAM LEVEL: 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/>
REGULATED SUBSTANCE: _____	MAX. QUANTITY IN PROCESS: _____ (lbs)

DID FACILITY CORRECTLY ASSIGN PROGRAM LEVELS TO PROCESSES?  YES  NO

ATTACHED CHECKLIST(S):  
 PROGRAM LEVEL 1 PROCESS CHECKLIST     PROGRAM LEVEL 2 PROCESS CHECKLIST     PROGRAM LEVEL 3 PROCESS CHECKLIST

OTHER ATTACHMENTS: \_\_\_\_\_

INSPECTION SYMBOL KEY: Y - YES, N - NO, N/A - NOT APPLICABLE, S - SATISFACTORY, M - MARGINAL, U - UNSATISFACTORY

**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:  
Crystal Ice Company, Inc., New Bedford, Massachusetts

**1. Program Level 3 Alleged Violations and Unadjusted Penalties**

**Section C – Prevention Program [68.65 - 68.81]**

Has the owner or operator documented that equipment complies with recognized and generally accepted good engineering practices [68.65(d)(2)]? – At the time of the inspection, the access to the condensers on Building A was unsafe and needs to be redesigned, because the only access to the wooden elevated platform with no railing was via an open ladder, and there were no hand rails on the inside of the structure. See ANSI/ASHRAE 15-2004 §§ 8.1, 8.3.	\$ 1,500.00
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**Section C – Prevention Program [68.65 - 68.81]**

Has the owner or operator documented that equipment complies with recognized and generally accepted good engineering practices [68.65(d)(2)]? – At the time of the inspection, flammable materials (drums of new and used oil) were being stored in the machinery room, creating a fire hazard. See ANSI/IIAR 2-2008 (2010 ed.) § 13.1.3.1.	\$ 1,500.00
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**Section C – Prevention Program [68.65 - 68.81]**

Has the owner or operator documented that equipment complies with recognized and generally accepted good engineering practices [68.65(d)(2)]? – At the time of the inspection, the facility had only one ammonia detector in the machinery room, near the refrigeration equipment, but no detector near the ceiling where the lighter-than-air ammonia would disperse in the event of a release. See ANSI/ASHRAE 15-2004 § 8.11.2.1; ANSI/IIAR 2-2008 (2010 ed.) §§ 13.2, 13.2.2.	\$ 1,500.00
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**Section C – Prevention Program [68.65 - 68.81]**

<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, the ventilation system for the ice maker in Building B did not allow for adequate cross ventilation because the intake was located up near the ceiling rather than down near the machinery, and the exhausts blow out toward the stairs used to access the ice maker; the emergency ventilation in Building A blows out next to the windows of the engine room. See ANSI/ASHRAE 15-2004 § 8.11.4; ANSI/IIAR 2-1999 §§ 6.2.3.8, 6.2.3.11.</p>	\$ 1,500.00
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**Section C – Prevention Program [68.65 - 68.81]**

<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, the relief header pipe for Building A did not vent at least 20 feet from a window and 15 feet above the adjoining roof level; the relief header pipe for Building B did not vent at least 15 feet above the adjoining roof level. See ANSI/ASHRAE 15-1997 § 9.7.8; ANSI/IIAR 2-1999 § 7.3.2.</p>	\$ 1,500.00
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**Section C – Prevention Program [68.65 - 68.81]**

<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, the machinery room was not isolated from other parts of the building, which in the event of an ammonia release could allow ammonia to spread through the building. See ANSI/ASHRAE 15-2004 § 8.11.2.</p>	\$ 1,500.00
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**Section C – Prevention Program [68.65 - 68.81]**

<p>Has the owner or operator established a system to promptly address the team's findings and recommendations; assured that the recommendations are resolved in a timely manner and documented; documented what actions are to be taken; completed actions as soon as possible; developed a written schedule of when these actions are to be completed; and communicated the actions to operating, maintenance, and other employees whose work assignments are in the process and who may be affected by the recommendations [68.67(e)]?</p> <p>– Action item from the 2010 process hazard analysis (testing of compressor safeties) was scheduled to be completed by February 15, 2011, but was, in fact, not completed until September 8, 2011.</p>	\$ 1,500.00
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**Section C – Prevention Program [68.65 - 68.81]**

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)]? – At the time of the inspection, there was excessive metal corrosion on the structure holding the ammonia condensers. See ANSI/ASHRAE 15-2004 § 8.1; ANSI/IIAR Bulletin No. 109 §§ 4.2.1, 4.2.2.	\$ 900.00
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**Total unadjusted penalty: \$11,400**

**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: **0.6**

**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.

$$\begin{aligned} \text{Proposed Penalty} &= \$11,400 \text{ (Unadjusted Penalty)} \\ &x \quad 0.6 \text{ (Size/Threshold Quantity Multiplier)} \\ &= \underline{\underline{\$6,840}} \end{aligned}$$

**In the Matter of Crystal Ice Company, Inc.**  
**Docket No. CAA-01-2014-0050**

**CERTIFICATE OF SERVICE**

I certify that the foregoing Expedited Settlement Agreement (ESA) was sent to the following persons, in the manner specified, on the date below:

Original and one copy  
hand-delivered:

Wanda Santiago  
Regional Hearing Clerk  
U.S. EPA, Region 1  
5 Post Office Square (ORA 18-1)  
Boston, MA 02109-3912

Copies of ESA and letters  
to Regional Judicial Officer  
and Regional Hearing Clerk  
by mail:

Joseph E. Swift, President  
Crystal Ice Company, Inc.  
178 Front Street  
New Bedford, MA 02740

Dated: 9/17/14



Catherine Smith  
U.S. Environmental Protection Agency, Region 1  
Office of Environmental Stewardship  
5 Post Office Square, Suite 100 (OES04-4)  
Boston, MA 02109-3912  
Tel: (617) 918-1777  
Fax: (617) 918-0777  
Email: smith.catherine@epa.gov