

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Laura J. Berry
Name of Case Attorney

5/15/14
Date

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

Case Docket Number CAA-01-2013-0061, EPCRA-01-2013-0062, CAA-01-2013-0063, CAA-01-2013-0065
EPCRA-01-2013-0066, CAA-01-2013-0067 and EPCRA-01-2013-0068
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:

Cold Storage Solutions, Inc., 230 Kenneth Welch Drive, Lakeville, MA 02347
Cold Storage Solutions I, Inc., 310 Kenneth Welch Drive, Lakeville MA 02347
Cold Storage Solutions II, Inc., 220 Kenneth Welch Drive, Lakeville, MA 02347
Cold Storage Solutions III, Inc., 234 Kenneth Welch Drive, Lakeville, MA 02347

Total Dollar Amount of Receivable \$ 108,000 Due Date: 6/14/14

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 – NEW ENGLAND

RECEIVED

MAY 15 2014

EPA ORC
Office of Regional Hearing Clerk

IN THE MATTERS OF:

Cold Storage Solutions, Inc.
230 Kenneth Welch Drive
Lakeville, MA 02347

Cold Storage Solutions I, Inc.
310 Kenneth Welch Drive
Lakeville, MA 02347

Cold Storage Solutions II, Inc.
220 Kenneth Welch Drive
Lakeville, MA 02347

Cold Storage Solutions III, Inc.
234 Kenneth Welch Drive
Lakeville, MA 02347

Respondents

Docket Nos.:

CAA-01-2013-0061
EPCRA-01-2013-0062

CAA-01-2013-0063

CAA-01-2013-0065
EPCRA-01-2013-0066

CAA-01-2013-0067
EPCRA-01-2013-0068

CONSENT AGREEMENT
AND FINAL ORDER

CONSENT AGREEMENT

Complainant, the United States Environmental Protection Agency (“EPA” or “Complainant”), having filed a Complaint and Notice of Opportunity for Hearing (“Complaint”) against each of the Respondents, Cold Storage Solutions, Inc. (“CSS”), Cold Storage Solutions I, Inc. (“CSSI”), Cold Storage Solutions II, Inc. (“CSSII”), and Cold Storage Solutions III, Inc. (“CSSIII,” and collectively, “Respondents”), on September 30, 2013;

Respondents, each having informally disputed the Complaints and having received extensions to file an Answer and Request for Hearing until April 21, 2014;

Respondents having a common President, who is authorized to enter into a Consent Agreement and Final Order (“CAFO”) on behalf of each of the Respondents; and

Complainant and Respondents (“the Parties”) having agreed that settlement of these matters is in the public interest, and that entry of this CAFO without further litigation and litigation expense is the most appropriate means of resolving these matters,

NOW, THEREFORE, before the taking of any testimony, upon the pleadings, without adjudication of any issue of fact or law, and upon consent and agreement of the Parties, it is hereby Ordered and Adjudged as follows:

STATUTORY AND REGULATORY AUTHORITY

1. This CAFO resolves four administrative actions for the assessment of monetary penalties brought pursuant to Section 113(d) of the Clean Air Act (“CAA”), 42 U.S.C. § 7413(d); Section 325(c) of Title III of the Superfund Amendments and Reauthorization Act, 42 U.S.C. § 11045(c) (also known as the Emergency Planning and Community Right-to-Know Act of 1986, hereinafter “EPCRA”); and 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 Permit, 40 C.F.R. Part 22.

2. EPA’s Complaints alleged that each Respondent failed to comply with Section 112(r)(1) of the CAA (the “General Duty Clause”), 42 U.S.C. § 7412(r)(1), in its handling of anhydrous ammonia at its cold storage warehouse facility, at the following locations:

a. CSS: 230 Kenneth Welch Drive in Lakeville, Massachusetts (“CSS Facility”);

*Consent Agreement and Final Order
Docket Nos. CAA-01-2013-0061,
CAA-01-2013-0062, CAA-01-2013-0063,
CAA-01-2013-0065, CAA-01-2013-0066,
CAA-01-2013-0067, CAA-01-2013-0068*

In re: Cold Storage Solutions, Inc.,
Cold Storage Solutions I, Inc.,
Cold Storage Solutions II, Inc., and
Cold Storage Solutions III, Inc.

- b. CSSI: 310 Kenneth Welch Drive in Lakeville, Massachusetts (“CSSI Facility”);
- c. CSSII: 220 Kenneth Welch Drive in Lakeville, Massachusetts (“CSSII Facility”); and
- d. CSSIII: 234 Kenneth Welch Drive in Lakeville, Massachusetts (“CSSIII Facility,” and collectively, “the Facilities”).

Specifically, with respect to the General Duty Clause, the four Complaints alleged that each Respondent failed to: (a) identify hazards which may result from accidental releases of anhydrous ammonia, which is an extremely hazardous substance, using appropriate hazard assessment techniques; (b) design and maintain a safe facility taking such steps as are necessary to prevent releases of ammonia; and (c) minimize the consequences of accidental releases of ammonia that do occur.

3. Additionally, EPA’s Complaints against CSS, CSSII, and CSSIII also alleged those Companies failed to comply with Section 312(a) of EPCRA, 42 U.S.C. § 11022(a), and the federal regulations that set out these statutory requirements in greater detail, 40 C.F.R. Part 370.

TERMS OF SETTLEMENT

4. The provisions of this CAFO shall apply to and be binding on the Parties, their officers, directors, agents, servants, employees, successors, and assigns.

5. Respondents stipulate that EPA has jurisdiction over the subject matter alleged in the Complaints and that the Complaints state a claim upon which relief can be granted against Respondents. Respondents waive any defenses they might have as to jurisdiction and venue and, without admitting or denying the factual and legal allegations contained in the Complaint, consent to the terms of this CAFO.

6. Respondents hereby waive their rights to a judicial or administrative hearing on any issue of law or fact set forth in the Complaints and waive their rights to appeal the Final Order.

7. Respondents consent to the issuance of this CAFO hereinafter recited and consent for purposes of settlement and avoidance of further litigation expense to the performance of the compliance actions described in paragraph 11 below, performance of the Supplemental Environmental Projects (“SEPs”) described in paragraphs 13 through 20 below, and payment of the civil penalty cited in paragraph 33 below.

8. Stipulated Penalties: In the event that Respondents fail to perform any of the compliance actions required by paragraph 11 below in a manner consistent with the terms of this CAFO or within the time required by this CAFO, Respondents must pay the stipulated penalties described in paragraph 12, below. Likewise, in the event that Respondents fail to comply with any of the terms or provisions of this CAFO relating to the performance of the SEPs described in paragraphs 13 through 20 and Exhibit A below and/or to the extent that the actual expenditures for the SEPs do not equal or exceed the estimated expenditures for the SEPs, as set forth in paragraphs 16 and 19 below, Respondents shall be liable for stipulated penalties in accordance with paragraph 30 below. Additionally, if Respondents fail to submit the SEP Completion Reports described in paragraph 24, below, Respondents shall be liable for stipulated penalties pursuant to paragraph 27, below. The following provisions apply to the accrual and payment of stipulated penalties:

- a. Respondents are jointly and severally liable for any stipulated penalties that accrue, except that CSSI is the sole entity responsible for stipulated penalties that relate to the compliance actions of Paragraph 11;
- b. Penalties shall begin to accrue on the day after the complete performance is due, and shall continue to accrue through the day of completion of the activity. Nothing herein shall prevent the simultaneous accrual of separate stipulated penalties for separate violations of this CAFO. Penalties shall continue to accrue regardless of whether EPA has notified Respondents of a violation.
- c. All penalties owed to the United States under this paragraph shall be due and payable within thirty (30) days of Respondents' receipt from EPA of a written demand for payment of the penalties. Such a written demand will describe the violation and will indicate the amount of penalties due.
- d. Payment of stipulated penalties shall be in addition to any other relief available under federal law. EPA may, in its sole discretion, decide not to seek stipulated penalties or to waive any portion of the stipulated penalties that accrue pursuant to this CAFO.
- e. Method of payment shall be as follows: Respondents shall submit a certified or cashier's check payable to the order of the "Treasurer, United States of America," referencing the case names and docket numbers of this action on the face of the check, to:

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

*Consent Agreement and Final Order
Docket Nos. CAA-01-2013-0061,
CAA-01-2013-0062, CAA-01-2013-0063,
CAA-01-2013-0065, CAA-01-2013-0066,
CAA-01-2013-0067, CAA-01-2013-0068*

In re: Cold Storage Solutions, Inc.,
Cold Storage Solutions I, Inc.,
Cold Storage Solutions II, Inc., and
Cold Storage Solutions III, Inc.

Respondents shall provide copies of each check to:

Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code ORA18-1
Boston, MA 02109-3912

and

Christine Foot
Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code OES 04-2
Boston, MA 02109-3912

Interest and late charges shall be paid as stated in paragraph 38 below.

f. The payment of stipulated penalties in accordance with this paragraph shall in no way alter Respondents' obligation to comply with the terms and conditions of this CAFO.

g. The stipulated penalties set forth in this section do not preclude EPA from pursuing any other remedies or sanctions that may be available to EPA by reason of Respondents' failure to comply with any of the terms and conditions of this CAFO.

h. No payments under this paragraph shall be tax deductible for federal, state, or local tax purposes.

Compliance Actions

9. CSS, CSSII, and CSSIII certify that they are currently operating and will continue to operate the CSS Facility, CSSII Facility, and CSSIII Facility, respectively, in

compliance with Section 312 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 370, and with Section 112(r)(1) of CAA, 42 U.S.C. § 7412(r)(1).

10. CSSI certifies that it is currently operating and will continue to operate the CSSI Facility in compliance with Section 112(r)(1) of CAA, 42 U.S.C. § 7412(r)(1), with respect to the deficiencies alleged in Count 1 of the CSSI Complaint, and that it has addressed the majority of the deficiencies identified in Counts 2 and 3 of the CSSI Complaint.

11. By no later than June 1, 2014, CSSI shall complete implementation of the following items, which address the remaining compliance deficiencies identified in Counts 2 and 3 of the CSSI Complaint and which specify alterations to be made at the CSSI Facility in order to achieve a safe Machinery Room: a) cover all drywall in the CSSI Machinery Room with wire mesh and concrete-based skim coat to minimize potential air flow and increase wall-strength, and (b) install bollards and guardrails in maintenance storage area outside the CSSI Machinery Room to prevent impact to Machinery Room drywall partitions. By no later than July 1, 2014, CSSI shall certify that it has completed the work required by this paragraph by sending an electronic mail message to Len Wallace, wallace.len@epa.gov and Christine Foot, foot.christine@epa.gov.

12. CSSI must pay the following stipulated penalties to the United States for failure to perform the compliance actions described in paragraph 11, above, in a manner consistent with the terms of this CAFO, or within the time required by this CAFO: \$375 per day for the first fifteen (15) days of such violation; \$750 per day for the sixteenth

(16th) through thirtieth (30th) days of such violation, and \$1,125 per day for each day of such violation, thereafter.

Supplemental Environmental Projects

13. Respondents shall complete the SEPs described below and in the Scope of Work attached hereto as Exhibit A, which will a) help prevent or mitigate releases of ammonia from, and improve chemical safety at, the Facility, and b) enhance the emergency planning and chemical spill response capabilities for first response agencies within the Towns of Lakeville and Taunton and in neighboring areas of Massachusetts. The Parties agree that the SEPs are intended to secure significant environmental or public health protection and benefits.

Facility Safety Upgrades to Prevent and Minimize Ammonia Releases

14. Respondents shall make safety improvements to the Facilities according to the requirements and deadlines described in the Scope of Work attached hereto as Exhibit A and incorporated herein by reference. The purpose of this SEP is to protect workers, emergency responders, and the community by preventing ammonia releases at the Facilities and by limiting the effects of any releases that do occur. Hereinafter, this SEP will be referred to as the "Safety Upgrade SEP."

15. Respondents represent that the safety upgrades described in Exhibit A exceed the requirements of the most current industry standards.

16. The total expenditure for the Safety Upgrade SEP shall not be less than \$205,302. Respondents shall include documentation of the expenditures made in connection with the SEP as part of the SEP Completion Report described in paragraph 24 below. Cost overruns on one of the Safety Upgrades described in Exhibit A may be

offset by savings from another Safety Upgrade project that costs less than anticipated, as the case may be. Additionally, if the expenditures for the entire Safety Upgrade SEP are less than currently anticipated, Respondents may apply the excess to completion of the Equipment Purchase SEP, described below, if that project costs less than anticipated.

17. Within seven (7) days of completion of each separate Safety Upgrade listed in Exhibit A, Respondents shall send an electronic mail message to Len Wallace, wallace.len@epa.gov and Christine Foot, foot.christine@epa.gov, to confirm that the new equipment has been installed and is in operation. Upon completion of all three Safety Upgrades, Respondents shall submit a SEP Completion Report for the Safety Upgrade SEP, as specified in paragraph 24 below.

Equipment Purchase for Local and Regional Emergency Responders

18. Respondents shall provide emergency response equipment to local and regional response agencies in the Towns of Lakeville and Taunton as well as the surrounding region of Massachusetts. The purpose of this SEP is to enhance the emergency planning and chemical spill response capabilities for local and regional first responders.

Hereinafter this SEP shall be referred to as the "Equipment Purchase SEP." The Equipment Purchase SEP requirements and deadlines are more fully described in the Scope of Work attached hereto as Exhibit A and incorporated herein by reference.

19. The total expenditure for the Equipment Purchase SEP shall not be less than \$140,457 dollars. Respondents shall include documentation of the expenditures made in connection with the Equipment Purchase SEP as part of the SEP Completion Report described in paragraph 24 below. If the Equipment Purchase SEP costs less than currently anticipated, Respondents may apply the excess to completion of the Safety

Upgrade SEP, described above and in Exhibit A, if that project costs less than anticipated.

20. Within seven (7) days of completion of each separate Equipment Purchase listed in Exhibit A, Respondents shall send an electronic mail message to Len Wallace, wallace.len@epa.gov and Christine Foot, foot.christine@epa.gov, to confirm that the new equipment has been purchased and given to the designated emergency response agency. Upon completion of all thirteen Equipment Purchases, Respondents shall submit a SEP Completion Report for the Equipment Purchase SEP, as specified in paragraph 24 below.

21. With regard to the Safety Upgrade and Equipment Purchase SEPs, Respondents hereby certify the truth and accuracy of each of the following:

a. that, as of the date of executing this CAFO, Respondents are not required to perform or develop the SEPs by any federal, state, or local law or regulation, and are not required to perform or develop the SEPs by agreement, grant, or as injunctive relief awarded in any other action in any forum. Respondents specifically certify as follows:

They are not parties to any open federal financial assistance transaction that is funding or could be used to fund the same activity as the SEPs. To the best of Respondents' knowledge and belief after reasonable inquiry, there is no such open federal financial transaction that is funding or could be used to fund the same activity as the SEPs, nor has the same activity been described in an unsuccessful federal financial assistance transaction proposal submitted to EPA within two years of the date of this settlement (unless the project was barred from funding as statutorily ineligible). For

the purposes of this certification, the term “open federal financial assistance transaction” refers to a grant, cooperative agreement loan, federally-guaranteed loan guarantee, or other mechanism for providing federal financial assistance whose performance period has not yet expired.

- b. that the SEPs are not projects that Respondents were planning or intending to construct, perform, or implement other than in settlement of the claims resolved in this CAFO;
- c. that Respondents have not received and will not receive credit for the SEPs in any other enforcement action; and
- d. that Respondents will not receive any reimbursement for any portion of the SEPs from any other person.

22. Respondents agree that EPA may inspect the Facilities at any time to confirm that the Safety Upgrade SEP was undertaken in conformity with the representations made herein.

23. For federal income tax purposes, Respondents agree that they will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEPs. Respondents hereby waive any confidentiality rights they have under 26 U.S.C. § 6103 with respect to such SEP costs on their tax returns and on the information supporting their tax returns. This waiver of confidentiality is solely as to EPA and the Department of Justice and solely for the purpose of ensuring the accuracy of Respondents’ SEP cost certification.

24. As described in paragraphs 17 and 20 above, Respondent shall submit a SEP Completion Report to EPA within sixty (60) days of completion of each SEP. Each SEP Completion Report shall contain the following information:

- a. A detailed description of the SEP as implemented, including, for the Safety Upgrade SEP, photographs of the newly installed equipment, and for the Equipment Purchase SEP, a list of the equipment purchased and provided to the emergency response agencies;
- b. A description of any implementation problems encountered and the solutions thereto;
- c. Itemized costs, documented by copies of invoices, purchase orders, receipts, canceled checks, or wire transfer records that specifically identify and itemize the individual costs associated with the SEP. Where the SEP Completion Report includes costs not eligible for SEP credit, those costs must be clearly identified as such;
- d. Certification that the SEP has been fully completed;
- e. A description of the environmental and public health benefits resulting from the implementation of the SEP;
- f. A statement that no tax returns filed or to be filed by Respondents will contain deductions or depreciations for any expense associated with the SEP; and
- g. The following statement, signed by Respondents' officer, under penalty of law, attesting that the information contained in the SEP Completion Report is true, accurate, and not misleading:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

25. Except as specified in paragraphs 17 and 20, Respondents shall submit all notices and reports required by this CAFO, by first class mail or any other commercial delivery service, to:

Christine M. Foot, Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code OES04-2
Boston, MA 02109-3912

and

Leonard B. Wallace IV, Enforcement Officer
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mailcode: OES05-1
Boston, MA 02109-3912

26. Respondents shall maintain, for a period of three (3) years from the date of submission of each SEP Completion Report, legible copies of all research, data, and other information upon which the Respondents relied to write the SEP Completion Reports and shall provide such documentation within fourteen (14) days of a request from EPA.

27. Respondents agree that failure to submit each SEP Completion Report shall be deemed a violation of this CAFO, and the Respondents shall become liable for stipulated penalties in accordance with paragraph 8 above and paragraph 30(d) below.

28. After receipt of each SEP Completion Report described in paragraph 24 above, EPA will notify Respondents in writing: (i) identifying any deficiencies in the SEP

Completion Report itself and granting Respondents an additional thirty (30) days to correct any deficiencies; (ii) indicating that the project has been completed satisfactorily; or (iii) determining that the project has not been completed satisfactorily and seeking stipulated penalties in accordance with paragraph 30 below.

29. If EPA elects to exercise options (i) or (iii) in paragraph 28 above, Respondents may object in writing to the notice of deficiency given pursuant to this paragraph within ten (10) days of receipt of such notice, except that this right to object shall not be available if EPA found that the project was not completed satisfactorily because Respondents failed to implement or abandoned the project. EPA and Respondents shall have an additional thirty (30) days from the receipt by EPA of Respondents' objection to reach agreement on changes necessary to the SEP or SEP Completion Report. If agreement cannot be reached on any such issue within this thirty (30) day period as may be extended by the written agreement of both EPA and Respondents, EPA shall provide a written statement of its decision on the adequacy of the completion of the SEP to Respondents, which decision shall be final and binding upon Respondents. Respondents agree to comply with any requirements imposed by EPA that are not inconsistent with this CAFO as a result of any failure to comply with the terms of this CAFO. In the event that the SEP is not completed as contemplated herein, as determined by EPA, stipulated penalties shall be due and payable by Respondents in accordance with paragraphs 8 and 30 below.

30. As described in paragraph 8 above, in the event that Respondents fail to satisfactorily complete the SEPs as outlined in the CAFO, Respondents shall be liable for stipulated penalties in accordance with the provisions set forth below. The determination

of whether the SEP has been satisfactorily completed shall be in the sole discretion of EPA.

- a. If EPA determines that Respondents completely or substantially failed to implement the Safety Upgrade SEP in accordance with this CAFO, Respondent shall pay a stipulated penalty to the United States in the amount of \$225,832, plus interest from the effective date of the CAFO;¹
- b. If EPA determines that Respondents completely or substantially failed to implement the Equipment Purchase SEP in accordance with this CAFO, Respondents shall pay a stipulated penalty to the United States in the amount of \$155,650, plus interest from the effective date of the CAFO;²
- c. If EPA determines that Respondents made good faith efforts to complete each SEP in accordance with this CAFO, but Respondents spent less than the amount of money which was required to be spent for each SEP, Respondents shall pay a stipulated penalty to the United States in the amount equal to the difference between the amount of money which was required to be spent on the SEP, in accordance with paragraphs 16 and 19, and the actual amount spent on the SEP, plus interest from the effective date of this CAFO;
- d. After giving effect to any extensions of time granted by EPA, Respondents shall pay a stipulated penalty in the amount of \$200 for each day the following

¹ This SEP includes three separate safety upgrades. If Respondents' substantial or complete failure to implement the SEP is attributable to the failure to perform of one or more but not all of the upgrades, the stipulated penalty would be 110% of the estimated cost for that upgrade, as outlined in the chart in paragraph 1 of Exhibit A.

² This SEP includes thirteen separate equipment purchases. If Respondents' substantial or complete failure to implement the SEP is attributable to the failure to perform of one or more but not all of the purchases, the stipulated penalty would be 110% of the estimated cost for each such purchase, as outlined in the chart in paragraph 2 of Exhibit A.

submissions are late: (a) each electronic mail message required by paragraphs 17 and 20; and (b) each SEP Completion Report required by paragraph 24 above.

31. 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, as further discussed in paragraph 38 below.

32. Any public statement, oral or written, in print, film, or other media, made by Respondents or their contractors making reference to a SEP shall include the following language: "This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency for violations of the Clean Air Act."

Civil Penalty

33. Pursuant to Section 113(e) of the CAA, 42 U.S.C. § 7413(e), and 325(c) of EPCRA, 42 U.S.C. § 11045(c), and taking into account the relevant statutory penalty criteria, the facts alleged in the Complaints, the SEPs described above, and such other circumstances as justice may require, EPA has determined that it is fair and proper to assess a civil penalty of \$108,000, collectively, for the violations alleged in these matters. The penalty shall be apportioned in the following manner: \$14,000 for the alleged EPCRA violations and \$94,000 for the alleged CAA violations.

34. Respondents shall pay the total penalty amount of \$108,000 in installments according to the payment schedule identified in paragraph 35 below. Interest at a rate of three percent (3%) per annum shall be included in any and all payments made beyond thirty (30) days from the effective date and shall accrue from thirty (30) days after the effective date until the date of payment.

35. Respondents shall pay the total penalty amount of \$54,000 total plus interest according to the following schedule:

- a. a payment of \$54,000 shall be made within thirty (30) calendar days of the effective date of this CAFO; and
- b. a payment of \$54,675 (\$54,000 in principal and \$675 in interest) shall be made within six (6) months of the effective date of this CAFO.

36. Respondents shall pay the penalties by submitting cashier's or certified checks, made payable to the order of the "Treasurer, United States of America," in the appropriate amount to:

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

Respondents shall note the case names and docket numbers on each check and in an accompanying cover letter. Respondents shall provide copies of each check to:

Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code ORA18-1
Boston, MA 02109-3912

and

Christine Foot
Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code OES 04-2
Boston, MA 02109-3912

37. If Respondents fail to make any payment required by paragraph 35 by the required due date, the total penalty amount, plus all accrued interest (less payments already made), shall become due immediately to the United States upon such failure. Then, interest as calculated under paragraphs 38 and 39 shall continue to accrue on any unpaid amounts until the total amount due has been received by the United States. Respondents shall be liable for such amount regardless of whether EPA has notified Respondents of their failure to pay or made a demand for payment. All payments to the United States under this paragraph shall be made by cashier's or certified checks as described in paragraph 36.

38. Collection of EPCRA Penalty and Unpaid Stipulated Penalties: 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 EPCRA violations (which shall be deemed to be 13 percent of the total due under paragraph 33, above) or any stipulated penalty relating to the performance of the compliance actions or SEPs and accrued pursuant to paragraph 8 above 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.

39. **Collection of Unpaid CAA Civil Penalty:** In the event that any portion of the civil penalty amount relating to the alleged CAA violations (which shall be deemed to be 87 percent of the total due under paragraph 33, above) is not paid when due without demand, pursuant to Section 113(d)(5) of the CAA, Respondents will be subject to an action to compel payment, plus interest, enforcement expenses, and a nonpayment penalty. Interest will be assessed on the civil penalty if it is not paid when due. In that event, interest will accrue from the due date at the “underpayment rate” established pursuant to 26 U.S.C § 6621(a)(2). In the event that a penalty is not paid when due, an additional charge will be assessed to cover the United States’ enforcement expenses, including attorney’s fees and collection costs. In addition, a quarterly nonpayment penalty will be assessed for each quarter during which the failure to pay the penalty persists. Such nonpayment penalty shall be 10 percent of the aggregate amount of Respondents’ outstanding civil penalties and nonpayment penalties hereunder accrued as of the beginning of such quarter. In any such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

40. The civil penalty provided under this CAFO, and any interest, nonpayment penalties, and charges described in this CAFO, shall represent penalties assessed by EPA within the meaning of 26 U.S.C. § 162(f) and are not tax deductible for purposes of federal, state or local law. Accordingly, Respondents agree to treat all payments made pursuant to this CAFO as penalties within the meaning of 26 C.F.R. § 1.162-21, 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.

41. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 113(d) of the CAA and Section 325(c) of EPCRA for the violations alleged in the Complaints. 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 the Complaints or this CAFO, and it is the responsibility of Respondents to comply with all applicable provisions of federal, state, or local law.

42. This CAFO in no way relieves Respondents or their 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 Respondents in response to conditions which may present an imminent and substantial endangerment to the public health, welfare, or the environment.

43. 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 Respondents' violation of this CAFO or of the statutes and regulations upon which the Complaints and this CAFO is based, or for Respondents' violation of any applicable provision of law.

44. This CAFO shall not relieve Respondents of their obligations 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.


45. The Parties shall bear their own costs and fees in this action, including attorney's fees, and specifically waive 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.

46. The terms, conditions, and requirements of this CAFO may not be modified without the written agreement of all Parties and the approval of the Regional Judicial Officer, except that the Regional Judicial Officer need not approve written agreements (a) modifying the SEP schedules described in Exhibit A; or (b) allowing any excess amounts from one SEP to be applied towards another.

47. 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.

48. Each undersigned representative of the Parties to this Consent Agreement certifies that he or she is fully authorized by the Party represented to enter into the terms and conditions of this CAFO and to execute and legally bind that Party to it.

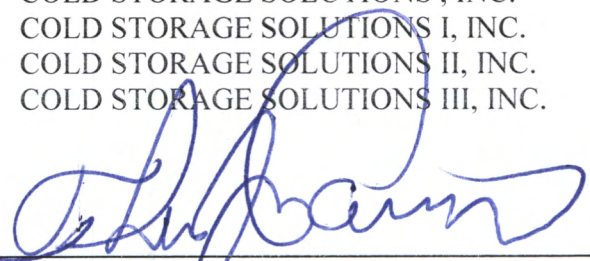
FOR COMPLAINANT,
U.S. ENVIRONMENTAL PROTECTION AGENCY



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

Date: 05/08/14

FOR RESPONDENTS,
COLD STORAGE SOLUTIONS , INC.
COLD STORAGE SOLUTIONS I, INC.
COLD STORAGE SOLUTIONS II, INC.
COLD STORAGE SOLUTIONS III, INC.



Thomas J. Parenteau, President
Cold Storage Solutions, Inc.
Cold Storage Solutions I, Inc.
Cold Storage Solutions II, Inc.
Cold Storage Solutions III, Inc.

Date: 4/25/14

Consent Agreement and Final Order
Docket Nos. CAA-01-2013-0061,
CAA-01-2013-0062, CAA-01-2013-0063,
CAA-01-2013-0065, CAA-01-2013-0066,
CAA-01-2013-0067, CAA-01-2013-0068

In re: Cold Storage Solutions, Inc.,
Cold Storage Solutions I, Inc.,
Cold Storage Solutions II, Inc., and
Cold Storage Solutions III, Inc.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I**

IN THE MATTERS OF:)	EPA Docket Nos.
)	
Cold Storage Solutions, Inc.)	CAA-01-2013-0061
230 Kenneth Drive)	EPCRA-01-2013-0062
Lakeville, MA,)	
)	
Cold Storage Solutions I, Inc.)	CAA-01-2013-0063
310 Kenneth Drive)	
Lakeville, MA,)	
)	
Cold Storage Solutions II, Inc.)	CAA-01-2013-0065
220 Kenneth Drive)	EPCRA-01-2013-0066
Lakeville, MA,)	
)	
Cold Storage Solutions III, Inc.)	CAA-01-2013-0067
234 Kenneth Drive)	EPCRA-01-2013-0068
Lakeville, MA,)	
)	
Respondents.)	

FINAL ORDER

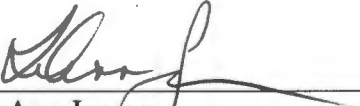
Pursuant to 40 CFR §§ 22.13(b) and 22.18 of the United States Environmental Protection Agency's Consolidated Rules of Practice, the Parties to this matter have forwarded an executed Consent Agreement for final approval. In accordance with Section 113(d)(2)(B) of the Clean Air Act, 42 U.S.C. § 7413(d)(2)(B), Complainant has compromised the maximum civil penalty of \$37,500 per day per violation by applying the penalty factors set forth in Section 113(e)(1) of the CAA, 42 U.S.C. § 7413(e)(1), to the facts and circumstances of these cases, including Respondents' significant cooperation to date and agreement to perform the non-penalty obligations in paragraph 11, and Supplemental Environmental Projects described in paragraphs

13 through 20 and Exhibit A, of the Consent Agreement. Complainant has similarly compromised the maximum civil penalty authorized under the Emergency Planning and Community Right-to-Know Act by taking into account the relevant statutory penalty criteria found at Section 325(c), 42 U.S.C. § 11045(c), Respondents' agreement to complete Supplemental Environmental Projects, and U.S. EPA enforcement policy.

By entering into this settlement, Respondents consent to the payment of a civil penalty in the amount of one hundred eight thousand dollars (\$108,000), agree to implement the measures described in paragraph 11, and perform the Supplemental Environmental Projects described in the Supplemental Environmental Projects section of the Consent Agreement.

The Consent Agreement resolving this matter is hereby approved and consolidated by reference into this Final Order. The Respondents are ordered to comply with the terms of this Consent Agreement, effective on the date it is filed with the Regional Hearing Clerk.

SO ORDERED THIS 14th DAY OF MAY 2014



LeAnn Jensen
Acting Regional Judicial Officer

EXHIBIT A

Scope of Work for Supplemental Environmental Projects

1. Facility Safety Upgrades to Prevent and Minimize Ammonia Releases

Although ammonia is a very efficient refrigerant, it is toxic when released and can be flammable at certain concentrations. Accordingly, the refrigeration industry has taken steps to improve safety at ammonia refrigeration facilities by publishing industry standards and guidelines to help the refrigeration operators identify hazards at their facilities, avoid releases, and mitigate the effects of any releases that do occur. In Clean Air Act Section 112(r) cases, EPA often refers to these industry standards and guidelines when it is determining whether a particular refrigeration facility is meeting the standard of care that one would expect from such a facility.

To prevent and limit the effects of releases of ammonia at Respondents' four cold storage facilities in Lakeville, Massachusetts, Respondents shall make the safety upgrades listed in the following chart and described in more detail below.

Safety Upgrade	Facility	Estimated Cost	Completion Deadline
Install Solid Fencing and Gates	CSS, CSSII, and CSSIII	\$51,856	Aug. 15, 2014
Install Computerized Control System	CSSI	\$140,053	Feb. 13, 2015
Install Video Monitoring and Controlled Door Access Systems	CSS, CSSI, CSSII, and CSSIII	\$13,393	Feb. 13, 2015

Respondents represent that these equipment upgrades exceed the requirements of the most current industry standards. An industry expert retained by EPA to help evaluate the benefits of the projects has confirmed that the projects exceed the requirements of current industry standards.

a. *Install Solid Fencing and Gates at CSS, CSSII, and CSSIII:*

Respondents shall install solid fencing, posts, and gates around the perimeter of the three Facilities with outdoor receivers (CSS, CSSII, and CSSIII), by August 15, 2014. Respondents' expenditure on this project will be \$51,856, including capital and labor costs.

This safety upgrade will provide a degree of physical barrier as well as limit visibility of the systems to outside parties, which will reduce the chance of accidental damage to or intentional tampering with ammonia-containing devices and vessels. Accordingly, this project will help prevent ammonia releases from occurring.

b. *Install Computerized Control System at CSSI:*

Respondents shall install and operate a centralized, computerized control system to monitor and control the entire refrigeration system at the CSSI Facility, by February 13, 2015. The control system will be comprised of a system control panel and two compressor retrofit panels (for two screw compressors), along with various pressure, temperature, and ammonia probes and sensors. The installation of control system shall include approximately two weeks of startup supervision by a company technician. Respondents' expenditure on this project will be \$140,053, including capital, labor, and permit costs.

The entire system will be fully integrated to monitor and control all components for temperature, pressure, and ammonia and will provide immediate detection and notification (via alarms, text messages, or electronic mail) of any problematic reading or device failure. It can prevent or minimize ammonia releases by triggering automatic shutdown of certain components or refrigeration zones if readings hit specified set-points, and by providing for remote control and shutdown (by owner and authorized third parties, such as the Companies' refrigeration contractor) more quickly than currently possible, and from any personal computer, without specialized software. The system tracks historical trends, aiding in predictive maintenance to avoid potential failures, and logs maintenance tasks, including when the next service action/inspection is due.

c. *Install Video Monitoring and Controlled Door Access Systems at all Four Facilities*

Respondents shall install closed-circuit video monitoring ("CCTV") systems at each of the four Facilities, as well as controlled (swipe) facility door access systems at each Facility, by February 13, 2015. The view area of at least one of the CCTV cameras installed at each Facility will include that Facility's receiver, which is inside the Machinery Room at CSSI, and which are just outside each Machinery Room at CSS, CSSII, and CSSIII. Additionally, the controlled door access system will be installed, at a minimum, on each Machinery Room door at each of the four Facilities. Respondents' expenditure on this project, which focuses on the most easily accessible areas of the Facilities containing large quantities of ammonia, is estimated to be \$13,393, including capital and labor costs. Respondents may spend additional funds to install these systems in other areas of the Facilities, but that excess is not considered within the scope of this SEP and those expenditures are not applicable towards completion of this project.

The Controlled Door Access Systems will restrict entry through the doors of the Facilities to personnel in possession of a pre-programmed keytag, ensuring no unauthorized person

can gain access to the Machinery Rooms. The CCTV systems will include cameras and monitors focused on areas of the Facilities that are most vulnerable to intruder access. Therefore, these safety upgrades will reduce the likelihood of ammonia releases by helping to prevent and detect unauthorized access to the Facilities and their surroundings. Additionally, the cameras offer the ability to visually detect gas clouds indicative of an ammonia leak, offering the ability to detect ammonia leaks remotely, without jeopardizing personnel safety.

2. Equipment Purchase for Local and Regional Emergency Responders

Respondents shall purchase and deliver, or shall ensure the purchase and delivery of, certain emergency response equipment for emergency responders operating in the vicinity of the Facilities, by the dates indicated in the table below. Respondents' expenditure on the purchase of the emergency response equipment shall be \$142,915.

The equipment to be purchased is relevant to responses to emergencies involving chemicals that are regulated pursuant to Section 112(r) of the Clean Air Act's General Duty Clause and Section 325(c) of EPCRA, including anhydrous ammonia. It includes: specialized tools and equipment such as pulse oximeters for measuring blood oxygen and carbon monoxide levels, thermal imaging cameras, mercury meters for analyzing the concentration of certain chemicals in the air; enhanced respirator face pieces, masks, and headsets; and standard emergency response supplies like hazmat boots, helmets, spill kits, and foam concentrate.

Equipment Purchase	Recipient	Estimated Cost	Vendor	Completion Deadline
Pulse Oximeters (2) (RAD-57 w/ SpCO Adult & Pedl Sensors DS)	Lakeville Fire Dept.	\$9,154 (\$4,577 ea)	Moore Medical LLC (Farmington, CT)	Feb. 13, 2015
Thermal Imaging Camera (Bullard Eclipse 320 Gold Package)	Lakeville Fire Dept.	\$11,895	Fire Tech and Safety of New England, Inc. (Tyngsborough, MA)	Feb. 13, 2015
Respirator Facepieces (34) (Scott, AV-3000HT)	Lakeville Fire Dept.	\$7,922 (\$233 ea)	Fire Tech and Safety of New England, Inc. (Tyngsborough, MA)	Feb. 13, 2015
Emergency Spill Kits (5)	Lakeville Fire Dept.	\$1,550 (\$310 ea)	W.S. Darley & Co. (Itasca, IL)	Feb. 13, 2015
HazMat/Structural Boots (34)	Lakeville Fire Dept.	\$6,561 (\$193)	W.S. Darley & Co. (Itasca, IL)	Feb. 13, 2015

Silv-ex Foam Concentrate (200gal)	Lakeville Fire Dept.	\$5,190	W.S. Darley & Co. (Itasca, IL)	Feb. 13, 2015
Thermal Imaging Camera Packages (2) (X380PKG)	Taunton Fire Dept.	\$22,800 (\$11,400 ea)	Bergeron Protective Clothing (Epsom, NH)	Apr. 28, 2015
Interspiro AGA Full Face Masks (10)	Taunton Fire Dept.	\$9,191 (\$919 ea)	East Coast Divers (Brookline, MA)	Apr. 28, 2015
Modular Hard Hat Attachable Int. Safe (6) (8-H6740-M)	Taunton Fire Dept.	\$2,080 (\$351 ea)	Cyber Communications (Warwick, RI)	Apr. 28, 2015
Adaptor Cord for 6700 Mod Headset (8)	Taunton Fire Dept.	\$1,040 (\$130 ea)	Cyber Communications (Warwick, RI)	Apr. 28, 2015
Bullard USTMG26 Structural Helmets (10)	Taunton Fire Dept.	\$2,190 (\$219 ea)	Fire Tech & Safety of New England, Inc. (Tyngsborough, MA)	Apr. 28, 2015
First-stage SCUBA Regulators (10)	Taunton Fire Dept.	\$1,891 (\$189 ea)	East Coast Divers (Brookline, MA)	Apr. 28, 2015
Jerome J405 Mercury Vapor Analyzers, Accessories, and Cases (6) (J405-007; Y405-0901; 990-0220)	Regional HazMat Team	\$61,451 (\$10,242 ea)	Arizona Instrument (Chandler, AZ)	Apr. 28, 2015

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1 – NEW ENGLAND

IN THE MATTERS OF:

Cold Storage Solutions, Inc.
230 Kenneth Welch Drive
Lakeville, MA 02347

Cold Storage Solutions I, Inc.
310 Kenneth Welch Drive
Lakeville, MA 02347

Cold Storage Solutions II, Inc.
220 Kenneth Welch Drive
Lakeville, MA 02347

Cold Storage Solutions III, Inc.
234 Kenneth Welch Drive
Lakeville, MA 02347

Respondents

Docket Nos.:

CAA-01-2013-0061
EPCRA-01-2013-0062

CAA-01-2013-0063

CAA-01-2013-0065
EPCRA-01-2013-0066

CAA-01-2013-0067
EPCRA-01-2013-0068

CERTIFICATE OF SERVICE

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

Original and one copy
(hand-delivered):

Ms. Wanda I. Santiago
Regional Hearing Clerk
U.S. EPA, Region I
5 Post Office Square, Suite 100
Mail Code ORA18-1
Boston, MA 02109-3912

Copy (certified mail, return
receipt requested):

Robert K. Taylor, Esq.
Partridge Snow & Hahn LLP
40 Westminister Street, Suite 1100
Providence, RI 02903

Dated: 5/19/14

Laura J. Berry
Laura J. Berry, Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code OES04-2
Boston, MA 02109-3912