

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I

5 Post Office Square Suite 100
Boston, MA 02109

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August 16, 2011

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


Re: In the Matter of: Seafreeze LTD.
Docket Number EPCRA-01-2011-0062

Dear Ms. Santiago,

Please find enclosed for filing an original and one copy of an Administrative Complaint and Certificate of Service regarding the above-matter.

Please do not hesitate to contact me should you have any questions regarding the enclosed.

Sincerely,



Peter DeCambre

cc: Ken Peterson, President



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

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CONFIDENTIAL SETTLEMENT COMMUNICATION

August 16, 2011

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ken Peterson,
President
Seafreeze LTD.
100 Davisville Pier Road
New Kingstown, RI 02852

Re: In the Matter of Seafreeze LTD, Docket No: EPCRA-01-2011-0062

Dear Mr. Masson:

Enclosed is an Administrative Complaint that the U.S. Environmental Protection Agency ("EPA") is issuing to Seafreeze LTD as a result of our determination that the company violated Section 312 of the Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. § 11022 by failing to timely file "Tier II" forms for a number of chemicals and chemical products during the calendar years 2005 through 2009.

The attached Complaint discusses the statutory authorities for EPA's enforcement action, the nature of the alleged violations, and the proposed penalty. Pursuant to the above statutes, EPA's Complaint proposes a civil penalty of \$35,000. Please be advised that you have the right to request a hearing regarding the violations alleged in the Complaint and the appropriate penalty. If you wish to request a hearing, you must submit, within thirty days of receiving this letter, a written request to the Regional Hearing Clerk at the address set forth in the enclosed Complaint. The written request must be submitted with an Answer to the Complaint and must follow the requirements of the Consolidated Rules of Practice Governing the Administrative Assessment of Penalties, set forth at 40 C.F.R. Part 22. A copy of 40 C.F.R. Part 22 is enclosed. Failure to submit a request for a hearing within thirty days may result in default, as further explained in Section VI of the Complaint.

To avoid protracted and potentially expensive litigation, EPA is willing to settle this case for \$22,750 if you sign the enclosed Consent Agreement and Final Order within thirty days. Enclosed are penalty policies so that you can see how EPA calculated the \$35,000 figure. The \$22,750 offer includes a discount for rapid settlement, which EPA

may withdraw if this case is not settled quickly. The settlement offer includes other significant savings that may not be available to you if EPA litigates this matter.

You have the right to be represented by an attorney at any stage of the proceeding, including any informal discussions with EPA. Also enclosed is EPA's Information Sheet for Small Business Resources, which may be useful to you. Finally, you should know that it is the practice of this office to inform the press upon issuing administrative complaints.

If you wish to discuss settlement or if you have any questions, please contact Peter DeCambre, Senior Enforcement Counsel, of my staff at (617) 918-1890.

Sincerely,



Joanna Jerison
Manager, Legal Enforcement Unit
Office of Environmental Stewardship
U.S. Environmental Protection Agency-Region 1

Enclosures

1. Complaint
2. Draft Consent Agreement and Final Order
3. Settlement penalty calculations
4. 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
6. Consolidated Rules of Practice (40 C.F.R. Part 22)
7. Copy of letter to Hearing Clerk
8. Copy of Certificate of Service
9. Information Sheet for Small Business Resources

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1 – NEW ENGLAND

2011 AUG 16 P 12:41

IN THE MATTER OF)

Seafreeze LTD)
100 Davisville Pier Road)
New Kingstown, RI)

Proceeding under Section 325(c) of Title III)
of the Superfund Amendments and)
Reauthorization Act, 42 U.S.C. § 11045(c))

EPA ORC
OFFICE OF
REGIONAL HEARING CLERK

Docket No: EPCRA-01-2011-0062

**COMPLAINT AND NOTICE OF
OPPORTUNITY FOR HEARING**

I. STATEMENT OF AUTHORITY

1. The United States Environmental Protection Agency (“EPA”) issues this administrative Complaint and Notice of Opportunity for Hearing pursuant to 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 (“EPCRA”). This action is subject to 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 Permits, 40 C.F.R. §§ 22.1-22.52.

2. The authority to issue this Complaint has been delegated to the Legal Enforcement Manager, Office of Environmental Stewardship, Region 1 (“Complainant”).

3. The Complaint notifies Seafreeze LTD. (“Respondent” or “Seafreeze”), that EPA intends to assess civil penalties for Respondent’s failure to timely submit Tier II hazardous

chemical inventory forms to the proper authorities, in violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a), and its implementing regulations at 40 C.F.R. Part 370;

4. The Notice of Opportunity for Hearing describes Respondent's option to file an Answer to the Complaint and to request a formal hearing.

II. APPLICABLE STATUTES AND REGULATIONS

EPCRA Statutory and Regulatory Authority

5. In accordance with Section 312(a) of EPCRA, 42 U.S.C. § 11022(a), owners and operators of facilities that are required under Section 311(a) or EPCRA to prepare or have available a material safety data sheet ("MSDS") for one or more hazardous chemicals under the Occupational Safety and Health Act ("OSHA"), ("hazardous chemicals" or "hazardous chemicals under OSHA"), must prepare and submit an emergency and hazardous chemical inventory form ("Tier I" or "Tier II" form) to the LEPC, SERC, and local fire department. Tier I or Tier II forms must be submitted annually on or before March 1 and are required to contain chemical inventory information with respect to the preceding calendar year. Additionally, Section 312(b) of EPCRA, 42 U.S.C. § 11022(b), authorizes EPA to establish minimum threshold levels of hazardous chemicals for the purposes of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

6. The regulations promulgated pursuant to Sections 312 of EPCRA, 42 U.S.C. § 11022, are found at 40 C.F.R. Part 370. EPA promulgated new regulations to implement 312 of EPCRA on November 30, 2008 (73 Fed. Reg. 65478), but the substantive requirements relevant to the violations alleged herein did not change. Hereinafter, the Complaint cites the

current version of the applicable 40 C.F.R. Part 370 regulations with cross references to the citations that were in effect at the time of the alleged violations.

7. In accordance with Section 312(b) of EPCRA, 42 U.S.C. §11022(b), 40 C.F.R. § 370.10(a) (formerly § 370.20(b)) establishes minimum threshold levels for hazardous chemicals for the purposes of Part 370.

8. Under 40 C.F.R. §§ 370.20, 370.40, and 370.44 (formerly §§ 370.20 and 370.25), the owner or operator of a facility that has present a quantity of a hazardous chemical exceeding the minimum threshold level must prepare and submit a Tier I or Tier II form to the LEPC, SERC and local fire department. Forty C.F.R. § 370.45 (formerly § 370.25(a)) prescribes that Tier I or Tier II forms must be submitted annually on or before March 1 and are required to contain chemical inventory information with respect to the preceding calendar year. The LEPC, SERC or local fire department may request that a facility submit the more comprehensive Tier II form in lieu of the Tier I form. Rhode Island requires the Tier II form.

9. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), as amended by EPA's 2008 Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19, promulgated in accordance with the Debt Collection Improvement Act of 1996 ("DCIA"), 31 U.S.C. § 3701, provides for the assessment of civil penalties for violations of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a), in amounts of up to \$32,500 per day for violations occurring between March 15, 2004 and January 12, 2009, and up to \$37,500 per day for violations occurring after January 12, 2009.

III. GENERAL ALLEGATIONS

10. Respondent operates a facility located at 100 Davisville Pier Road in New Kingstown, Rhode Island (the "Facility"), where Respondent manages frozen fish for sale and distribution.

11. Respondent is a corporation organized under the laws of the State of Rhode Island. As a corporation, Respondent is a "person" within the meaning of Section 329(7) of EPCRA, 42 U.S.C. § 11049(7), 40 C.F.R. § 370.66 (formerly § 370.2), and 40 C.F.R. § 372.5 against whom a civil penalty may be assessed under Section 325(c) of EPCRA, 42 U.S.C. § 11045(c).

12. Respondent is an owner or operator of a "facility," as that term is defined by Section 329(4) of EPCRA, 42 U.S.C. § 11049(4) and 40 C.F.R. § 370.66.

13. On November 1, 2010, EPA sent an electronic correspondence confirming with the company that EPA would conduct an EPCRA inspection at the Facility on November 16, 2010. On or about November 16, 2010, authorized representatives of EPA inspected Respondent's facility. The purpose of the inspection was to determine Respondent's compliance with EPCRA reporting requirements.

14. At all times relevant to the violations cited herein, Respondent stored fuel oil, which is a "hazardous chemical" within the meaning of Sections 311(e) and 312(c) of EPCRA, 42 U.S.C. §§ 11021(e) and 11022(c), and as defined under 29 C.F.R. § 1910.1200(c), in a quantity that exceeds the minimum threshold level ("MTL") of 10,000 pounds set forth in 40 C.F.R. § 370.20.10(a)(2) (formerly § 370.20(b)(4)) at the facility.

15. At all times relevant to the violations cited herein, Respondent stored anhydrous ammonia and sulfuric acid, which are both "hazardous chemicals" and "extremely hazardous

chemicals" within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 1102(e), and as defined under 29 C.F.R. § 1910.1200(c) and 40 C.F.R. 370.66, in a quantity that exceeds the MTL of 500 pounds set forth in 40 C.F.R. § 370.20.10(a)(1) (formerly 40 C.F.R. § 370.20(b)(1)) at the facility.

16. As the operator of a facility that was required to prepare or have available MSDSs for hazardous chemicals under OSHA, which hazardous chemicals were present at the Facility in quantities exceeding the MTL, Respondent was subject to Part 370. In particular, the presence of the hazardous chemicals listed in Paragraphs 14 and 15, and their associated quantities, required the company to submit a Tier II form to the LEPC, SERC, and local fire department by March 1 of 2007, 2008, and 2009, with respect to chemical inventory in the previous calendar year.

IV. VIOLATIONS

EPCRA 312 VIOLATIONS: Failure to Timely Provide Tier II Hazardous Chemical Inventory Forms to the Proper Authorities

17. Complainant realleges and incorporates by reference Paragraphs 1 through 16 of this Complaint.

18. During calendar year 2006, Respondent stored anhydrous ammonia in a quantity that exceeded the MTL of 500 lbs. for extremely hazardous substances set forth in 40 C.F.R. § 370.10(a)(1) (formerly § 370.20(b)(1)).

19. During calendar year 2006, Respondent stored sulfuric acid in a quantity that exceeded the MTL of 500 lbs. for extremely hazardous substances set forth in 40 C.F.R. § 370.10(a)(1) (formerly § 370.20(b)(1)).

20. During calendar year 2007, Respondent stored anhydrous ammonia in a quantity that exceeded the MTL of 500 lbs. for extremely hazardous substances set forth in 40 C.F.R.

§ 370.10(a)(1) (formerly § 370.20(b)(1)).

21. During calendar year 2007, Respondent stored anhydrous ammonia and sulfuric acid in quantities that exceeded the MTL of 500 lbs. for extremely hazardous substances set forth in 40 C.F.R. § 370.10(a)(1) (formerly § 370.20(b)(1)).

22. During calendar year 2008, Respondent stored anhydrous ammonia in a quantity that exceeded the MTL of 500 lbs. for extremely hazardous substances set forth in 40 C.F.R. § 370.10(a)(1) (formerly § 370.20(b)(1)).

23. During calendar year 2008, Respondent stored sulfuric acid in a quantity that exceeded the MTL of 500 lbs. for extremely hazardous substances set forth in 40 C.F.R. § 370.10(a)(1) (formerly § 370.20(b)(1)).

24. During calendar year 2009, Respondent stored anhydrous ammonia in a quantity that exceeded the MTL of 500 lbs. for extremely hazardous substances set forth in 40 C.F.R. § 370.10(a)(1) (formerly § 370.20(b)(1)).

25. During calendar year 2009, Respondent stored sulfuric acid in a quantity that exceeded the MTL of 500 lbs. for extremely hazardous substances set forth in 40 C.F.R. § 370.10(a)(1) (formerly § 370.20(b)(1)).

26. During calendar year 2009, Respondent stored fuel oil at the facility in a quantity that exceeds the MTL of 10,000 pounds set forth in 40 C.F.R. § 370.10(a)(2) (formerly § 370.20(b)(4)).

27. Pursuant to EPCRA Section 312(a), 42 U.S.C. § 11022(a), and 40 C.F.R. §§ 370.20, 370.40, 370.44 and 370.45 (formerly §§ 370.20 and 370.25), Respondent was required to prepare and submit a Tier II form to the SERC, LEPC and local fire department for calendar years 2006, 2007, 2008, and 2009 on or before March 1 of the next calendar year, in

order to report the data required by Section 312(d) of EPCRA, 42 U.S.C. § 11022(d), and 40 C.F.R. § 370.42.

28. Respondent failed to submit Tier II forms by March 1 of 2007, 2008, 2009 and 2010 to the SERC, LEPC and local fire department.

29. Accordingly, Respondent violated EPCRA Section 312(a), 42 U.S.C. § 11022(a), and 40 C.F.R. §§ 370.20, 370.40, 370.44 and 370.45 (formerly §§ 370.20 and 370.25).

30. Respondent is therefore subject to an assessment of penalties under Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), former 40 C.F.R. § 370.5, and 40 C.F.R. Part 19.

V. PROPOSED CIVIL PENALTY

31. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), 40 C.F.R. § 370.5, and 40 C.F.R. Part 19, authorize EPA to assess a penalty of \$32,500 per day for each violation of EPCRA Section 312, 42 U.S.C. § 11022, occurring after March 15, 2004 through January 12, 2009 and \$37,500 per day for each violation that occurs after January 12, 2009. Failure to report in a timely manner, as required by Section 312, may deprive the community of its right to know about chemicals used or stored near or in the neighborhood that may affect public health and the environment, and may prevent comprehensive planning by federal, state and local authorities to properly prepare for accidental chemical releases.

32. The proposed civil penalty has been determined in accordance with Section 325(c) of EPCRA, 42 U.S.C. § 11045(c). For purposes of determining the amount of any penalty to be assessed, EPA considered the nature, circumstances, extent and gravity of the violations, and with respect to the Respondent, its ability to pay, prior history of violations, degree of culpability, economic benefit or savings resulting from the violation, and such other

matters as justice may require. To develop the proposed penalty in this complaint, the Complainant has taken into account the particular facts and circumstances of this case with specific reference to EPA's "Interim Final 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" (dated September 30, 1999, as amended through April 6, 2010) ("ERP"), a copy of which is enclosed with this Complaint. This policy provides a rational, consistent and equitable calculation methodology for applying the statutory penalty factors enumerated above to particular cases.

33. Pursuant to Part V of the ERP, the first stage of calculating a penalty requires the determination of the "extent" level of the violation and the second stage concerns the "gravity" level of the violation. Under the ERP, EPA has discretion to select an amount within the range specified in the appropriate matrix box.

34. The "extent" of Respondent's 312 violation alleged in Paragraphs 17 through 30 was determined to be "Level 1" because Respondent failed to submit the Tier II chemical inventory form for calendar year 2009 to the SERC, LEPC or fire department within 30 calendar days of the reporting deadline. The "gravity" of the violation alleged was determined to be "Level A" because the amount of a hazardous chemical not reported was greater than 10 times the reporting threshold.

35. For Respondent's violations of 312(a), Respondent's failure to submit the Tier II form was determined to fall in the mid-point of the Level 1-A matrix box, based on the circumstances of the violation, resulting in a penalty of \$32,000.

36. Pursuant to Part VI of the ERP, for each non-reporting year prior to the most recent reporting period at the time of the EPA inspection, a flat penalty of \$1,500 per year is

proposed, regardless of the number of entities that failed to receive the report. Therefore, a flat penalty of \$3,000 is proposed for Respondent's failure to submit Tier II forms for calendar years 2007 and 2008, the violations alleged in Paragraphs 20 and 21, and 22 and 23, respectively.

37. The proposed penalty as stated in this Complaint was developed based on the best information available to the Agency at this time and may be adjusted if the Respondent establishes bona fide issues of ability to pay or other defenses relevant to the appropriate amount of the proposed penalty.

38. Based upon the violations cited in this Complaint, and taking into account the nature, circumstances and gravity of these violations, the Complainant proposes that Respondent be assessed a civil penalty in the amount of \$35,000 for the violations alleged in this Complaint.

VI. NOTICE OF OPPORTUNITY TO REQUEST A HEARING

39. Respondent has the right to request a hearing to contest the issues raised in this Complaint. Any such hearing would be conducted in accordance with the Consolidated Rules of Practice, 40 C.F.R. Part 22. Any request for a hearing must be included in Respondent's written Answer to this Complaint and filed with the Regional Hearing Clerk at the address listed below within 30 days of receipt of this Complaint.

40. In its Answer, Respondent may also: (1) dispute any material fact in the Complaint; (2) contend that the proposed penalty is inappropriate; or (3) contend that it is entitled to judgment as a matter of law. The Answer must clearly and directly admit, deny, or explain each of the factual allegations contained in this Complaint of which Respondent has any knowledge. If Respondent has no knowledge of a particular factual allegation and so states, the allegation is considered denied. The failure to deny an allegation constitutes an admission of that

allegation. The Answer must also include the grounds for any defense and the facts Respondent intends to place at issue.

41. The original and one copy of the Answer, as well as a copy of all other documents which Respondent files in this action, must be sent to:

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

42. Respondent should also send a copy of the Answer, as well as a copy of all other documents which Respondent files in this action, to Peter DeCambre, the attorney assigned to represent EPA and who is designated to receive service in this matter at:

Peter DeCambre
Senior Enforcement Counsel
U.S. EPA, Region 1
5 Post Office Square
Suite 100 (OES04-4)
Boston, MA 02109-3912
Tel: (617) 918-1890

43. If Respondent fails to file a timely Answer to this Complaint, it may be found to be in default, which constitutes an admission of all the facts alleged in the Complaint and a waiver of the right to a hearing.

VII. INFORMAL SETTLEMENT CONFERENCE

44. Whether or not a hearing is requested upon the filing of an Answer, Respondent may confer informally with EPA concerning the alleged violations, the amount of any penalty, and/or the possibility of settlement. Such a conference provides Respondent with an opportunity to respond informally to the charges, and to provide any additional information that may be

relevant to this matter. EPA has the authority to adjust penalties, where appropriate, to reflect any settlement reached in an informal conference. The terms of such an agreement would be embodied in a binding Consent Agreement and Final Order.

45. Please note that a request for an informal settlement conference does not extend the thirty (30) day period within which a written answer must be submitted in order to avoid a default. To request an informal settlement conference, Respondent or its representative should contact Peter DeCambre, Senior Enforcement Counsel, at (617) 918-1890.

VIII. CONTINUED COMPLIANCE OBLIGATION

46. Neither assessment nor payment of an administrative penalty shall affect the Respondent's continuing obligation to comply with Sections 312(a) of EPCRA, 42 U.S.C. § 11022(a); and implementing regulations at 40 C.F.R. Parts 370.



Joanna Jerison, Legal Enforcement Manager
Office of Environmental Stewardship
U.S. Environmental Protection Agency
Region 1 – New England



Date

**In the Matter of: Seafreeze LTD.
Docket Number EPCRA-01-2011-0062**

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Administrative Complaint has been sent to the following persons on the date noted below:


Original and one copy
hand delivered:

Wanda Santiago
Regional Hearing Clerk (RAA)
U.S. EPA, Region I
One Congress Street, Suite 1100
Boston, MA 02114-2023

Copy by Certified Mail-
Return Receipt Requested

Ken Peterson, President
Seafreeze LTD.
100 Davisville Pier Road
New Kingstown, RI 02852

Date: 8/16/11



Peter DeCambre
Office of Environmental Stewardship U.S.
Environmental Protection Agency
Region I
5 Post Office Square, Suite 100
Mail Code OES04-4
Boston, MA 02109-3219
tel: (617) 918-1890
fax: (617) 918-0890

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1**

In the Matter of:)	
)	
Seafreeze LTD)	CONSENT AGREEMENT
100 Davisville Pier Road)	AND FINAL ORDER
New Kingstown, RI)	
)	
Respondent.)	Docket No.
)	EPCRA-01-2011-0062
Proceeding under Section 325(c) of the Emergency)	
Planning and Community Right-to-Know Act, 42)	
U.S.C. § 11045(c))	
)	

CONSENT AGREEMENT AND FINAL ORDER

Complainant, the United States Environmental Protection Agency ("EPA"), having filed the Complaint herein against Respondent, Seafreeze LTD ("Respondent"), the Parties herein; and

Complainant and Respondent having agreed that settlement of this matter is in the public interest and that entry of this Consent Agreement and Final Order 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:

I. PRELIMINARY STATEMENT

1. EPA initiated this proceeding for the assessment of a civil penalty of thirty-five thousand dollars (\$35,000), pursuant to Section 325 of the Emergency Planning and Community

Right-to-Know Act of 1986 ("EPCRA"), 42 U.S.C. § 11045, and the regulations promulgated thereunder, found at 40 C.F.R. Part 370.

2. The Complaint alleges that Respondent violated regulations concerning the submission of chemical inventory forms for extremely hazardous chemicals and hazardous chemicals, including, but not limited to, anhydrous ammonia, sulfuric acid and fuel oil, stored at Respondent's facility located at 100 Davisville Pier Road, New Kingstown, RI ("facility"), in quantities equal to or greater than the chemical-specific minimum threshold for these chemicals set forth at 40 C.F.R. § 370.10 (formerly 40 C.F.R. 370.20(b)(4)).

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

4. Respondent stipulates 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 Respondent. Respondent waives any defenses it might have as to jurisdiction and venue Respondent waives any defenses it might have as to jurisdiction and venue and, without admitting or denying the factual and legal allegations contained in the Complaint, consents to the terms of this Consent Agreement and Final Order.

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

II. TERMS OF SETTLEMENT

6. Respondent has demonstrated to the satisfaction of EPA that it has complied with the reporting requirements that formed the basis of Count I of the Complaint.

7. Pursuant to Section 325(c) of EPCRA, 42 U.S.C. §11045(c), the nature of the violations, Respondent's cooperative attitude, and other relevant factors, EPA has determined that an appropriate civil penalty to settle this action is in the amount of twenty-two seven hundred fifty dollars (\$22,750).

8. Respondent consents to the issuance of the Consent Agreement and Final Order hereinafter recited and consents for purposes of settlement to the payment of the civil penalty cited in the foregoing paragraph.

9. Within thirty (30) days of the effective date of the Final Order, Respondent shall submit a cashier's or certified check, to the order of the "Treasurer, United States of America," in the amount of twenty-two seven hundred fifty dollars (\$22,750), to:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

Respondent shall provide copies of the check to:

Wanda Santiago
Regional Hearing Clerk (RAA)
U.S. Environmental Protection Agency
One Congress Street, Suite 1100
Boston, MA 02114-2023

and

Peter DeCambre
Senior Enforcement Counsel
U.S. Environmental Protection Agency
5 Post Office Square Suite 100
Boston, MA 02109

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 partial payment of the civil penalty, plus interest thereon, is not paid when due without demand, the penalty plus accrued interest shall be payable with additional interest from the original due date to the date of payment, at the rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b)(2). 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). All penalties, interest, and charges payable pursuant to this Consent Agreement and Final Order shall represent civil penalties assessed by EPA and shall not be deductible for purposes of federal taxes.

10. Respondent shall bear its own costs and attorneys fees in connection with the action resolved by this Consent Agreement and Final Order.

11. This Consent Agreement and Final Order constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 325 of EPCRA for the violations of EPCRA alleged in the Complaint. Compliance with this Consent Agreement and Final Order shall not be a defense to any actions subsequently commenced pursuant to Federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with such laws and regulations.

12. This Consent Agreement and Final Order in no way relieves Respondent or its employees of any criminal liability. Nothing in the Consent Agreement and Final Order shall be construed to limit the authority of the United States to undertake any action against Respondent in response to conditions that may present an imminent and substantial endangerment to the

public health, welfare, or the environment.

13. 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 Consent Agreement and to execute and legally bind that party to it.

14. In accordance with 40 C.F.R. § 22.31(b), the effective date is the date on which this Consent Agreement and Final Order is filed with the Regional Hearing Clerk.

For Complainant:

Joanna Jerison, Legal Enforcement Manager
Office of Environmental Stewardship
U.S. Environmental Protection Agency
Region 1 – New England

Date

For Respondent:

Ken Peterson,
President
Seafreeze LTD.
100 Davisville Pier Road
New Kingstown, RI 02852

Date