

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Catherine Smith 5/9/13  
Name of Case Attorney Date

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

Case Docket Number CAA-01-2012-0106, CERCLA-01-2012-0107, EPCRA-01-2012-0108

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:

Connecticut Freezers, Inc and  
Maritime International, Inc.  
1 Brewery Street  
New Haven, CT 06511

Total Dollar Amount of Receivable \$ 50,000 Due Date: 11/31/14

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

Installment Method (if applicable)

INSTALLMENTS OF:

- 1<sup>ST</sup> \$ 12,500 on \_\_\_\_\_
- 2<sup>nd</sup> \$ 13,063 on 11/31/13
- 3<sup>rd</sup> \$ 12,875 on 5/31/14
- 4<sup>th</sup> \$ 12,168 on 11/31/14
- 5<sup>th</sup> \$ \_\_\_\_\_ on \_\_\_\_\_

For RHC Tracking Purposes:

Copy of Check Received by RHC \_\_\_\_\_ Notice Sent to Finance \_\_\_\_\_

**TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:**

IFMS Accounts Receivable Control Number \_\_\_\_\_

If you have any questions call: \_\_\_\_\_  
in the Financial Management Office

\_\_\_\_\_ Phone Number



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION I  
5 Post Office Square, Suite 100  
Boston, Massachusetts 02109-3912

RECEIVED  
2013 MAY -7 P 3:28  
EPA ORG  
OFFICE OF  
REGIONAL HEARING CLERK

**BY HAND**

May 8, 2013

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

Re: In the Connecticut Freezers, Inc. and Maritime International, Inc., EPA  
Docket Numbers: EPA Docket Numbers: CAA-01-2012-0106, CERCLA-01-  
2012-0107, and EPCRA-01-2012-0108

Dear Ms. Santiago:

Please file the enclosed Consent Agreement and Final Order ("CAFO") in the above-captioned matter. I have also enclosed a Certificate of Service, an extra copy of the CAFO, and a copy of the letter to the Regional Judicial Officer. Thank you for your assistance in this matter.

Sincerely,

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

Catherine Smith  
Senior Enforcement Counsel

Enclosures

cc: Joe Farside

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1  
BEFORE THE ADMINISTRATOR

RECEIVED  
2013 MAY -7 P 3:28  
EPA ORC  
OFFICE OF  
REGIONAL HEARING CLERK

-----  
In the Matter of: )  
)  
Connecticut Freezers, Inc. and )  
Maritime International, Inc. )  
)  
1 Brewery Street )  
New Haven, CT )  
)  
Respondents. )  
)  
Proceeding under Section 113(d) of the Clean )  
Air Act, 42 U.S.C. § 7413(d); )  
Section 109(b) of the Comprehensive )  
Environmental Response, Compensation, )  
and Liability Act, 42 U.S.C. § 9609(b); )  
and Section 325(b) of the Emergency Planning )  
and Community-Right-to-Know Act, )  
42 U.S.C. § 11045(b) )  
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**Docket Numbers**  
**CAA-01-2012-0106**  
**CERCLA-01-2012-0107**  
**EPCRA-01-2012-0108**

**CONSENT AGREEMENT AND FINAL ORDER**

Complainant, the United States Environmental Protection Agency ("EPA or  
"Complainant"), having filed a Complaint and Notice of Opportunity for Hearing ("Complaint")  
against Respondents, Connecticut Freezers, Inc. and Maritime International, Inc.  
("Respondents") on September 26, 2012;

Respondents having received extensions to file an Answer and Request for Hearing until  
May 10, 2013; and

Complainant and Respondents (the "Parties") having agreed that settlement of this matter  
is in the public interest, and that entry of this Consent Agreement and Final Order ("CAFO")  
without further litigation is the most appropriate means of resolving this matter;

NOW, THEREFORE, before the taking of any testimony, upon the pleading, 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 an administrative action 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 109(b) of the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 U.S.C. § 9609(b); Section 325(b) of Title III of the Superfund Amendments and Reauthorization Act, 42 U.S.C. § 11045(b) (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 Complaint alleged that Respondents failed to:

a. comply with the requirements of the “General Duty Clause” of CAA Section 112(r)(1), 42 U.S.C. § 7412(r)(1), with regard to preventing a May 25, 2011 release of ammonia from a cold storage warehouse in New Haven, Connecticut (the “New Haven Facility”);

b. timely report the May 25, 2011 release of ammonia to the National Response Center, in violation of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a); and

c. submit a timely follow-up notice to emergency responders following the May 25, 2011 release, in violation of Section 304(c) of EPCRA, 42 U.S.C. § 11004(c).

### **TERMS OF SETTLEMENT**

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

4. Respondents stipulate that EPA has jurisdiction over the subject matter alleged in the Complaint and that the Complaint states 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.

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

6. The New Haven Facility is now closed. Accordingly, Respondents certify that they are currently operating the New Haven Facility described in paragraph 20 of the Complaint in compliance with Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1); Section 103(a) of CERCLA, 42 U.S.C. § 9603(a); and Section 304(c) of EPCRA, 42 U.S.C. § 11004(c). Moreover, Respondents certify that, to the best of their knowledge based upon inspections performed by professional third-party contractors in 2012, they are currently operating the cold storage warehouses located 241 Park Ave., East Hartford, Connecticut; 12 Fish Island, New Bedford, Massachusetts; and 289 MacArthur Drive, New Bedford, Massachusetts in compliance with Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1).

7. Respondents consent to the issuance of this CAFO hereinafter recited and consent for purposes of settlement to the payment of the civil penalty cited in paragraph 32 and to the performance of the Supplemental Environmental Projects (“SEPs”) hereinafter described.

**Supplemental Environmental Projects**

8. Respondents shall complete the SEPs described below, which will (a) help prevent or mitigate releases of ammonia from two of Respondents' cold storage warehouses and improve chemical safety at such facilities; and (b) help other companies with ammonia refrigeration systems comply with the General Duty Clause of CAA Section 112(r)(1). The parties agree that the SEPs are intended to secure significant environmental or public health protection and benefits.

**Equipment Upgrades to Prevent Ammonia Releases and Improve Chemical Safety:**

9. Respondents shall make the following improvements to their cold storage warehouses located at 241 Park Ave., East Hartford, Connecticut and 12 Fish Island, New Bedford, Massachusetts by the deadlines specified in the table below. The purpose of this SEP is to protect workers, emergency responders, and the community by preventing ammonia releases at these facilities and limiting the effects of any releases that do occur. Hereinafter this SEP shall be referred to as the "Equipment Upgrade SEP." The Equipment Upgrade SEP requirements are more fully described in the Scope of Work attached hereto as Exhibit A, and incorporated herein by reference.

Equipment Upgrade	Location	Estimated Cost	Completion Deadline
Install state-of-the art ammonia detection system that is integrated with shutdown controls	Hartford Freezers, East Hartford	\$45,000	November 30, 2013
Replace ammonia liquid pump with hermetically-sealed pump to nearly eliminate potential for ammonia releases from pump failure	Bridge Terminal, New Bedford	\$45,000	November 30, 2014

Upgrade evaporator valve stations with state-of-the art valves to reduce risk of ammonia release from valve failure and reduce stress on other components of system	Bridge Terminal, New Bedford	\$40,000	November 30, 2015
<b>Total</b>		\$130,000	

10. Respondents represent that the equipment upgrades described above and in Exhibit A exceed the requirements of the most current industry standards and that, with routine maintenance and upkeep, the equipment being replaced has a remaining useful life of at least 10 years.

11. The total expenditure for the Equipment Upgrade SEP shall not be less than one hundred and thirty thousand dollars (\$130,000). Respondents shall include documentation of the expenditures made in connection with the SEP as part of the SEP Completion Report described below. Cost overruns on one of the equipment upgrades described above and in Exhibit A may be offset by savings from another equipment upgrade project that may cost less than anticipated, as the case may be.

12. After completion of each separate equipment upgrade listed above, Respondents shall send an electronic mail message to Jim Gaffey, [gaffey.jim@epa.gov](mailto:gaffey.jim@epa.gov), and Catherine Smith, [smith.catherine@epa.gov](mailto:smith.catherine@epa.gov), to confirm that the new equipment has been installed and is in operation. Upon completion of all three equipment upgrades, Respondents shall submit a Completion Report for the Equipment Upgrade SEP, as specified in paragraph 19 below.

Training for Refrigeration Operators and Emergency Responders to Promote Compliance with the General Duty Clause

13. By May 31, 2014, Respondents shall conduct at least three trainings to (a) improve General Duty Clause compliance at facilities with small ammonia refrigeration systems that are in the vicinity of New Bedford, Massachusetts, Hartford, Connecticut; and New Haven, Connecticut; and (b) encourage better coordination between such facilities and emergency responders. Hereinafter this SEP shall be referred to as the "Training SEP." The Training SEP requirements are more fully described in the Scope of Work attached hereto as Exhibit A, and incorporated herein by reference.

14. The total expenditure for the Training SEP shall not be less than thirty thousand dollars (\$30,000). Respondents shall include documentation of the expenditures made in connection with the SEP as part of the SEP Completion Report described below. If the trainings cost less than currently anticipated, Respondents may conduct more trainings or, upon approval of EPA, apply the excess to completion of the Equipment Upgrade SEP.

15. After completion of each training, Respondents shall send an electronic mail message to Jim Gaffey, gaffey.jim@epa.gov, and Catherine Smith, smith.catherine@epa.gov, to confirm that the training has occurred. Upon completion of all trainings, Respondents shall submit a Completion Report for the Training SEP, as specified in paragraph 19 below.

16. With regard to the Equipment Upgrade and Training 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.

17. Respondents agree that EPA may inspect Respondents' cold storage warehouses located at 241 Park Ave., East Hartford, Connecticut and 12 Fish Island, New Bedford, Massachusetts at any time to confirm that the Equipment Upgrade SEP was undertaken in conformity with the representations made herein.

18. 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 right 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.

19. As described in paragraphs 12 and 15 above, Respondents 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 Equipment Upgrade SEP, photographs of the newly installed equipment, and, for the Training SEP, a copy of the attendee lists and all training and advertising materials produced for the SEP;
- 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 (with quantification of the benefits and pollutant reductions, if feasible);

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.*

20. Except as specified in paragraphs 12, 15 and 28, Respondents shall submit all notices and reports required by this CAFO, by first class mail or any other commercial delivery service, to:

Catherine Smith  
Senior Enforcement Counsel (Mail Code OES 04-4)  
U.S. Environmental Protection Agency, Region 1  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912; and

Jim Gaffey  
Chemical Engineer (Mail Code OES 05-1)  
U.S. Environmental Protection Agency, Region 1  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912

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

22. 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 pursuant to paragraph 25 below.

23. After receipt of each SEP Completion Report described in paragraph 19 above, EPA will notify Respondents, within sixty (60) days if EPA resources permit and in writing: (i) identifying any deficiencies in the SEP Completion Report itself and granting Respondents an additional thirty (30) days to correct any deficiencies; or (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 25 herein.

24. If EPA elects to exercise options (i) or (iii) in paragraph 23 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 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 paragraph 25 herein.

25. 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 Exhibit A and paragraphs 9 through 15 above and/or to the extent that the actual expenditures for the SEP do not equal or exceed the cost of the SEPs, as set forth in paragraphs 11 and 14 above, Respondents shall be liable for stipulated penalties according to the provisions set forth below:

a. If EPA determines that Respondents completely or substantially failed to implement the Equipment Upgrade SEP in accordance with this CAFO, Respondents shall pay a stipulated penalty to the United States in the amount of one hundred and forty three thousand (\$143,000), plus interest from the effective date of the CAFO;<sup>1</sup>

b. If EPA determines that Respondents completely or substantially failed to implement the Training SEP in accordance with this CAFO, Respondents shall pay a stipulated penalty to the United States in the amount of thirty three thousand dollars (\$33,000), plus interest from the effective date of the CAFO;<sup>2</sup>

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 project, in accordance with paragraphs 11 and 14, and the actual amount spent on the project, plus interest from the effective date of this CAFO;

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<sup>1</sup> This SEP includes three separate equipment upgrades. If Respondents' substantial or complete failure to implement the SEP is attributable to the abandonment of just one of the equipment upgrades, the stipulated penalty would be 110% of the amount attributable to each upgrade, specifically \$49,500 for the ammonia detection system upgrade, \$49,500 for the ammonia liquid pump upgrade, and \$44,000 for the evaporator valve station upgrade.

<sup>2</sup> This SEP includes at least three separate training sessions. If Respondents' substantial or complete failure to implement the SEP is attributable to the abandonment of just one of the training sessions, the stipulated penalty would be 110% of the amount by which the penalty was mitigated by that specific training session, specifically \$11,000 for each.

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 submissions are late: (a) each electronic mail message required by paragraphs 12 and 15; and (b) each SEP Completion Report required by paragraph 19 above.

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

27. Stipulated penalties as set forth in paragraph 25 above shall begin to accrue on the day after performance is due and shall continue to accrue through the final day of the completion of the activity.

28. Respondents shall pay stipulated penalties not more than fifteen (15) days after receipt of written demand by EPA for such penalties. Method of payment shall be as follows: Respondent shall submit a certified or cashier's check payable to the order of the "Treasurer, United States of America," referencing the case name 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

Respondents shall provide copies of each check to:

Wanda Santiago  
Regional Hearing Clerk (Mail Code ORA18-1)  
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 04-4)  
U.S. Environmental Protection Agency, Region 1  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912

Interest and late charges shall be paid as stated in paragraph 37 below.

29. 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 37 below.

30. 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.

31. Any public statement, oral or written, in print, film, or other media, made by Respondents or its contractors making reference to the 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 Emergency Planning and Community Right-to-Know Act, the Clean Air Act, and the Community-Right-to-Know Act.”

#### **Civil Penalty**

32. Pursuant to Section 113(e) of the CAA, 42 U.S.C. § 7413(e), 325(b) of EPCRA, 42 U.S.C. § 11045(b), and Section 109(b) of CERCLA, 42 U.S.C. § 9609(b), and taking into account the relevant statutory penalty criteria (including the company’s current financial status), the facts alleged in the Complaint, the SEP 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 fifty thousand dollars (\$50,000) for the violations alleged in this matter. The penalty shall be

apportioned in the following manner: \$43,500 for the alleged CAA violations (“CAA penalty”), \$4,000 for the alleged CERCLA violation (“CERCLA penalty”), and \$2,500 for the alleged EPCRA violation (“EPCRA penalty”).

33. Respondents shall pay the total penalty amount of \$50,000 in installments according to the payment schedule identified in paragraph 34. Interest at a rate of three percent (3%) per annum shall be included in any and all payments made beyond 30 days from the effective date and shall accrue from 30 days after the effective date until the date of payment.

34. Respondents shall pay the total penalty amount of \$50,000 total plus interest according to the following schedule:

- a. the CERCLA penalty of \$4,000, the EPCRA penalty of \$2,500, and the first CAA penalty payment of \$6,000 (for a total of \$12,500) shall be made within thirty (30) calendar days of the effective date of this CAFO;
- b. a CAA penalty payment of \$13,063 (\$12,500 principal plus \$563 accrued interest) shall be made on or before November 31, 2013;
- c. a CAA penalty payment of \$12,875 (\$12,500 principal plus \$375 accrued interest) shall be made on or before May 31, 2014;
- d. a CAA penalty payment of \$12,688 (\$12,500 principal plus \$188 accrued interest) shall be made on or before November 31, 2014.

35. Payment Procedure

- a. Respondents shall pay the **CERCLA** penalty by submitting a cashier’s or certified check, payable to the order of the “EPA Hazardous Substance Superfund” in the amount of \$4,000 to:

U.S. Environmental Protection Agency  
Superfund Payments



Cincinnati Finance Center  
P.O. Box 979076  
St. Louis, MO 63197-9000

- b. Respondents shall pay the **CAA and EPCRA** 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

- c. Respondents shall note the case name and docket numbers on each check and in an accompanying cover letter ("In the Matter of Connecticut Freezers, Inc. and Maritime International, Inc., CAA-01-2012-0106, CERCLA-01-2012-0107, and EPCRA-01-2012-0108).

- d. Respondents shall provide copies of each check to:

Wanda Santiago  
Regional Hearing Clerk (Mail Code ORA18-1)  
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 04-4)  
U.S. Environmental Protection Agency, Region 1  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912

36. If Respondents fail to make any payment required by paragraph 34 by the required due date, the total penalty amount of \$50,000, 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 37 and 38 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 35 (with paragraph 35(a) applying to the CERCLA penalty and 35(b) applying to the CAA and EPCRA penalties).

**37. Collection of Unpaid Stipulated Penalties and 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 CERCLA or EPCRA violations or any stipulated penalty relating to the performance of SEPs pursuant to paragraph 25, above, is not paid when due, the penalty shall be payable, plus accrued interest<sup>3</sup>, 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.

**38. Collection of Unpaid CAA Civil Penalty:** In the event that any portion of the civil penalty amount relating to the alleged CAA violations is not paid when due without

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<sup>3</sup> If Respondents miss a penalty installment payment, the entire penalty becomes accelerated and due, in accordance with paragraph 36. Thus, the interest rate referred to in this paragraph and the next (*i.e.*, paragraphs 37 and 38) is not the interest rate used to calculate the installment payments but rather the interest rate that will apply if Respondents fail to pay the entire accelerated penalty and/or incurs SEP-related stipulated penalties.

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.

39. 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.

40. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 113(d) of the CAA, Section 109 of CERCLA, and Section 325(b) of EPCRA for the violations alleged in the Complaint. 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 Complaint or this CAFO, and it is the

responsibility of Respondents to comply with all applicable provisions of federal, state, or local law.

41. 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.

42. 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 Complaint and this CAFO is based, or for Respondents' violation of any applicable provision of law.

43. This CAFO shall not relieve Respondents of their 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.

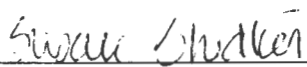
44. The parties shall bear their own costs and fees in this action, including attorney's fees, and specifically waive any right to recover such costs from the other parties pursuant to the Equal Access to Justice Act, 5 U.S.C § 504, or other applicable laws.

45. The terms, conditions, and requirements of this CAFO may not be modified without the written agreement of both parties and approval of the Regional Judicial Officer, except that the Regional Judicial Officer need not approve written agreements (a) modifying the SEP schedules described in paragraphs 9 and 13; or (b) allowing any excess amounts from the Training SEP to be applied to the Equipment Upgrade SEP.

46. 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.

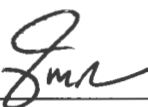
47. Each undersigned representative of the parties to this Consent Agreement certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this CAFO and to execute and legally bind that party to it.

FOR U.S. ENVIRONMENTAL PROTECTION AGENCY:

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

Date: 05/07/13

FOR RESPONDENTS, CONNECTICUT FREEZERS, INC. AND MARITIME INTERNATIONAL, INC.

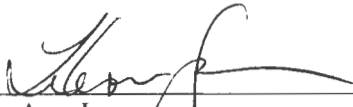
  
\_\_\_\_\_  
Timothy Ray  
Chief Operating Officer  
Maritime International, Inc

Date: April 30 2013

**FINAL ORDER**

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. The Respondents are hereby ordered to comply with the terms of the above Consent Agreement, which will be effective on the date it is filed with the Regional Hearing Clerk.

Date: July 7, 2013

  
\_\_\_\_\_  
LeAnn Jensen  
Acting Regional Judicial Officer  
U.S. Environmental Protection Agency, Region I

## EXHIBIT A

### Scope of Work for Supplemental Environmental Projects

#### Training for Refrigeration Operators and Emergency Responders to Promote Compliance with Clean Air Act Section 112(r)'s General Duty Clause

In recent years, EPA Region 1 has found that numerous cold storage and skating rink facilities with smaller ammonia refrigeration systems (i.e., containing less than 10,000 pounds of ammonia) are out of compliance with the General Duty Clause. The conditions at some of these facilities have been very dangerous, posing a risk to workers, emergency responders, and the community. Moreover, EPA has found that the level of coordination between the facilities and the emergency responders often is inadequate. This compliance promotion SEP is intended to (a) improve General Duty Clause compliance at facilities with small ammonia refrigeration systems in the vicinity of Respondents' cold storage facilities in New Bedford, Massachusetts; Hartford, Connecticut; and the now-closed facility in New Haven, Connecticut; and (b) encourage better coordination between such facilities and emergency responders.

Respondents shall conduct at least three training sessions to cover the requirements of the General Duty Clause and all safety-related aspects of operating an ammonia-based refrigeration system. The trainings will be held in Hartford, Connecticut, New Haven, Connecticut, and New Bedford, Massachusetts, unless EPA approves other locations.

Topics to be covered shall include, among others, the requirements of the General Duty Clause, recommended preventative maintenance, industry standards of care, how to identify warning signs that an unsafe situation is occurring, and strategies for response actions in the event of a leak. The training shall emphasize the following points:

- *The General Duty Clause requires a thorough written hazard analysis of the risks posed by the refrigeration system.* The International Institute of Ammonia Refrigeration provides checklists for small refrigeration facilities that can be used to conduct this hazard analysis. Part of this hazard analysis should include understanding the gap between the safety requirements of new codes/standards and the standards to which the facility was built and developing a plan to correct any safety deficiencies.
- The maintenance standard for facilities of this size is *preventative* maintenance. The maintenance program, including inspections, should be documented.
- The importance of *having good information about the piping and equipment* so that facilities (a) understand the hazards associated with their refrigeration system; and (b) can develop a proper maintenance program.
- How critical it is to *coordinate with emergency responders* on a continual basis.
- Although the training need not focus extensively on the Risk Management Plan requirements of 40 C.F.R. Part 68, trainees should be aware that these requirements apply when a refrigeration process exceeds 10,000 pounds of ammonia.

For each training session, Respondents shall invite at least 20-30 non-Maritime employees from the areas surrounding New Haven and Hartford, Connecticut, and New Bedford, Massachusetts.

The attendees shall include operators from other refrigerated warehouses having ammonia-based refrigeration systems as well as first responders (medical and fire). If space permits, Respondents may also invite operators of skating rinks that use ammonia for refrigeration. If insufficient attendees from these areas are able to attend, EPA may approve attendees from other areas.

To conduct these training sessions, Respondents plan to hire one or more contractors with expertise in ammonia-based refrigeration systems, the industry standards, and compliance with the General Duty Clause. If Respondents use trainers other than the contractors it has already used to conduct hazard analyses at its own refrigerated warehouses (the resumes for which EPA already has reviewed), Respondents shall submit resumes to demonstrate that the contractor(s) have the requisite expertise. Respondents shall submit such resumes at least 30 days before the training sessions.

Respondent shall not provide food or lodging as part of this SEP.

The estimated cost of this SEP is approximately \$30,000, and Respondents shall complete it by May 31, 2014.

#### Equipment Upgrades to Prevent Ammonia Releases and Improve Chemical Safety

Although ammonia is a very efficient refrigerant, it is toxic when released and at certain concentrations can be flammable. 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' cold storage facilities at 241 Park Avenue, East Hartford, Connecticut, and 12 Fish Island, New Bedford, Massachusetts, Respondents shall make the following equipment upgrades. Respondents represent that these equipment upgrades exceed the requirements of the most current industry standards and that, with routine maintenance and upkeep, the equipment being replaced has a remaining useful life of at least ten years.

1. *Install state-of-the-art ammonia detection system that is integrated with shutdown controls:* By November 30, 2013, Respondents shall replace the existing ammonia detection system at its East Hartford facility with a state-of-the-art ammonia detection system that is integrated with shutdown controls. The approximate cost is \$45,000, including capital and labor costs. The upgrade would allow the monitoring of dozens of warehouse zones/workspaces (significantly more than currently possible) for more calibrated ammonia level monitoring, and the system would be fully integrated with the emergency shutdown system. The fully electronic and automated system would improve the ability to detect and pinpoint leaks and allow for earlier detection of leaks and system shutdown or isolation in order to prevent or mitigate leaks.



Responsive action could be taken much sooner than with the ammonia detection system currently in place. The shutdown system would be activated at 300 parts per million before ammonia concentrations in the engine room reached flammable concentrations. The read-out panels for this system should be located outside the machinery room so that workers and emergency responders do not have to enter the room while any leak is ongoing.

2. *Replace ammonia liquid pump with a hermetically-sealed pump to nearly eliminate the potential for ammonia releases from pump failure:* By November 30, 2014, Respondents shall replace the ammonia liquid pump at the Bridge Terminal facility in New Bedford, Massachusetts, with a hermetically-sealed pump to nearly eliminate the potential for ammonia releases from pump failure. The approximate cost is \$45,000, including capital and labor costs. An ammonia refrigeration expert often used by EPA estimates that approximately 10-15 percent of the leaks to which he responds are attributable to pump failures. This upgrade involves the conversion and upgrade of the current ammonia liquid pump from an “open drive” or mechanical pump with a shaft seal to a hermetically-sealed pump that has no mechanical seals and no shaft to penetrate the pressure containment area of the pump. Installation of a hermetically-sealed pump would eliminate the “weak link” on the open-drive pump, which is the shaft seal. The hermetically-sealed pump operates with the motor and pump sealed within the ammonia system, which nearly eliminates the potential for the pump itself to be the cause of a leak. The technology being replaced, even when working properly, presents a greater risk of leak due to unanticipated wear and tear, pressure changes resulting in varying quantities of ammonia being pumped, and resulting cavitation. Furthermore, this upgrade would improve worker safety by reducing the need for manual observation of the oil reservoir.

3. *Upgrade evaporator valve stations with state-of-the-art valves to reduce risk of an ammonia release from valve failure and reduce stress on other components of the system:* By November 15, 2015, Respondents shall upgrade the evaporator valve stations at the Bridge Terminal facility in New Bedford, Massachusetts to reduce the risk of ammonia release from valve failure and reduce stress on other components of the refrigeration system. The approximate cost is \$40,000, including capital and labor costs. The valves currently in use vary in terms of age, performance, and ease of use. The replacement valves would be soft hot gas bleed valves and would be upgraded in the following ways: (a) they have better stem packing; (b) they are no longer dependent on solenoids; and (c) have a more gradual opening and closing process to improve the efficiency and safety of the operating equipment on both sides of the valves (i.e., receivers, compressors, evaporators, etc.). Valves represent one of the most vulnerable points of the refrigerant flow cycle. The upgrade will significantly reduce the risk that a leak would result from valve failure. The upgrade will also reduce the stress on other operating components of the refrigeration system that are impacted by immediate pressure changes caused by the opening and closing of valves. Accordingly, the new valves should also reduce the likelihood of hammering, a dangerous condition that can damage equipment and increase the risk of release.

In Re: Connecticut Freezers, Inc. and Maritime  
International, Inc.  
EPA Docket Numbers: CAA-01-2012-0106, CERCLA-  
01-2012-0107, and EPCRA-01-2012-0108

CERTIFICATE OF SERVICE

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

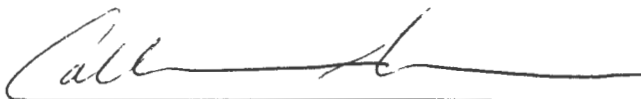
Original and one copy,  
hand-delivered:

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

Two copies of CAFO  
by certified mail

Joe Farside, Esq.  
Edwards Wildman Palmer LLP  
2800 Financial Plaza  
Providence, RI 02903

Dated: May 8, 2013



Catherine S. Smith  
Senior Enforcement Counsel  
U.S. EPA, Region 1  
5 Post Office Square  
Suite 100 (OES04-4)  
Boston, MA 02109-3912  
Tel: (617) 918-1777  
FAX: (617) 918-0777  
Email: smith.catherine@epa.gov



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION I  
5 POST OFFICE SQUARE, SUITE 100, BOSTON, MA 02109-3912

RECEIVED  
2013 MAY -7 P 3: 28

EPA ORC  
OFFICE OF  
REGIONAL HEARING CLERK

May 7, 2013

**VIA HAND-DELIVERY**

LeAnn Jensen  
Acting Regional Judicial Officer  
U.S. Environmental Protection Agency, Region I  
Mailcode ORA18-1  
5 Post Office Square, Suite 100, Boston, MA 02109-3912

**Re: In the Matter of Connecticut Freezers, Inc. and Maritime International, Inc., Docket Nos. CAA-01-2012-0106, CERCLA-01-2012-0107, EPCRA 01-2012-0108**

Dear Ms. Jensen:

Enclosed for your signature is a Consent Agreement and Final Order resolving the above-captioned matter. The Complaint alleged that Respondents failed to:

- a. comply with the requirements of the "General Duty Clause" of CAA Section 112(r)(1), 42 U.S.C. § 7412(r)(1), with regard to preventing a May 25, 2011 release of ammonia from a cold storage warehouse in New Haven, Connecticut;
- b. timely report the May 25, 2011 release of ammonia to the National Response Center, in violation of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a); and
- c. submit a timely follow-up notice to emergency responders following the May 25, 2011 release, in violation of Section 304(c) of EPCRA, 42 U.S.C. § 11004(c).

The enclosed Consent Agreement resolves these alleged violations. The settlement requires Respondents to pay a \$50,000 penalty in several installments (due to limited cash flow). It also requires Respondents to perform two Supplemental Environmental Projects ("SEP") at a cost of approximately \$160,000. The SEPs include (a) installing equipment upgrades to prevent ammonia releases and improve chemical safety at two of Respondents' cold storage warehouses, and (b) conducting training for other refrigeration operators and emergency responders to promote compliance with the General Duty Clause of Clean Air Act Section 112(r)(1). The penalty complies with the applicable penalty policies,<sup>1</sup> and the SEPs comply with the *EPA Supplemental Environmental Projects Policy* (May 1, 1998). Headquarters' Office of Enforcement and Compliance Assurance's Waste and Chemical Enforcement Division ("OECA") approved the settlement because all General Duty Clause matters are considered nationally significant, and compliance promotion SEPs require OECA approval.

<sup>1</sup> The applicable penalty policies are the *Combined Enforcement Policy for Clean Air Act Sections 112(r)(1), 112(r)(7), and 40 C.F.R. Part 68* (June 2012) and *Enforcement Response Policy for Sections 304, 311, and 312 of the Emergency Planning and Community Right-to-Know Act and Section 103 of the Comprehensive Environmental Response, Compensation and Liability Act* (September 30, 1999 with November 16, 2009 updates to penalty matrices).

Respondents' answer extension expires on **May 10, 2013**, so both parties would be grateful if you could expedite the signature of this matter. If you have any questions, please contact me by electronic mail and copy Respondents' counsel, Joe Farside, at [jfarside@edwardswildman.com](mailto:jfarside@edwardswildman.com).

Sincerely,

A handwritten signature in black ink, appearing to read "Catherine S. Smith", with a long horizontal flourish extending to the right.

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

Enclosure

cc: Joe Farside, Esq.