

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

TO BE FILLED OUT BY ORIGINATING OFFICE:

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Cynthia T Weiss 8/11/10
Name of Contact person Date

in the ORC, Region III at (215) 814-2659
Office Phone number

Non-SF Jud. Order/Consent Decree. DOJ COLLECTS Administrative Order/Consent Agreement FMD COLLECTS PAYMENT

SF Jud. Order/Consent Decree. FMD COLLECTS

This is an original debt This is a modification

Name of Person and/or Company/Municipality making the payment
Chestnut Ridge Foam, Inc.

The Total Dollar Amount of Receivable \$39,796.80

(If in installments, attach schedule of amounts and respective due dates)

The Case Docket Number CAA-03-2010-0334

The Site-Specific Superfund Acct. Number _____

The Designated Regional/HQ Program Office HSCD

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number _____

If you have any questions call: _____
Name of Contact Date

in the Financial Management Office, phone number: _____

JUDICIAL ORDERS: Copies of this form with an attached copy of the front page of the final judicial order should be mailed to:

- | | |
|--|------------------------------|
| 1. Rosemarie Pacheco Environmental Enforcement Section Lands Division, Room 130044 1425 New York Avenue, N.W. Washington, D.C. 20005 | 2. Originating Office (ORC) |
| | 3. Designated Program Office |

ADMINISTRATIVE ORDERS: Copies of this form with an attached copy of the front page of the administrative order should be sent to:

- | | |
|---------------------------|------------------------------|
| 1. Originating Office | 2. Designated Program Office |
| 3. Regional Hearing Clerk | 3. Regional Counsel |



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

August 11, 2010

Larry Garrity, President
Chestnut Ridge Foam, Inc.
443 Warehouse Drive
Latrobe, PA 15650

Re: **In the Matter of Chestnut Ridge Foam, Inc**
U.S. EPA Docket No. CAA-03-2010-0334

Dear Mr. Garrity:

Enclosed please find a copy of Consent Agreement, which has been filed with the Regional Hearing Clerk today.

Sincerely yours,

A handwritten signature in cursive script that reads "Cynthia T. Weiss".

Cynthia T. Weiss
Senior Assistant Regional Counsel

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 ARCH STREET
PHILADELPHIA, PENNSYLVANIA 19103-2029

In the Matter of:)

Chestnut Ridge Foam, Inc.)
443 Warehouse Drive)
Latrobe, Pennsylvania 15650,)

EPA Docket No: CAA-03-2010-0334

Respondent)

Chestnut Ridge Foam, Inc.)
443 Warehouse Drive)
Latrobe, Pennsylvania 15650,)

Facility.)
)
)
)

CONSENT AGREEMENT

STATUTORY AUTHORITY

This Consent Agreement is proposed and entered into under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 113 of the Clean Air Act, as amended, ("CAA"), 42 U.S.C. § 7413, and under the authority provided by the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits" ("Consolidated Rules of Practice"), 40 C.F.R. Part 22, ("Part 22"). The Administrator has delegated these authorities to the Regional Administrator of EPA, Region III, who has in turn delegated them to the Director, Hazardous Site Cleanup Division, EPA Region III ("Complainant").

The parties agree to the commencement and conclusion of this cause of action by issuance of this Consent Agreement and Final Order (referred to collectively herein as "CAFO") as prescribed by the Consolidated Rules of Practice pursuant to 40 C.F.R. § 22.13(b), and having consented to the entry of this CAFO, agree to comply with the terms of this CAFO.

FINDINGS OF FACT

EPA finds as follows:

1. Chestnut Ridge Foam, Inc., ("Respondent") is a Pennsylvania corporation, with its principal place of business located at 443 Warehouse Drive in Latrobe, Pennsylvania (the "Facility").

2. On November 15, 1990, the President signed into law the Clean Air Act Amendments of 1990. The Amendments added Section 112(r) to the CAA, 42 U.S.C. § 7412(r), which requires the Administrator of EPA to, among other things, promulgate regulations in order to prevent accidental releases of certain regulated substances. Section 112(r)(3), 42 U.S.C. § 7412(r)(3), mandates the Administrator to promulgate a list of regulated substances, with threshold quantities, and defines the stationary sources that will be subject to the accident prevention regulations mandated by Section 112(r)(7). Specifically, Section 112(r)(7) requires the Administrator to promulgate regulations that address release prevention, detection, and correction requirements for these listed regulated substances, 42 U.S.C. § 7412(r)(7). The list of regulated substances and threshold levels can be found in 40 C.F.R. § 68.130.

3. On June 20, 1996, EPA promulgated a final rule known as the Risk Management Program, 40 C.F.R. Part 68, which implements Section 112(r)(7), 42 U.S.C. § 7412(r)(7), of the CAA. The regulations require owners and operators of stationary sources to develop an implement a risk management program that includes a hazard assessment, a prevention program, and an emergency response program. The risk management program is described in a risk management plan that must be submitted to EPA. The risk management plan must include a hazard assessment to assess the potential effects of an accidental release of any regulated substance, a program for preventing accidental releases of hazardous substances, and a response program providing for specific actions to be taken in response to an accidental release of a regulated substance, so as to protect human health and the environment.

4. Pursuant to Section 112(r)(7)(B)(iii) of the CAA, 42 U.S.C. § 7412(r)(7)(B)(iii), and its regulations at 40 C.F.R. §§ 68.10(a) and 68.150(a), the owner or operator of a stationary source at which a regulated substance is present in more than a threshold quantity must submit a Risk Management Plan to EPA no later than the latter of June 21, 1999, or the date on which a regulated substance is first present above the threshold quantity in a process.

5. Section 113(d)(1)(B) of the CAA, 42 U.S.C. § 7413(d)(1)(B), authorizes the EPA to commence an administrative action to assess civil penalties of not more than \$25,000.00 per day for each violation of Section 112(r) of the CAA that occurs before January 30, 1997. Section 113(d)(1)(B), as amended by the Debt Collection Improvement Act of 1996, authorizes the EPA to commence an administrative action to assess civil penalties of not more than \$32,500.00 per day for each violation of Section 112(r) of the CAA that occurs after March 15, 2004 through January 12, 2009, and \$37,500 per day for each violation of Section 112(r) of the

CAA that occurs after January 12, 2009.

6. The regulations at 40 C.F.R. § 68.3 define “stationary source” in part, as any buildings, structures, equipment, installations, or substance emitting stationary activities which belong to the same industrial group, which are located on one or more contiguous properties, which are under the control of the same person (or persons under common control) and from which an accidental release may occur.

7. The regulations at 40 C.F.R. § 68.3 define “threshold quantity” as the quantity specified for regulated substances pursuant to Section 112(r)(5) of the CAA, listed in 40 C.F.R. § 68.130, Table 1, and determined to be present at a stationary source as specified in 40 C.F.R. § 68.115.

8. The regulations at 40 C.F.R. § 68.3 define “regulated substance” as any substance listed pursuant to Section 112(r)(3) of the CAA, in 40 C.F.R. § 68.130.

9. The regulations at 40 C.F.R. § 68.3 define “process” as any activity involving a regulated substance including any use, storage, manufacturing, handling, or on-site movement of such substances, or combination of these activities. For purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release, shall be considered a single process.

10. Respondent is a “person” as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

11. Respondent is the owner or operator of a “stationary source,” as the term is defined at 40 C.F.R. § 68.3, since July 8, 2003.

12. Toluene diisocyanate is a regulated substance pursuant to 40 C.F.R. § 68.3 pursuant to Section 112(r)(2) and (3) of the CAA, 42 U.S.C. § 7412(2) and (3), and is listed at 40 C.F.R. § 68.130, with a threshold quantity of 10,000 pounds.

13. Complainant conducted an inspection of the Facility on May 14, 2009, to ensure compliance with Section 112(r)(7) of the CAA and the Risk Management Program regulations at 40 C.F.R. Part 68.

14. Information reviewed during the inspection indicated that the Facility has exceeded the threshold quantity for Toluene diisocyanate since July 1999, and at all times relevant to this Consent Agreement.

15. Respondent is subject to the requirements of Section 112(r) of the CAA, 40 U.S.C. § 7412(r), and 40 C.F.R. Part 68, Subpart G, because it is the owner and operator of a stationary source that had more than a threshold quantity of a regulated substance in a process.

16. Respondent was required under Section 112(r) of the CAA, 40 U.S.C. § 7412(r), and 40 C.F.R. Part 68, to develop and implement a risk management program that includes a hazard assessment, a prevention program, and an emergency response program.

17. Complainant determined, based on its inspection of the Facility and documents obtained from the Facility, that the Facility failed to comply with the following components of the Risk Management Program:

- a. Review and update of its hazard assessment, including an off-site consequences analysis, and retention of documents relating to initial off-site consequence analysis; and
- b. Implement a Program 2 prevention program, including preparation of comprehensive written standard operating procedures, update of the process hazard review every five years, conducting a compliance audit every three years, and retaining documents.

18. Respondent submitted a Risk Management Plan for the Facility to EPA on or about January 26, 2010.

EPA'S CONCLUSION OF LAW RELATED TO THE VIOLATION OF SECTION 112(r)(7) OF THE CAA

19. Respondent has violated Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and its regulations at 40 C.F.R. Part 68, by failing to review and update its hazard assessment, retain required documentation, prepare comprehensive standard operating procedures, update the process hazard review every five years and complete the triennial compliance audit.

CIVIL PENALTY

20. In settlement of the above-captioned action for the violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), set forth above, Respondent agrees to pay a civil penalty of Thirty-Nine Thousand Seven Hundred Ninety-Six Dollars and Eighty Cents (\$39,796.80), in satisfaction of all claims for civil penalties for the violations alleged in this CAFO.

PAYMENT TERMS

21. In order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with the civil penalties described in this CAFO, Respondent shall pay the CAA civil penalty of \$39,796.80, no later than **thirty (30) days** after the effective date of the Final Order (the “final due date”) by either cashier's check, certified check, or electronic wire transfer.

22. 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 or to comply with the conditions in this CAFO shall result in the assessment of late payment charges including additional interest, penalties, and/or administrative costs of handling delinquent debts.

23. Interest on any civil penalty assessed in a CAFO begins to accrue on the date that a copy of such CAFO is mailed or hand-delivered to the Respondent (“Interest Accrual Date”). EPA does not seek to recover interest on any amount of such civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest on the portion of a civil penalty not paid within such 30 calendar day period will be assessed at the rate of the U.S. Treasury Tax and Loan Rate in accordance with 40 C.F.R. § 13.11(a).

24. The costs of the Agency’s administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA’s Resources Management Directives - Cash 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.

25. Payment of the CAA civil penalty assessed herein shall be made in the manner specified below:

- a. All payments by Respondent shall reference Respondent’s name and address, and the Docket Number of this action;
- b. All checks shall be made payable to **United States Treasury**;
- c. All payments made by check and sent by regular mail shall be addressed to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000
Contact: Eric Volck 513-487-2105

- d. All payments made by check and sent by overnight delivery service shall be addressed for delivery to:

U.S. EPA
Fines and Penalties
U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101
Contact: Eric Volck 513-487-2105

- e. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance
US EPA, MS-NWD
26 W. M.L. King Drive
Cincinnati, OH 45268-0001

- f. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York
ABA = 021030004
Account No. = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read:
D 68010727 Environmental Protection Agency

- g. All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX / Cashlink ACH Receiver
ABA = 051036706

Account No.: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 - Checking

Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737
Contact: Jesse White 301-887-6548 or REX, 1-866-234-5681

h. On-Line Payment Option:

WWW.PAY.GOV/PAYGOV

Enter sfo 1.1 in the search field. Open and complete the form.

i. Additional payment guidance is available at:

http://www.epa.gov/ocfo/finservices/make_a_payment.htm

26. The Respondent shall submit a copy of the check to the following persons:

Lydia Guy (3RC00)
Regional Hearing Clerk
U.S. Environmental Protection Agency
1650 Arch Street
Philadelphia, PA 19103-2029

Cynthia T. Weiss (3RC42)
Assistant Regional Counsel
U.S. Environmental Protection Agency
1650 Arch Street
Philadelphia, PA 19103-2029

27. The CAA civil penalty stated herein is based upon Complainant's consideration of a number of factors, including, but not limited to, the penalty criteria set forth in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), and is consistent with 40 C.F.R. Part 19 and the *Combined Enforcement Response Policy for Section 112(r) of the Clean Air Act (August 15, 2001)*.

28. Failure by the Respondent to pay the penalty assessed by the Final Order in full by the final due date may subject Respondent to a civil action to collect the assessed penalties, plus interest, pursuant to Section 113 of the CAA, 42 U.S.C. § 7413. In any such collection action, the validity, amount and appropriateness of the \$39,796.80 CAA civil penalty shall not be subject to review.

GENERAL PROVISIONS

29. For the purpose of this proceeding, Respondent admits to the jurisdictional allegations set forth above.

30. Respondent agrees not to contest the EPA's jurisdiction with respect to the execution or enforcement of the CAFO.

31. For the purpose of this proceeding, Respondent neither admits nor denies factual allegations and conclusions of law set forth in this Consent Agreement, but expressly waives its rights to contest said allegations.

32. For purposes of this proceeding, Respondent expressly waives its right to a hearing and to appeal this Final Order under Section 113 of the CAA, 42 U.S.C. § 7413.

33. Respondent certifies by the signing of this CAFO that to the best of its knowledge, the Facility is presently in compliance with all requirements of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and all regulations promulgated thereunder.

34. The provisions of the CAFO shall be binding upon Respondent, its officers, directors, agents, servants, employees, and successors or assigns. By his or her signature below, the person signing this Consent Agreement on behalf of the Respondent is acknowledging that he or she is fully authorized by the party represented to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of the Consent Agreement and accompanying Final Order.

35. The CAFO does not constitute a waiver, suspension or modification of the requirements of Section 112 of the CAA, 42 U.S.C. § 7412, or any regulations promulgated thereunder.

36. This CAFO is a complete and final settlement of all civil and administrative claims and causes of action set forth in this CAFO for alleged violations of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7). Nothing herein shall be construed to limit the authority of the Complainant to undertake action against any person, including the Respondent in response to any condition which Complainant determines may present an imminent and substantial endangerment to the public health, public welfare or the environment. Nothing in this CAFO shall be construed to limit the United States' authority to pursue criminal sanctions.

37. Each party to this action shall bear its own costs and attorney's fees.

38. By entering into this CAFO, the Respondent does not admit any liability for the civil claims alleged herein.

In re Chestnut Ridge Foam, Inc.

U.S. EPA Docket No. CAA-03-2010-0334

FOR CHESTNUT RIDGE FOAM, INC

Larry Garrity
Name: Larry Garrity

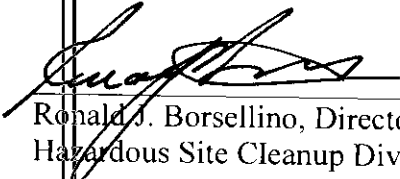
8/3/10
DATE

Title: President

In re Chestnut Ridge Foam, Inc.

U.S. EPA Docket No. CAA-03-2010-0334

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY



Ronald J. Borsellino, Director
Hazardous Site Cleanup Division

8/4/10

DATE

