

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103**

In the Matter of:	:
	:
SEA WATCH INTERNATIONAL, LTD	: U.S. EPA Docket No. CERCLA-EPCRA-03-
8978 GLEBE PARK DRIVE	: 2021-0119
EASTON, MD 21601,	:
	: Proceeding under Sections 103 and 109 of the
Respondent.	: Comprehensive Environmental Response,
	: Compensation and Liability Act, 42 U.S.C.
SEA WATCH INTERNATIONAL, LTD	: §§ 9603 and 9609, and Sections 304 and 325 of
8978 GLEBE PARK DRIVE	: the Emergency Planning and Community
EASTON, MD 21601,	: Right-to-Know Act, 42 U.S.C. §§ 11004 and
	: 11045
Facility.	:
	:

CONSENT AGREEMENT

PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Enforcement & Compliance Assurance Division, U.S. Environmental Protection Agency, Region III (“Complainant”) and Sea Watch International, Ltd (“Respondent”) (collectively the “Parties”), pursuant to Section 109 of the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), 42 U.S.C. § 9609, Section 325 of the Emergency Planning and Community Right-to-Know Act (“EPCRA”), 42 U.S.C. § 11045, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. Part 22. Section 109 of CERCLA and Section 325 of EPCRA authorizes the Administrator of the U.S. Environmental Protection Agency to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated it to the Complainant. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the “Consent Agreement and Final Order”) resolve Complainant’s civil penalty claims against Respondent under Section 109 of CERCLA and Section 325 of EPCRA for the violations alleged herein.

2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

JURISDICTION

3. The U.S. Environmental Protection Agency has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.
4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(7) and (8).

GENERAL PROVISIONS

5. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.
6. Except as provided in Paragraph 5, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.
7. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this Consent Agreement and Final Order.
8. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and Final Order and waives its right to appeal the accompanying Final Order.
9. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
10. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

11. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.
12. Respondent is a corporation incorporated in the State of Maryland, with its headquarters located at 8978 Glebe Park Drive, in Easton, Maryland.
13. Respondent is the owner of a seafood processing facility located at 8978 Glebe Park Drive, in Easton, Maryland (the "Facility").

14. As a corporation, Respondent is a “person” as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21); Section 329(7) of EPCRA, 42 U.S.C. § 11049(7), and is subject to the assessment of civil penalties for the violations alleged herein.
15. At all times relevant to this Consent Agreement, Respondent has been in charge of the seafood processing Facility, within the meaning of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).
16. The Facility is a “facility” as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9); Section 329(4) of EPCRA, 42 U.S.C. § 11049(4); and their respective regulations, 40 C.F.R. §§ 302.3 and 355.61.
17. Respondent is an “owner or operator” of the Facility as defined by Section 101(20) of CERCLA, 42 U.S.C. § 9601(20), and referenced in Section 304 of EPCRA, 42 U.S.C. § 11004, and 40 C.F.R. §§ 355.2 and 355.30.

Count I
Failure to Immediately Notify the NRC of a Release

18. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
19. Section 102(a) of CERCLA, 42 U.S.C. § 9602(a), requires the Administrator of the EPA to publish a list of substances designated as hazardous substances, which, when released into the environment may present substantial danger to public health or welfare or to the environment, and to promulgate regulations establishing that quantity of any hazardous substance, the release of which shall be required to be reported under Section 103(a) of CERCLA, 42 U.S.C. § 9603(a) (“Reportable Quantity” or “RQ”). The list of hazardous substances is codified at 40 C.F.R. § 302.4.
20. Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), requires immediate notification to the National Response Center in the event a Reportable Quantity release has occurred.
21. At all times relevant to this Consent Agreement, the Facility was a facility at which a hazardous chemical was produced, used or stored.
22. On February 6, 2020, EPA conducted an inspection of the Facility to determine Respondent’s compliance with Section 103 of CERCLA and Sections 302-312 of EPCRA in response to a release of anhydrous ammonia that was reported to have occurred on September 28, 2019. During the inspection, EPA gathered information relevant to Respondent’s compliance with Section 103 of CERCLA and Sections 302-312 of EPCRA. During and after the inspection, Respondent submitted information to EPA regarding its compliance with CERCLA and EPCRA.
23. Beginning at or around 8:00 a.m. on September 28, 2019, and continuing until 1:00 p.m. on September 28, 2019, approximately 337 pounds of anhydrous ammonia were released

from an ammonia refrigeration unit at the Facility (the “Release”). The release occurred because a piston on an oiler retracted past the seal.

24. Anhydrous ammonia is an extremely hazardous substance, as defined under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), and 40 C.F.R. § 302.3, with an RQ of 100 pounds, as listed in 40 C.F.R. § 302.4.
25. The Release from the Facility constitutes a release of a hazardous substance in a quantity equal to or exceeding the RQ for that hazardous substance, requiring immediate notification of the NRC pursuant to Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).
26. The Release was not a “federally permitted release” as that term is used in Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), and 40 C.F.R. § 302.6, and defined in Section 101(10) of CERCLA, 42 U.S.C. § 9601(10).
27. Respondent first became aware that the Release was occurring at approximately 8:00 a.m. on September 28, 2019. On the afternoon of September 30, 2019, Respondent’s contractor calculated that 337 pounds of anhydrous ammonia had been released.
28. Respondent reported the Release to the NRC at approximately 10:04 a.m. on September 30, 2019.
29. Respondent knew or should have known that the Release from the Facility was in a quantity equal to or exceeding its RQ, no later than 11:15 a.m. on September 28, 2019, by which time Facility personnel’s respirators had twice become saturated with anhydrous ammonia, forcing them to leave the compressor room, Respondent had called 911, and the Hazmat team had entered the Facility.
30. Respondent failed to immediately notify the NRC of the Release as soon as Respondent knew or should have known that a release of a hazardous substance had occurred at the Facility in an amount equal to or exceeding the applicable RQ, as required by Section 103 of CERCLA, 42 U.S.C. § 9603, and 40 C.F.R. § 302.6.
31. In failing to comply with Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), and 40 C.F.R. Part 302, Respondent is subject to the assessment of penalties under Section 109(a) of CERCLA, 42 U.S.C. § 9609(a).

Count II
Failure to Immediately Notify the SERC of a Release

32. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
33. Section 302(a) of EPCRA, 42 U.S.C. § 11002(a), requires the Administrator of EPA to publish a list of Extremely Hazardous Substances (“EHSs”) and to promulgate

regulations establishing that quantity of any EHS the release of which shall be required to be reported under Section 304(a) through (c) of EPCRA, 42 U.S.C. § 11004(a) through (c), (“Reportable Quantity” or “RQ”). The list of EHSs and their respective RQs is codified at 40 C.F.R. Part 355, Appendices A and B.

34. Section 304(a)(3) and (b) of EPCRA, 42 U.S.C. § 11004(a)(3) and (b), as implemented by 40 C.F.R. Part 355, Subpart C, requires, in relevant part, the owner or operator of a facility at which hazardous chemicals are produced, used, or stored to notify the State Emergency Response Commission (“SERC”) immediately following a Reportable Quantity release.
35. The SERC for the Facility is, and at all times relevant to this Consent Agreement has been, the Maryland Department of the Environment, located at Building 1, Room EB-80, 1800 Washington Boulevard in Baltimore, Maryland.
36. Anhydrous ammonia is an EHS as listed in 40 CFR Part 355, Appendix A, with an RQ of 100 pounds.
37. The Release from the Facility constituted a release of an EHS in a quantity equal to or exceeding the RQ for that EHS, requiring immediate notification of the SERC pursuant to Section 304(a)(1) and (b) of EPCRA, 42 U.S.C. § 11004(a)(1) and (b).
38. Respondent reported the Release to the SERC at approximately 10:15 a.m. on September 30, 2019.
39. Respondent failed to immediately notify the SERC as soon as Respondent knew or should have known that a release of an EHS had occurred at the Facility in an amount equal to or exceeding the applicable RQ.
40. Respondent violated Section 304(a)(1) and (b) of EPCRA, 42 U.S.C. § 11004(a)(1) and (b), and the relevant regulations at 40 C.F.R. Part 355, Subpart C, by failing to immediately notify the SERC as soon as it had knowledge of the release of an EHS from the Facility in a quantity greater than the RQ.
41. In failing to comply with Section 304(a)(1) and (b) of EPCRA, 42 U.S.C. § 11004(a)(1) and (b), and 40 C.F.R. Part 355, Subpart C, Respondent is subject to the assessment of penalties under Section 325(b) of EPCRA, 42 U.S.C. § 11045(b).

CIVIL PENALTY

42. In settlement of EPA’s claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of **TWENTY-THREE THOUSAND SIX HUNDRED SIXTY-NINE (\$23,669)**, which total includes, **ELEVEN THOUSAND EIGHT HUNDRED THIRTY-FIVE DOLLARS (\$11,835.00)** for alleged violation of Section 103 of CERCLA, 42 U.S.C.

§ 9603 (“CERCLA civil penalty”), and **ELEVEN THOUSAND EIGHT HUNDRED THIRTY-FOUR DOLLARS (\$11,834.00)** for alleged violation of Section 304(b) of EPCRA, 42 U.S.C. § 11004(b) (“EPCRA civil penalty”), which Respondent shall be liable to pay in accordance with the terms set forth below.

43. The CERCLA civil penalty and the EPCRA civil penalty are based upon EPA’s consideration of a number of factors, including the penalty criteria (“statutory factors”) set forth in Section 325(b)(1)(C) of EPCRA, 42 U.S.C. § 11045(b)(1)(C) and Section 109(a)(3) of CERCLA, 42 U.S.C. § 9609(a)(3), including, the following: the nature, circumstances, extent and gravity of the violation or violations, and, with respect to the violator, ability to pay, any prior history of such violations, the degree of culpability, economic benefit or savings (if any) resulting from the violation, and such matters as justice may require. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA’s *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)*, which reflects the statutory penalty criteria and factors set forth at Section 325(b)(1)(C) of EPCRA and Section 109(a)(3) of CERCLA, the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA’s civil penalty policies to account for inflation.
44. Payment of the civil penalty amount, and any associated interest, administrative fees, and late payment penalties owed, shall be made by either cashier’s check, certified check or electronic wire transfer, in the following manner:
 - a. All payments by Respondent shall include reference to Respondent’s name and address, and the Docket Number of this action, i.e., CERCLA-EPCRA-03-2021-0119;
 - b. All checks in payment of the CERCLA civil penalty shall be made payable to the “EPA-Hazardous Substances Superfund”;
 - c. All payments made by check in payment of the CERCLA civil penalty and sent by regular mail shall be addressed and mailed to:

U.S. Environmental Protection Agency
Cincinnati Finance Center
P.O. Box 979076
St. Louis, MO 63197-9000
 - d. All checks in payment of the EPCRA civil penalty shall be made payable to the “United States Treasury”;
 - e. All payments made by check in payment of the EPCRA civil penalty and sent by regular mail shall be addressed and mailed to:

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

- f. For additional information concerning other acceptable methods of payment of the civil penalty amounts see:

<https://www.epa.gov/financial/makepayment>

- g. A copy of Respondent's checks or other documentation of payment of the penalties using the method selected by Respondent for payment shall be sent simultaneously to:

Cynthia T. Weiss
Senior Assistant Regional Counsel
U.S. EPA, Region III (3RC20)
1650 Arch Street
Philadelphia, PA 19103-2029
weiss.cynthia@epa.gov

and

U.S. EPA Region III Regional Hearing Clerk
R3_Hearing_Clerk@epa.gov

45. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment of the penalty as specified herein shall result in the assessment of late payment charges including interest, penalties and/or administrative costs of handling delinquent debts.
46. Payment of the civil penalty is due and payable immediately upon receipt by Respondent of a true and correct copy of the fully executed and filed Consent Agreement and Final Order. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed EPA by Respondent in accordance with 40 C.F.R. § 13.9(a).
47. INTEREST: In accordance with 40 C.F.R. § 13.11(a)(1), interest on the civil penalty assessed in this Consent Agreement and Final Order will begin to accrue on the date that a copy of the fully executed and filed Consent Agreement and Final Order is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any

amount of the civil penalties that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R § 13.11(a).

48. **ADMINISTRATIVE COSTS:** The costs of the EPA’s administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA’s Resources Management Directives – Case Management, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
49. **LATE PAYMENT PENALTY:** A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
50. Failure by the Respondent to pay the CERCLA civil penalty and the EPCRA civil penalty assessed by the Final Order in accordance with the terms of this Consent Agreement and Final Order may subject Respondent to a civil action to collect the assessed penalties, plus interest, pursuant to Section 109 of CERCLA, 42 U.S.C. § 9609, and Section 325 of EPCRA, 42 U.S.C. § 11045. In any such collection action, the validity, amount and appropriateness of the penalty shall not be subject to review.
51. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.

GENERAL SETTLEMENT CONDITIONS

52. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement and Final Order will be available to the public and represents that, to the best of Respondent’s knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.
53. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Consent Agreement and Final Order, including information about respondent’s ability to pay a penalty, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors

and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

OTHER APPLICABLE LAWS

54. Nothing in this Consent Agreement and Final Order shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This Consent Agreement and Final Order does not constitute a waiver, suspension or modification of the requirements of CERCLA or EPCRA, or any regulations promulgated thereunder.

RESERVATION OF RIGHTS

55. This Consent Agreement and Final Order resolves only EPA's claims for civil penalties for the specific violations alleged against Respondent in this Consent Agreement and Final Order. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. This settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice, 40 C.F.R. § 22.18(c). EPA reserves any rights and remedies available to it under CERCLA and EPCRA, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this Consent Agreement and Final Order after its effective date.

EXECUTION /PARTIES BOUND

56. This Consent Agreement and Final Order shall apply to and be binding upon EPA, the Respondent and the officers, directors, employees, contractors, successors, agents and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and Final Order.

EFFECTIVE DATE

57. The effective date of this Consent Agreement and Final Order is the date on which the Final Order, signed by the Regional Administrator of EPA, Region III, or his/her designee, the Regional Judicial Officer, is filed along with the Consent Agreement with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

ENTIRE AGREEMENT

58. This Consent Agreement and Final Order constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this Consent Agreement and Final Order.

For Respondent: Sea Watch International, Ltd

Date: 9/15/2021

By: Jerry L. Gordon
Jerry Gordon
Chief Operating Officer and Chief Financial
Officer

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement & Compliance Assurance Division of the United States Environmental Protection Agency, Region III, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

Date: _____

By: _____

Karen Melvin, Director
Enforcement & Compliance Assurance Division
U.S. EPA – Region III
Complainant

Attorney for Complainant:

Date: _____

By: _____

Cynthia T. Weiss
Sr. Assistant Regional Counsel
U.S. EPA – Region III

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REGION III
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Facility.	:
	:

FINAL ORDER

Complainant, the Director of the Enforcement & Compliance Assurance Division, U.S. Environmental Protection Agency, Region III, and Respondent, Sea Watch International, Ltd have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22 (with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA's *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)*, and the statutory penalty factors set forth at Section 109(a)(3) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9609(a)(3), and Section 325(b)(1)(C) of the Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. § 11045(b)(1)(C).

NOW, THEREFORE, PURSUANT TO Section 109 of CERCLA, 42 U.S.C. § 9609, and Section 325 of EPCRA, 42 U.S.C. § 11045, and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of **TWENTY-THREE THOUSAND SIX HUNDRED SIXTY-NINE DOLLARS (\$23,669.00)**, in accordance with the payment provisions set forth in the Consent Agreement and

in 40 C.F.R. § 22.31(c), and comply with the terms and conditions of the Consent Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Consent Agreement and does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of CERCLA and EPCRA and the regulations promulgated thereunder.

The effective date of the attached Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

Date: _____

By: _____

Joseph J. Lisa
Regional Judicial and Presiding Officer
U.S. EPA Region III