

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY****REGION 1****5 Post Office Square, Suite 100
Boston, Massachusetts 02109-3912**Received by
EPA Region 1
Hearing Clerk**EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT
EXPEDITED SETTLEMENT AGREEMENT****In the Matter of Nantucket Ice Company, Inc.****DOCKET NO: EPCRA-01-2022-0069**

This Expedited Settlement Agreement (“ESA”) is entered into by the United States Environmental Protection Agency (“EPA”), by its duly delegated official, and by Nantucket Ice Company, Inc. (“Respondent”), pursuant to Section 325(c) of the Emergency Planning and Community Right-to-Know Act (“EPCRA”), 42 U.S.C. § 11045, and 40 C.F.R. § 22.13(b), and in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, and the Revocation/Termination or Suspension of Permits* at 40 C.F.R. Part 22, to resolve alleged violations of Section 312 of EPCRA, 42 U.S.C. § 11022, at Respondent’s ice skating rink located at 10 Backus Lane in Nantucket, Massachusetts (“Facility”).

ALLEGED VIOLATION

Respondent is a “person,” as defined by Section 329(7) of EPCRA, 42 U.S.C. § 11049(7), and an owner or operator of a “facility,” as defined by Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and 40 C.F.R. § 370.66. Due to the presence of ammonia at the Facility, Respondent was required to have a Safety Data Sheet (“SDS”) on site pursuant to the Occupational Safety and Health Administration’s Hazard Communication Standard at 29 C.F.R. § 1910.1200(g) and 40 C.F.R. § 370.10(a).

Facilities that are required to have an SDS and that have hazardous chemicals present on site in amounts greater than the thresholds specified in 40 C.F.R. § 370.10 are subject to the chemical inventory reporting requirements of 40 C.F.R. Part 370, specifically the requirement to submit an emergency and hazardous chemical inventory form (“Tier II form”) each calendar year, on or before March 1st of the subsequent year, to the local emergency planning committee, the state emergency response commission, and the local fire department. Anhydrous ammonia is an extremely hazardous substance subject to the annual chemical inventory reporting requirements of 40 C.F.R. Part 370 when present at a facility in quantities greater than or equal to 500 pounds.

Based on the information obtained by EPA and the Tier II forms Respondent submitted for the 2019 and 2021 reporting years, anhydrous ammonia was present at Nantucket Ice in amounts greater than 500 pounds. However, Respondent failed to submit a completed Tier II form for reporting year 2020, in violation of Section 312 of EPCRA, 42 U.S.C. § 11022, and 40 C.F.R. Part 370. EPA finds that Respondent is subject to, and in violation of, Section 312 of EPCRA and its implementing regulations for failing to submit the required Tier II form for ammonia for reporting year 2020.

For purposes of this action, Respondent: (1) admits that it is subject to the requirements of Section 312 of EPCRA and that EPA has jurisdiction over Respondent and the subject matter alleged in this ESA; (2) neither admits nor denies the factual allegations in this ESA; (3) consents to the assessment of the civil penalty stated herein and to the conditions specified in this ESA; and (4) waives any right to contest the allegations in this ESA and its right to appeal the accompanying proposed Final Order.

The parties agree that settlement of this matter for a penalty of \$5,000 is fair, appropriate, and in the public interest, and EPA finds such penalty consistent with the statutory penalty factors and applicable EPA penalty policies.

TERMS OF SETTLEMENT

Within 30 days of receipt of this proposed ESA, Respondent shall send the signed ESA via electronic mail to Christine Foot at foot.christine@epa.gov.

By entering this agreement and signing this ESA, Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that it:

- (1) is operating in full compliance with EPCRA and the regulations promulgated thereunder at Nantucket Ice;
- (2) has put in place administrative procedures to ensure that Nantucket Ice complies with EPCRA in the future; and
- (3) will pay the penalty of \$5,000 in full within 30 days of the ESA being filed with the Regional Hearing Clerk, according to the enclosed "Penalty Payment Instructions," which are hereby incorporated by reference.

Upon receipt of the ESA signed by the Respondent, the ESA will be presented to the EPA Regional Judicial Officer for issuance of the proposed Final Order below. Once the Final Order is signed by the Regional Judicial Officer, the fully executed ESA and Final Order will be filed with the EPA Regional Hearing Clerk and copies sent to both the EPA Cincinnati Finance Center and the Respondent. EPA will take no further civil action against Respondent for the alleged violations of EPCRA identified in this ESA once the fully executed ESA is filed with the Regional Hearing Clerk.

EPA does not waive any right to issue an enforcement action for any other past, present, or future violations by Respondent of EPCRA or any other federal statute or regulation. This ESA shall not be construed as a covenant not to sue, release waiver, or limitation of any rights, remedies, powers, or authorities, civil or criminal, that EPA has under EPCRA or any other statutory, regulatory, or common law enforcement authority of the United States, except as stated above.

Each party to this action agrees to bear its own costs and fees, if any. The Parties each consent to the use of digital signatures on this document, and Respondent further consents to receipt of service of the ESA, once filed, by electronic mail. Respondent understands that the provided e-

mail address may be publicly available when the ESA and Certificate of Service are filed and uploaded to a searchable database.


If the signed ESA is not returned within 30 days of Respondent's receipt of the proposed ESA, the proposed settlement offer may be withdrawn without prejudice to EPA's ability to file a formal enforcement action for the violation identified herein.

This ESA is binding on the parties signing below.

FOR COMPLAINANT EPA:

By: _____ Date: *via electronic signature*
Karen McGuire, Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency
Region 1 – New England

FOR RESPONDENT:

By:  _____ Date: 9/20/22
Name: Devin Remick
Title: President

FINAL ORDER

Pursuant to 40 C.F.R. § 22.18(b)-(c) of EPA’s Consolidated Rules of Practice, the foregoing Expedited Settlement Agreement resolving *In the Matter of Nantucket Ice Company, Inc.*, Docket Number EPCRA-01-2022-0069 is incorporated by reference into this Final Order and is hereby ratified. Respondent is ordered to pay the civil penalty amount specified in the Expedited Settlement Agreement in the manner indicated in the attached Penalty Payment Instructions. The terms of the Expedited Settlement Agreement will become effective on the date it is filed with the Regional Hearing Clerk.

IT IS SO ORDERED:

LeAnn Jensen
Regional Judicial Officer
U.S. EPA Region 1

PENALTY PAYMENT INSTRUCTIONS

Respondent may pay the penalty by check (mail or overnight delivery), wire transfer, ACH, or online payment. Additional payment instructions are available at:

<http://www2.epa.gov/financial/makepayment>. Do not pay the penalty before receiving a fully executed copy of the ESA from EPA.

If paid by check, the docket number of the ESA must be included on the check. (The docket number is located at the top of this ESA.) Payments made by a cashier's check or certified check must be payable to the order of "Treasurer, United States of America."

If remitted by regular U.S. mail, payment should be sent to:

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

If remitted by any overnight commercial carrier, payment should be sent to:

U.S. Bank
Government Lockbox No. 979077
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, Missouri 63101

If paid by wire transfer, include the docket number in Field Tag 6000 and D 68010727 Environmental Protection Agency" in Field Tag 4200. The wire transfer account is:

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

Concurrently with payment, Respondent must **email** photocopies of the check, or proof of other payment method to the following:

Wanda Santiago, Regional Hearing Clerk
R1_Hearing_Clerk_Filings@epa.gov

Christine Foot, Enforcement Counsel
foot.christine@epa.gov