

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Christine Fort 9/24/18
Name of Case Attorney Date

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

Case Docket Number CAA-01-2018-0057

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:

H. LARUE RENFROE, President
New England Sports Management Corp.
121 Donald Lynch Blvd.
Marlborough, MA 01752

Total Dollar Amount of Receivable \$ 9,307.00 Due Date: 12/24/18

SEP due? Yes No Date Due _____

Installment Method (if applicable)

INSTALLMENTS OF:

1ST \$ _____ on _____

2nd \$ _____ on _____

3rd \$ _____ on _____

4th \$ _____ on _____

5th \$ _____ 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 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

RECEIVED

SEP 24 2018

EPA ORC
Office of Regional Hearing Clerk

September 24, 2018

BY HAND

Wanda I. Santiago, Regional Hearing Clerk
U.S. Environmental Protection Agency-Region 1
5 Post Office Square, Suite 100
Mail Code OES04-2
Boston, MA 02109-3912

Re: New England Sports Management Corp. (Marlborough, MA); Docket No. CAA-01-2018-0057

Dear Ms. Santiago:

Enclosed for filing, please find the original and one copy of a Clean Air Act Consent Agreement and Final Order resolving the matter referenced above.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Christine M. Foot".

Christine M. Foot
Enforcement Counsel
EPA Region 1

Enclosures

cc: H. Larue Renfroe, President, New England Sports Management Corp.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

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

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EPA ORC
Office of Regional Hearing Clerk

**CLEAN AIR ACT GENERAL DUTY CLAUSE
EXPEDITED SETTLEMENT AGREEMENT**

In the matter of New England Sports Management Corporation
DOCKET NO: CAA-01-2018-0057

This Expedited Settlement Agreement ("CAA GDC ESA") is being entered into by the United States Environmental Protection Agency ("EPA"), by its duly delegated official, and by Respondent, New England Sports Management Corporation ("Respondent"), pursuant to Sections 113(a)(3) and (d) of the Clean Air Act ("CAA"), 42 U.S.C. §§ 7413(a)(3) and (d), and 40 C.F.R. § 22.13(b), and in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, and the Revocation/Termination or Suspension of Permits at 40 C.F.R. Part 22, to resolve alleged violations of Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), at Respondent's ice skating rink located at 121 Donald Lynch Boulevard in Marlborough, Massachusetts ("NE Sports Center"). EPA and the U.S. Department of Justice have jointly determined that this type of action is an appropriate administrative penalty action under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1).

ALLEGED VIOLATION

Pursuant to Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), owners and operators of stationary sources producing, processing, handling, or storing substances listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance, have a general duty, in the same manner and to the same extent as section 654, title 29 of the United States code, 29 U.S.C. § 654, to (a) identify hazards that may result from accidental releases of such substances, using appropriate hazard assessment techniques; (b) design and maintain a safe facility, taking such steps as are necessary to prevent releases; and (c) minimize the consequences of accidental releases that do occur. This section of the CAA is referred to as the "General Duty Clause" or "GDC." Sections 113(a) and (d) of the CAA, 42 U.S.C. §§ 7413(a) and (d), provide for the assessment of civil penalties for violations of Section 112(r) of the CAA, 42 U.S.C. § 7412(r).

The term "accidental release" is defined by Section 112(r)(2)(A) of the CAA, 42 U.S.C. § 7412(r)(2)(A), as an unanticipated emission of a regulated substance or other extremely hazardous substance into the ambient air from a stationary source. Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), defines "stationary source" as any buildings, structures, equipment, installations, or substance-emitting stationary activities, located on one or more contiguous properties under the control of the same person, from which an accidental release may occur. The term "have a general duty in the same manner and to the same extent as section 654, title 29 of the United States code" means owners and operators must comply with the General Duty Clause in the same manner and to the same extent as employers must comply

with the Occupational Safety and Health Act administered by the Occupational Safety and Health Administration.

Respondent owns and operates the NE Sports Center, which is an ice skating rink with three ammonia refrigeration systems ("Systems"). The NE Sports Center is a building or structure from which an accidental release may occur and is therefore a "stationary source," as defined at Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C). The Systems use anhydrous ammonia, a chemical that is listed pursuant to Section 112(r)(3), 42 U.S.C. § 7412(r)(3), as an "extremely hazardous substance," and that is subject to the General Duty Clause.

On June 12, 2018, Respondent responded to an Information Request ("IR") issued by EPA regarding the NE Sports Center. In its response to the IR, Respondent indicated that it had failed to conduct an adequate hazard review of each of the Systems, using appropriate hazard assessment techniques ("Process Hazard Review"). The recommended industry practice and standard of care for identifying, analyzing, and evaluating potential hazards associated with ammonia refrigeration systems of this size is to use standard, industry-developed checklists or other methods such as a "What If" analysis. By failing to conduct adequate Process Hazard Reviews of the Systems using appropriate hazard assessment techniques, Respondent failed to identify hazards that may result from accidental releases, in violation of the first requirement of the General Duty Clause, Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1). This CAA GDC ESA neither alleges nor resolves any violations of the other two requirements of the General Duty Clause.

TERMS OF SETTLEMENT

Respondent and EPA agree to the following terms of settlement, which include compliance measures and a penalty. Section 113(d)(2)(B) of the CAA, 42 U.S.C. § 7413(d)(2)(B), authorizes EPA to impose the following conditions on any administrative penalty imposed under this subsection.

1) Process Hazard Review Conducted by Third Party Expert

Respondent certifies that:

- a. Respondent retained an independent third-party ammonia refrigeration system consultant ("Refrigeration Consultant") to perform an adequate Process Hazard Review of the Systems in accordance with Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), using appropriate hazard assessment techniques.
- b. The Refrigeration Consultant performed the Process Hazard Review(s) of the Systems, thereby correcting its failure to identify hazards pursuant to Section 112(r)(1) of the CAA.
- c. The Refrigeration Consultant met the following competency requirements:
 - i. The Refrigeration Consultant had experience conducting process hazard analyses and reviews under Section 112(r) of the CAA;
 - ii. The Refrigeration Consultant was knowledgeable about the industry codes, standards, and bulletins that apply to ammonia refrigeration facilities; and

- iii. The Refrigeration Consultant had experience designing refrigeration systems to meet such codes, standards, and bulletins (or had access to someone who does have such design experience).
- 2) **Meeting with Emergency Responders:** Respondent certifies that it met with the relevant off-site emergency responders to coordinate plans for responding to a potential release of anhydrous ammonia from the Systems.
- 3) **Resumé and Plans for Safety Improvements:**
- a. With this agreement, Respondent is submitting the resumé of the Refrigeration Consultant ("Resumé"). Respondent need not submit the Process Hazard Review nor its contract with the Refrigeration Consultant unless requested at a later time. If so requested, Respondent agrees to submit the Process Hazard Review and contract to EPA within 10 days of such a request.
 - b. With this agreement, Respondent is attaching a short statement about what actions Respondent is taking at the NE Sports Center to improve safety as a result of conducting the Process Hazard Review ("Safety Plan Statement").
- 4) **Civil Penalty Payment:**
- a. In consideration of the facts alleged above, the statutory penalty factors listed in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), EPA's right to compromise penalties as provided by 42 U.S.C. § 7413(d)(2)(b), Respondent's timely submission of its response to the Information Request, its willingness to resolve this violation quickly, its agreement to the settlement terms, such other circumstances as justice may require, and applicable EPA penalty policies, Respondent agrees to pay a total penalty amount of **\$9,307**, which the parties agree is an amount that is fair, appropriate, and in the public interest for the settlement of this matter.
 - b. Respondent certifies that it has submitted a check in the amount of **\$9,307**, made payable to the "Treasurer, United States of America" to the following address:

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

Respondent included the case name ("*In the matter of New England Sports Management Corp.*") and docket number (CAA-01-2018-0057) of the CAA GDC ESA on the check. Respondent also included the following statement along with the submission of the penalty payment check to the EPA Cincinnati Finance Center:

In settlement of EPA's administrative penalty action against New England Sports Management Corporation for violations of the CAA (Docket No. CAA-01-2018-0057), the corporation submits the enclosed penalty payment check. This is a deposit, which should be held until the Expedited Settlement Agreement in this case is signed and submitted to the EPA Cincinnati Finance Center at which time the check may be cashed.

Within 30 days of receipt of this proposed CAA GDC ESA, Respondent shall send the signed CAA GDC ESA, the Resumé, the Safety Plan Statement, and a copy of the penalty payment check by certified mail to:

Christine M. Foot
Enforcement Counsel
Office of Environmental Stewardship (OES 04-2)
U.S. Environmental Protection Agency Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

Upon receipt of the CAA GDC ESA signed by the Respondent, the CAA GDC ESA will be presented to the EPA Regional Judicial Officer for issuance of the proposed Final Order below. Once the Final Order is signed by the Regional Judicial Officer, the original of the fully executed CAA GDC ESA and Final Order will be filed with the EPA Regional Hearing Clerk and copies sent to both the EPA Cincinnati Finance Center and the Respondent. EPA will take no further civil action against Respondent for the violation of the CAA General Duty Clause alleged above, once the fully executed CAA GDC ESA is filed with the Regional Hearing Clerk.

For purposes of this proceeding, Respondent admits that EPA has jurisdiction over the allegations contained herein, neither admits nor denies the specific factual allegations contained herein, and consents to the terms of settlement as stated above and to the assessment of the stated penalty. Respondent waives its rights to contest jurisdiction and the allegations herein, to a hearing afforded by Section 113(d)(2)(A) of the CAA, 42 U.S.C § 7413(d)(2)(A), and to appeal this CAA GDC ESA and Final Order. Each party to this action shall bear its own costs and fees, if any.

Respondent understands that making a false submission to the United States Government can subject Respondent to civil and criminal penalties.

The terms, conditions, and compliance requirements of this CAA GDC ESA may not be modified except upon the written agreement of both parties and approval of the Regional Judicial Officer, except that the Regional Judicial Officer need not approve written agreements between the parties modifying the 30-day deadline.

Nothing in this CAA GDC ESA shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

This CAA GDC ESA shall resolve only the violation alleged herein, and it does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of the Clean Air Act.

If the signed original CAA GDC ESA is not returned within 30 days of Respondent's receipt of the proposed CAA GDC ESA, the proposed settlement offer will be withdrawn without prejudice to EPA's ability to file a formal enforcement action for the violation identified herein, unless the parties have agreed in writing to extend the deadline.

This CAA GDC ESA is binding on the parties signing below.

FOR COMPLAINANT EPA:

By: Tim Conway
Tim Conway, Acting Director
Office of Environmental Stewardship
U.S. EPA Region 1

Date: 9/18/18

FOR RESPONDENT:

By: Hanne Shapiro
Name (print): H. LARUE RENNOLD
Title (print): PRESIDENT

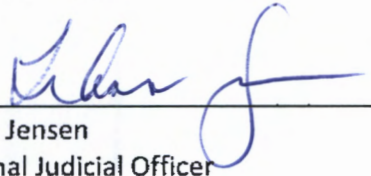
Date: 9/12/18

FINAL ORDER

Pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b) and (c) of EPA's *Consolidated Rules of Practice*, the foregoing Expedited Settlement Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified.

In accordance with 40 C.F.R. § 22.31(b), this Final Order is effective on the date it is filed with the Regional Hearing Clerk.

It is so ORDERED.



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

Date: 9/21/18