

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Catherine Smith 8/14/18  
Name of Case Attorney Date

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

Case Docket Number CERCLA-01-2018-0044 & EPCRA-01-2018-0045

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:

David Slapin, President  
Twenty-Five Commerce, Inc.  
25 Commerce Street  
Norwalk, CT 06850

Total Dollar Amount of Receivable \$ 27,095 Due Date: 9/12/18

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



U. S. ENVIRONMENTAL PROTECTION AGENCY – NEW ENGLAND  
5 POST OFFICE SQUARE, SUITE 100 (OES04-4)  
BOSTON, MA 02109-3912

**HAND DELIVERY**

August 14, 2018

Ms. Wanda Santiago  
Regional Hearing Clerk  
U.S. EPA, Region I  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912

RECEIVED

AUG 14 2018  
EPA ORC  
Office of Regional Hearing Clerk

Re: Twenty-Five Commerce, Inc. d/b/a Crystal Ice. CERCLA-01-2018-0044 and  
EPCRA-01-2018-0045

Dear Ms. Santiago:

Attached for filing in the above-referenced matter are an original and one copy of an executed *Consent Agreement and Final Order* (“CAFO”) for the above-referenced matter that the EPA has entered into with the Respondent. Also attached are an original and one copy of a Certificate of Service.

EPA also has sent copies of the CAFO, the Certificate of Service, and this letter to the Respondent by Certified Mail.

Thank you for your assistance. Please call me if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Catherine Smith".

Catherine Smith  
Senior Enforcement Counsel

cc: Drew Meyer, EPA  
David Slapin, Twenty-Five Commerce, Inc. d/b/a Crystal Ice

Enclosures:

1. Original CAFO and copy of CAFO
2. Certificate of Service and copy

Twenty-Five Commerce, Inc. d/b/a Crystal Ice.  
CERCLA-01-2018-0044 and EPCRA-01-2018-0045

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Consent Agreement and Final Order has been sent to the following persons on the date and in the manner noted below:

Original and one copy,  
hand-delivered:

Ms. Wanda Santiago, Regional Hearing Clerk (RHC)  
U.S. EPA, Region I  
5 Post Office Square, Suite 100  
Boston, MA 02109-3812

Copy, by Certified Mail  
and E-Mail

David Slapin  
President  
Twenty-Five Commerce, Inc. d/b/a Crystal Ice  
25 Commerce Street  
Norwalk, CT 06850  
[david@crystalicecubes.com](mailto:david@crystalicecubes.com)

Date: Aug. 14, 2018 (to RHC)  
Aug. 15, 2018 (to company)



Catherine Smith  
Senior Enforcement Counsel  
U.S. Environmental Protection Agency,  
Region 1  
5 Post Office Square, Suite 100 (OES-04-4)  
Boston, MA 02109-3812  
(617) 918-1777  
[smith.catherine@epa.gov](mailto:smith.catherine@epa.gov)

Twenty-Five Commerce, Inc. d/b/a Crystal Ice.  
CERCLA-01-2018-0044 and EPCRA-01-2018-0045

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Consent Agreement and Final Order has been sent to the following persons on the date and in the manner noted below:

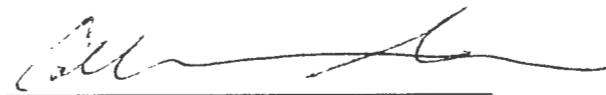
Original and one copy,  
hand-delivered:

Ms. Wanda Santiago, Regional Hearing Clerk (RHC)  
U.S. EPA, Region I  
5 Post Office Square, Suite 100  
Boston, MA 02109-3812

Copy, by Certified Mail  
and E-Mail

David Slapin  
President  
Twenty-Five Commerce, Inc. d/b/a Crystal Ice  
25 Commerce Street  
Norwalk, CT 06850  
[david@crystalicecubes.com](mailto:david@crystalicecubes.com)

Date: Aug. 14, 2018 (to RHC)  
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Catherine Smith  
Senior Enforcement Counsel  
U.S. Environmental Protection Agency,  
Region 1  
5 Post Office Square, Suite 100 (OES-04-4)  
Boston, MA 02109-3812  
(617) 918-1777  
[smith.catherine@epa.gov](mailto:smith.catherine@epa.gov)

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1**

\_\_\_\_\_  
In the Matter of )  
 )  
Twenty-Five Commerce Inc. d/b/a Crystal Ice )  
 )  
 )  
25 Commerce Street )  
Norwalk, CT 06852 )  
 )  
Respondent. )  
 )  
 )  
Proceeding under Section 109(b) )  
of the Comprehensive Environmental Response, )  
Response, Compensation, and Liability Act, )  
42 U.S.C. § 9609(b), and Section 325(c) of the )  
Emergency Planning and Community )  
Right-to-Know Act, 42 U.S.C. § 11045(c) )  
\_\_\_\_\_ )



Docket Nos:  
CERCLA-01-2018-0044  
EPCRA-01-2018-0045

**CONSENT AGREEMENT AND FINAL ORDER**

1. The United States Environmental Protection Agency Region 1 (“EPA” or “Complainant”) and Twenty-Five Commerce, Inc. d/b/a Crystal Ice (“Respondent”) consent to the entry of this Consent Agreement and Final Order (“CAFO”) pursuant to 40 C.F.R. § 22.13(b) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Suspension of Permits, 40 C.F.R. Part 22 (“Consolidated Rules of Practice”). This CAFO resolves Respondent’s liability for alleged violations of Section 103(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 U.S.C. § 9603(a), and Section 312 of Title III of the Superfund Amendments and Reauthorization Act, also known as the Emergency Planning and Community Right-to-Know Act of 1986 (“EPCRA”), 42 U.S.C. § 11022.

2. EPA and Respondent hereby agree to settle this matter through this CAFO without the filing of an administrative complaint, as authorized under 40 C.F.R. §§ 22.13(b) and 22.18(b).

3. EPA and Respondent agree that settlement of this matter is in the public interest, and that entry of this CAFO without further litigation is the most appropriate means of resolving this matter.

4. Therefore, before taking any testimony, upon the pleadings, without adjudication or admission of any issue of fact or law, it is hereby ordered as follows:

#### **I. PRELIMINARY STATEMENT**

5. This CAFO both initiates and resolves an administrative action for the assessment of monetary penalties, pursuant to Section 109(b) of CERCLA, 42 U.S.C. § 9609(b), and Section 325(c) of EPCRA, 42 U.S.C. § 11045(c). As more thoroughly discussed in Sections III through V below, the CAFO resolves the following CERCLA and EPCRA violations that Complainant alleges occurred in conjunction with Respondent's storage and handling of anhydrous ammonia at its ice-making facility in Norwalk, Connecticut:

- a. failure to timely report a September 21, 2016 release of ammonia to the National Response Center, in violation of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a); and
- b. failure to timely submit Tier 2 hazardous chemical inventory forms to the proper authorities, in violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a), and its implementing regulations at 40 C.F.R. Part 370.

Respondent has corrected both violations.

## II. STATUTORY AND REGULATORY AUTHORITY

### CERCLA Statutory and Regulatory Authority

6. Section 103(a) of CERCLA requires that any person in charge of an onshore facility report the non-permitted release of a hazardous substance from the facility to the National Response Center as soon as that person has knowledge of such a release in an amount equal to or greater than the reportable quantity, as determined pursuant to Section 102 of CERCLA, 42 U.S.C. § 9602.

7. Section 102(a) of CERCLA, 42 U.S.C. § 9602(a), requires the Administrator of EPA to, among other things, promulgate regulations establishing the reportable quantities of any hazardous substance.

8. EPA promulgated the federal regulations known as the CERCLA Notification Rules, 40 C.F.R. Part 302, to implement Sections 102 and 103 of CERCLA. These regulations designate the hazardous substances subject to notification requirements, identify the reportable quantities for those substances, and set forth the notification requirements for those substances.

9. Forty C.F.R. § 302.6 requires, among other things, that any person in charge of an onshore facility report the non-permitted release of a hazardous substance from the facility to the National Response Center as soon as that person has knowledge of such a release in an amount equal to or greater than the reportable quantity.

10. Sections 109(a) and (b) of CERCLA, 42 U.S.C. §§ 9609(a) and (b), as amended by laws and regulations that increase penalties for inflation, provide for the assessment of civil penalties for violations of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), in amounts of up to \$55,907 per day for violations occurring after November 2, 2015. The laws and regulations that

govern inflation adjustments include the Debt Collection Improvement Act (“DCIA”), 31 U.S.C. § 3701; the Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101-410, 28 U.S.C. § 2461 note, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, section 701 of Public Law 114-74, 129 Stat. 599 (Nov. 2, 2015); and EPA’s Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 1. Section 109(b) of CERCLA, 42 U.S.C. § 9609(b), specifies higher penalties for subsequent violations.

#### EPCRA Statutory and Regulatory Authority

11. In accordance with Section 312(a) of EPCRA, 42 U.S.C. § 11022(a), the owner or operator of a facility that is required under the Occupational Safety and Health Act (“OSHA”) to prepare or have available a material safety data sheet (“MSDS”) for a hazardous chemical must prepare and submit an emergency and hazardous chemical inventory form (“Tier 1” or “Tier 2” form) to the state emergency response commission (“SERC”), the local emergency planning committee (“LEPC”), and the local fire department. Tier 1 or Tier 2 forms must be submitted annually on or before March 1 and are required to contain chemical inventory information with respect to the preceding calendar year. Additionally, Section 312(b) of EPCRA, 42 U.S.C. § 11022(b), authorizes EPA to establish minimum threshold levels of hazardous chemicals for the purposes of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

12. The regulations promulgated pursuant to Section 312 of EPCRA, 42 U.S.C. § 11022, are found at 40 C.F.R. Part 370.

13. In accordance with Section 312(b) of EPCRA, 42 U.S.C. § 11022(b), 40 C.F.R. § 370.10(a) establishes minimum threshold levels for hazardous chemicals for the purposes of Part 370. Under 40 C.F.R. §§ 370.20, 370.40, 370.44, and 370.45, the owner or operator of a facility that has present a quantity of a hazardous chemical exceeding the minimum threshold



level must prepare and submit a Tier 1 or Tier 2 form to the LEPC, SERC, and local fire department. Forty C.F.R. § 370.45 prescribes that Tier 1 or Tier 2 forms must be submitted annually on or before March 1 and are required to contain chemical inventory information with respect to the preceding calendar year. The LEPC, SERC, or local fire department may request that a facility submit the more comprehensive Tier 2 form in lieu of the Tier 1 form. Connecticut requires the Tier 2 form. See <http://www.ct.gov/serc/cwp/view.asp?a=2590&q=315308> (last visited June 19, 2018).

14. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), as amended by laws and regulations that increase penalties for inflation, provides for the assessment of civil penalties for violations of Section 312 of EPCRA in amounts up to \$37,500 per day per violation for violations occurring from December 7, 2013 through November 2, 2015, and in amounts up to \$55,907 per day per violation for violations that occurred after November 2, 2015. The laws and regulations governing inflation are the same as those cited in paragraph 10, above.

### **III. GENERAL ALLEGATIONS**

15. Respondent, Twenty-Five Commerce, Inc. d/b/a Crystal Ice, operates a facility located at 25 Commerce Street, Norwalk, Connecticut, where it makes ice (the "Facility").

16. The Facility is located in downtown Norwalk, Connecticut, near other businesses and residences.

17. Respondent is a company organized under the laws of the State of Connecticut. As a corporation, Respondent is a "person" within the meaning of:

- (a) Section 101(21) of CERCLA, 42 U.S.C. § 9601(21), and 40 C.F.R. § 302.3; and
- (b) Section 329(7) of EPCRA, 42 U.S.C. § 11049(7), and 40 C.F.R. § 370.66.

18. The Facility's ice-making equipment includes a refrigeration system ("System") that uses approximately 5,100 pounds of anhydrous ammonia as the refrigerant. According to information received from Respondent, Respondent charged the System with 2,000 pounds of ammonia in or about 1988 and increased the amount of ammonia thereafter.

19. Anhydrous ammonia is a clear, colorless gas at atmospheric conditions of temperature and pressure with a strong odor. It is often stored and shipped under pressure as a liquid. It presents a significant health hazard because it is corrosive to the skin, eyes, and lungs. Ammonia vapors may be fatal if inhaled. Exposure to 300 parts per million by volume is immediately dangerous to life and health. Ammonia gas is generally regarded as nonflammable but does burn at concentrations of approximately 15.5% to 27% by volume in air with strong ignition. It can explode if released in an enclosed space with a source of ignition present or if a vessel containing anhydrous ammonia is exposed to fire.

20. Anhydrous ammonia is a "hazardous chemical" subject to reporting under EPCRA Section 312, 42 U.S.C. § 11022, and a "hazardous substance" subject to reporting under CERCLA Section 103(a), 42 U.S.C. § 9603(a). For purposes of EPCRA, it is also listed as an "extremely hazardous substance" in Appendix A of 40 C.F.R. Part 355.

21. The threshold planning quantity for anhydrous ammonia under EPCRA Section 312 and implementing regulations is 500 pounds. *See* 40 C.F.R. § 370.10(a)(1) and Appendix A of 40 C.F.R. Part 355. The reportable quantity for reporting ammonia releases is 100 pounds. 40 C.F.R. § 302.4.

22. On September 21, 2016, at approximately 2:45 p.m., a release of approximately 150 pounds of anhydrous ammonia occurred at the Facility when a faulty pressure control switch on one of the System's compressors failed, resulting in over-pressurization of the System.

Anhydrous ammonia was subsequently released through a pressure relief device on the rooftop (the "Release"). A supervisor at the Facility shut down the ammonia refrigeration system, which ended the Release.

23. On September 21, 2016, an employee of a neighboring company called 911 to report the Release when workers detected a strong odor in that company's yard. The yard was evacuated.

24. The Norwalk Fire Department responded to the Release. Emergency responders closed off streets around the area while they sought the source of the Release. There were no known injuries.

25. Later on the same day, September 21, 2016, the Norwalk Fire Department notified the Connecticut Department of Energy and Environmental Protection's Emergency Response and Spill Prevention Division about the Release.

26. On October 25, 2016, duly authorized representatives of the EPA conducted an inspection of the Facility (the "Inspection").

27. In October of 2016, Respondent submitted its first Tier 2 form and notified the National Response Center of the Release. The report to the National Response Center stated that 150 pounds of ammonia were released.

28. In the months to follow, Respondent filed another EPCRA Tier 2 form in February of 2017 and undertook work on the System to correct potential violations of the Clean Air Act's General Duty Clause (42 U.S.C. § 7412(r)(1)) that the EPA inspectors had found during the Inspection.

29. As a result of EPA's Inspection and a review of information provided by Respondent, EPA alleges the following violations:

#### IV. VIOLATIONS

##### **COUNT I: FAILURE TO NOTIFY THE NATIONAL RESPONSE CENTER OF A RELEASE IN VIOLATION OF CERCLA**

30. Complainant realleges and incorporates by reference paragraphs 1 through 29.

31. Section 103(a) of CERCLA, 42 U.S.C. 9603(a), and 40 C.F.R. § 302.6(a) require a person in charge of an onshore facility to immediately notify the National Response Center as soon as he has knowledge of a release (other than a federally permitted release) of a hazardous substance from such facility in an amount equal to or greater than the reportable quantity of that substance.

32. As alleged above, each Respondent is a “person,” as defined at Section 101(21) of CERCLA, 42 U.S.C. § 9601(21), and 40 C.F.R. § 302.3.

33. The Facility is an “onshore facility,” as defined at Section 101(18) of CERCLA, 42 U.S.C. § 9601(18), and 40 C.F.R. § 302.3.

34. At the time of the Release, Respondent was “in charge of” the onshore facility.

35. Ammonia is a “hazardous substance,” as defined at Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), and 40 C.F.R. § 302.3.

36. Pursuant to 40 C.F.R. § 302.4, the reportable quantity for an ammonia release is 100 pounds, as determined in any 24-hour period.

37. The Release on September 21, 2016 was a “release” into the environment, as defined at Section 101(22) of CERCLA, 42 U.S.C. § 9601(22), and 40 C.F.R. § 302.3.

38. The Release of approximately 150 pounds of anhydrous ammonia from the Facility exceeded the reportable quantity.

39. The Release was not a “federally-permitted release,” as defined at Section 101(10) of CERCLA, 42 U.S.C. § 9601(10).

40. Accordingly, Respondent was required to immediately notify the National Response Center as soon as Respondent knew that the amount of anhydrous ammonia released exceeded the reportable quantity.

41. Respondent knew or should have known that the Release exceeded the reportable quantity on September 21, 2016 or shortly thereafter.

42. Respondent did not notify the National Response Center of the Release until after EPA inspected on October 25, 2016, over a month after the Release occurred.

43. Accordingly, Respondent’s failure to immediately notify the National Response Center as soon as it had knowledge that the Release at the Facility exceeded the reportable quantity violated Section 103(a) of CERCLA and 40 C.F.R. § 302.6(a).

**COUNT II: FAILURE TO SUBMIT CHEMICAL INVENTORY FORMS IN VIOLATION OF EPCRA SECTION 312**

44. Complainant realleges and incorporates by reference paragraphs 1 through 43.

45. Pursuant to Section 312 of EPCRA, 42 U.S.C. § 11022, and 40 C.F.R. Part 370, commencing on or before the March 1 following the date upon which Respondent was required to have available an MSDS for anhydrous ammonia at the Facility, and on or before the March 1 of each year thereafter, Respondent was required to submit an emergency and hazardous chemical inventory form (“Inventory Form”), containing the data regarding anhydrous ammonia at the Facility, required under Section 312, for the preceding calendar year to the appropriate LEPC, the SERC, and the fire department with jurisdiction over the facility.

46. Specifically, Respondent was required to submit Inventory Forms to the appropriate LEPC, the SERC, and the fire department with jurisdiction over the Facility for years before it did, including, but not limited to, the following years:

- a. March 1, 2012 for reporting year (“RY”) 2011;
- b. March 1, 2013 for RY 2012;
- c. March 1, 2014 for RY 2013;
- d. March 1, 2015 for RY 2014; and
- e. March 1, 2016 for RY 2015.

47. Respondents never submitted Inventory Forms to the appropriate LEPC, the SERC, and the fire department with jurisdiction over the Facility until after notification of EPA’s Inspection in October of 2016.

48. Pursuant to EPCRA Section 325(c)(3), 42 U.S.C. § 11045(c)(3), each day that Respondent failed to timely submit an Inventory Form for anhydrous ammonia to the appropriate LEPC, SERC, and fire department with jurisdiction over the Facility, constitutes a separate violation of Section 312 of EPCRA, 42 U.S.C. § 11022.

49. Accordingly, Respondent’s failure to submit the required Inventory Forms until 2016 violated Section 312 of EPCRA, 42 U.S.C. § 11022, and 40 C.F.R. Part 370.

## **V. TERMS OF SETTLEMENT**

50. The provisions of this CAFO shall apply to and be binding on EPA and on Respondent and its officers, directors, agents, successors, and assigns.

51. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in this CAFO and that this CAFO states a claim upon which relief may be granted against

Respondent. Respondent hereby waives any defenses it might have as to jurisdiction and venue relating to the violations alleged in this CAFO.

52. Respondent neither admits nor denies the specific factual allegations contained in Section III of this CAFO or the violations alleged in Section IV of this CAFO. Respondent consents to the assessment of the penalty stated herein.

53. Respondent hereby waives its right to a judicial or administrative hearing on any issue of law or fact set forth in this CAFO and waives its right to appeal the Final Order.

54. Respondent certifies that it is currently operating the Facility in compliance with Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), and Section 312 of EPCRA, 42 U.S.C. § 11022.

55. Pursuant to Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), and Section 109(a)(3) of CERCLA, 42 U.S.C. § 9609(a)(3), and taking into account the relevant statutory penalty criteria, the facts alleged in this CAFO, and such other circumstances as justice may require, EPA has determined that it is fair and proper to assess a civil penalty of twenty-seven thousand ninety-five dollars (\$27,095) for the violations alleged in this matter.

56. Respondent consents to the issuance of this CAFO and to the payment of the civil penalty cited in paragraph 55.

57. Within thirty (30) days of the effective date of this CAFO, Respondent shall pay the total penalty amount of \$27,095 according to the following instructions:

a. Respondent shall pay the penalty by submitting a company, bank, cashier's, or certified check, payable to the order of the "Treasurer, United States of America," in the amount of \$27,095, to:

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

- b. Respondent may make payment by electronic funds transfer instead of check via:

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT Address = FRNYUS33  
33 Liberty Street  
New York, NY 10045  
Field Tag 4200 of the Fedwire message should read:  
"D 68010727 Environmental Protection Agency"

- c. Respondent shall include the case name and docket numbers ("*In re. Twenty-five Commerce, Inc. d/b/a Crystal Ice*, Docket Nos. CERCLA-01-2018-0044 and EPCRA-01-2018-0045") on the face of each check or wire transfer confirmation. In addition, at the time of payment, Respondent shall simultaneously send notice of the payment and a copy of each check or electronic wire transfer confirmation to:

Wanda I. Santiago  
Regional Hearing Clerk (Mail Code ORC 4-6)  
U.S. Environmental Protection Agency, Region 1  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912

and

Catherine Smith  
Senior Enforcement Counsel (Mail Code OES 04-04)  
U.S. Environmental Protection Agency, Region 1  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912

58. In the event that any portion of the civil penalty amount is not paid by the required due date, the total penalty amount of \$27,095 plus all accrued interest shall become due immediately to the United States upon such failure. Then, interest as calculated in paragraph 59



shall continue to accrue on any unpaid amounts until the total amount due has been received by the United States. Respondent shall be liable for such amount regardless of whether EPA has notified Respondent of its failure to pay or made a demand for payment. All payments to the United States under this paragraph shall be made by company, bank, cashier's, or certified check, or by electronic funds transfer, as described in paragraph 57.

59. **Collection of Unpaid CERCLA/EPCRA Penalty:** Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. In the event that any portion of the civil penalty amount relating to the alleged violations is not paid when due, the penalty shall be payable, plus accrued interest, without demand. Interest shall be payable at the rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b)(2) and shall accrue from the original date on which the penalty was due to the date of payment. In addition, a penalty charge of six percent per year will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. Should assessment of the penalty charge on the debt be required, it will be assessed as of the first day payment is due under 31 C.F.R. § 901.9(d). In any such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

60. The civil penalty under this CAFO and any interest, nonpayment penalties, and other charges described herein shall represent penalties assessed by EPA, and shall not be deductible for purposes of federal taxes. Accordingly, Respondent agrees to treat all payments made pursuant to this CAFO as penalties within the meaning of Section 1.62-21 of the Internal Revenue Code, 26 U.S.C. § 162-21, and further agrees not to use these payments in any way as, or in furtherance of, a tax deduction under federal, state, or local law.

61. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 109 of CERCLA and Section 325(c) of EPCRA for the violations alleged herein. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to federal laws and regulations administered by EPA for matters not addressed in this CAFO, and it is the responsibility of Respondent to comply with all applicable provisions of federal, state, or local law.

62. This CAFO in no way relieves Respondent or its employees of any criminal liability, and EPA reserves all its other criminal and civil enforcement authorities, including the authority to seek injunctive relief and the authority to undertake any action against Respondent in response to conditions which may present an imminent and substantial endangerment to the public health, welfare, or the environment.

63. Nothing in this agreement shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondent's violation of this CAFO or of the statutes and regulations upon which the Complaint and this CAFO is based, or for Respondent's violation of any applicable provision of law.

64. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state, or local law; nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.

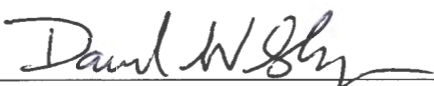
65. The parties shall bear their own costs and fees in this action, including attorney's fees, and specifically waives any right to recover such costs from the other parties pursuant to the Equal Access to Justice Act, 5 U.S.C § 504, or other applicable laws.

66. The terms, conditions, and requirements of this CAFO may not be modified without the written agreement of all parties and approval of the Regional Judicial Officer.


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

68. Each undersigned representative of the parties certifies that he is fully authorized by the party responsible to enter into the terms and conditions of this CAFO and to execute and legally bind that party to it.

FOR RESPONDENT TWENTY-FIVE COMMERCE, INC. D/B/A CRYSTAL ICE:

  
Name: David W Slapin Date: 7/20/18  
Title: President  
Twenty-Five Commerce, Inc. d/b/a Crystal Ice

FOR U.S. ENVIRONMENTAL PROTECTION AGENCY:

  
Date: 8/6/18  
Joanna Jerison,  
Legal Enforcement Manager  
Office of Environmental Stewardship  
U.S. Environmental Protection Agency, Region 1

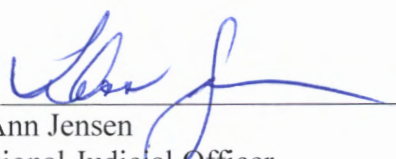
**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1**

In the Matter of	)	
	)	
Twenty-Five Commerce Inc. d/b/a Crystal Ice	)	
	)	Docket Nos.:
	)	
25 Commerce Street	)	CERCLA-01-2018-0044
Norwalk, CT 06852	)	EPCRA-01-2018-0045
	)	
Respondent.	)	
	)	
Proceeding under Section 109(b)	)	
of the Comprehensive Environmental Response,	)	
Response, Compensation, and Liability Act,	)	
42 U.S.C. § 9609(b), and Section 325(c) of the	)	
Emergency Planning and Community	)	
Right-to-Know Act, 42 U.S.C. § 11045(c)	)	
	)	

**FINAL ORDER**

Pursuant to 40 C.F.R. § 22.18(b)-(c) of EPA's Consolidated Rules of Practice, the foregoing Consent Agreement is incorporated by reference into this Final Order and hereby ratified. Respondent is hereby ordered to comply with the terms of the Consent Agreement, which will be effective on the date is filed with the Regional Hearing Clerk.

Date: August 13, 2018

  
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LeAnn Jensen  
Regional Judicial Officer  
U.S. Environmental Protection Agency, Region 1