

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
901 NORTH 5th STREET
KANSAS CITY, KANSAS 66101

11/07/12 PM 1:33
ENVIRONMENTAL PROTECTION
AGENCY REGION VII
REGIONAL HEARING CLERK

IN THE MATTER OF:)
)
SNF, Inc. d/b/a Brand FX Body Company) **CONSENT AGREEMENT**
21201 510th Street) **AND FINAL ORDER**
Pocahontas, Iowa 50574)
) Docket No. RCRA-07-2011-0032
RCRA I.D. No. IAD005285101)
)
Respondent)
)
Proceeding under Section 3008(a) and (g) of)
the Resource Conservation and Recovery)
Act as amended, 42 U.S.C. § 6928(a) and (g))
_____)

I. PRELIMINARY STATEMENT

The United States Environmental Protection Agency (EPA), Region 7 (Complainant) and SNF, Inc. d/b/a Brand FX Body Company (Respondent) have agreed to a settlement of this action before the filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of 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 (Consolidated Rules of Practice), 40 Code of Federal Regulations (C.F.R.) §§ 22.13(b) and 22.18(b)(2). This Consent Agreement and Final Order (CAFO) is a complete and final settlement of all civil and administrative claims and causes of action for the violations set forth in this CAFO.

II. ALLEGATIONS

Jurisdiction

1. This administrative action is being conducted pursuant to Sections 3008(a) and (g) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA or the Act), and the Hazardous and Solid Waste Amendments of 1984 (HSWA), 42 United States Code (U.S.C.) § 6928(a) and (g), and in accordance with the Consolidated Rules of Practice.

2. This CAFO serves as notice that EPA has reason to believe that Respondent violated 3005 of RCRA, 42 U.S.C. § 6925, and the implementing regulations at 40 C.F.R. Part 262 and 265.

Parties

3. The Complainant is the Chief of the RCRA Waste Enforcement and Materials Management Branch in the Air and Waste Management Division of EPA, Region 7.

4. The Respondent is SNF, Inc. d/b/a Brand FX Body Company (Respondent), a company authorized to operate under the laws of Iowa.

Statutory and Regulatory Framework

5. When EPA determines that any person has violated or is in violation of any RCRA requirement, EPA may issue an order assessing a civil penalty for any past or current violation and/or require immediate compliance or compliance within a specified time period pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928.

6. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), authorizes a civil penalty of not more than \$25,000 per day for violations of Subchapter III of RCRA (Hazardous Waste Management). This figure has been adjusted upward for inflation pursuant to the Civil Monetary Penalties Inflation Adjustment Rule, 40 C.F.R. Part 19, so that penalties of up to \$32,500 per day are authorized for violations of Subchapter III of RCRA that occur between March 15, 2004 and January 12, 2009, and penalties of up to \$37,500 per day are authorized for violations that occur after January 12, 2009. Based upon the facts alleged in this CAFO and upon those factors which Complainant must consider pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), as discussed in the RCRA Civil Penalty Policy issued by EPA in June 2003, the Complainant and Respondent agree to the payment of a civil penalty pursuant to Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), for the violations of RCRA alleged in this CAFO.

7. Pursuant to the regulations set forth 40 C.F.R. Part 262, generators of solid waste must perform hazard waste determinations on all solid wastes.

8. Section 3005 of RCRA, 42 U.S.C. § 6925, and the regulations at 40 C.F.R. § 270.1(b), require each person owning or operating a facility for the treatment, storage, or disposal of a hazardous waste identified or listed under Subchapter C of RCRA to have a permit for such activities.

9. The regulations at 40 C.F.R. § 262.34(d), allow a generator to accumulate hazardous waste in containers on-site for one hundred eighty without a permit or without interim status, provided the conditions listed in 40 C.F.R. §§ 262.34(d)(1)-(5) are met. These conditions include compliance with various hazardous waste regulatory requirements.

10. The regulations at 40 C.F.R. § 279.22, set forth the standards for used oil generators

regarding management and storage of used oil.

11. The regulations at 40 C.F.R. Part 273, set forth the standards for generators of universal waste.

Factual Background

12. Respondent is a company authorized to conduct business in the State of Iowa, and is a "person" as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

13. Respondent, located at 21201 510th Street, Pocahontas, Iowa, manufactures fiberglass service bodies for utility trucks. Respondent employs approximately 65 full time employees at its Pocahontas, Iowa facility.

14. Since October 19, 2007, Respondent has been operating as a large quantity generator of hazardous waste. Large quantity generators generate more than 1,000 kilograms of hazardous waste per month.

15. Respondent has been assigned the following EPA ID Number: IAD005285101.

16. On or about May 18, 2010, an inspector for EPA conducted an inspection at Respondent's facility. Respondent was inspected as a large quantity generator of hazardous waste. Large quantity generators generate more than 1,000 kilograms of hazardous waste per month.

17. During the inspection, it was documented that Respondent accumulated hazardous waste with the following hazardous waste codes: D001 characteristic; and F003 and F005 listed hazardous wastes. Respondent is also a used oil generator and small quantity handler of universal waste (D009 characteristic hazardous waste lamps), accumulating less than 5,000 kilograms of universal waste at any time.

18. The regulations for determining whether a waste is a solid and/or hazardous waste are set forth at 40 C.F.R. Part 261. Each of the wastes listed in Paragraph 17 are a "solid waste" and a "hazardous waste" within the meaning of these regulations.

19. Respondent operates a 90 days or less hazardous waste container accumulation area at the facility.

20. Based on information obtained during the 2010 inspection, Respondent was issued a Notice of Preliminary Findings for, among other things, failure to make a hazardous waste determination on parts washer solvent, failure to name an emergency coordinator and have him on call, failure to list names, addresses, and phone numbers of emergency coordinator and designated primaries in the RCRA Contingency Plan and failure to keep the list of emergency coordinators in the RCRA Contingency Plan up to date, failure to update the RCRA Contingency Plan when the list of emergency coordinators change, failure to provide employees with annual

RCRA refresher training, failure to have a device capable of summoning emergency assistance available, failure to have an adequate supply of fire control and spill control equipment available, failure to list all emergency equipment, including locations, physical descriptions, and descriptions of the equipment capabilities in the RCRA Contingency Plan, failure to provide description of evacuation routes or alternate routes in the RCRA Contingency Plan, failure to provide a description of arrangements with emergency response agencies in the RCRA Contingency Plan, failure to label containers with "Universal Waste – Lamp(s)" or "Waste Lamp(s)" or "Used Lamp(s)", failure to date or otherwise track universal waste (lamps) to demonstrate length of time of accumulation, failure to keep a universal waste (lamps) container closed, and inadequate training of employees in the handling and management of universal waste.

Violations

Count 1

Failure to Conduct Hazardous Waste Determination

21. The allegations stated in Paragraphs 12 through 20 above are realleged and incorporated as if fully set forth herein.
22. At the time of the May 2010 inspection, an abandoned parts washer in the maintenance held approximately two gallons of solvent. The abandoned solvent is an abandoned solid waste. Respondent failed to conduct a hazardous waste determination on the parts washer solvent. After the inspection, Respondent determined the parts washer solvent is classified as a D001 hazardous waste.
23. The waste stream described in Paragraph 22, above, is a hazardous waste.
24. Respondent's failure to make a hazardous waste determination on the above referenced waste stream is a violation of 40 C.F.R. §262.11.

Count 2

Operation of a Hazardous Waste Facility Without a RCRA Permit or Interim Status

25. Complainant hereby incorporates the allegations contained in Paragraphs 12 through 20 above, as if fully set forth herein.
26. Section 3005 of RCRA, 42 U.S.C. § 6925, and 40 C.F.R. § 270.1(b), require each person owning or operating a facility for the treatment, storage, or disposal of a hazardous waste identified or listed under Subchapter C of RCRA to have a permit for such activities.
27. The regulations at 40 C.F.R. § 262.34(a), allow a large quantity generator to accumulate hazardous waste in containers on-site for 90 days or less without a permit or without interim status, provided the conditions listed in 40 C.F.R. §§ 262.34(a)(1)-(4) are met. These conditions include compliance with other hazardous waste regulatory requirements.

28. At the time of the May 2010 inspection, Respondent was not complying with various hazardous waste regulatory requirements, described below.

29. Respondent does not have a RCRA Permit or Interim Status to operate as a storage facility and is therefore in violation of Section 3005 of RCRA, 42 U.S.C § 6925.

Failure to Comply with Generator Requirements

30. At the time of the 2010 inspection, Respondent was not complying with the following regulatory requirements:

Failure to name an emergency coordinator

31. The regulations at 40 C.F.R. §§ 262.34(a)(4) and 265.55 require that a generator name an emergency coordinator within the facility's contingency plan and have that emergency coordinator on call.

32. At the time of the May 2010 inspection, the facility had not named an emergency coordinator and did not have that emergency coordinator on call. The facility's contingency plan referenced an "emergency manager," but facility representatives stated that the Emergency Manager was no longer in that position for at least six months prior to the EPA inspection.

33. Respondent's failure to name an emergency coordinator is a violation of 40 C.F.R. § 262.34(a)(4) and 265.55.

Failure to list names, addresses, and phone numbers of emergency coordinator and designated primaries in the RCRA Contingency Plan

34. The regulations at 40 C.F.R. §§ 40 CFR 262.34(a)(4) and 265.52(d) require that a generator list names, addresses, and phone numbers of the emergency coordinator and designated primaries in the RCRA Contingency Plan.

35. At the time of the May 2010 inspection, the inspector reviewed the facility's RCRA Contingency Plan and observed that it did not contain the name, addresses (home and office) and telephone numbers (home and office) of a current emergency coordinator. Of the alternates listed who were still with the facility, home addresses and telephone numbers were not listed.

36. Respondent's failure to list names, addresses, and phone numbers of the emergency coordinator and designated primaries in the RCRA Contingency Plan is a violation of 40 C.F.R. §§ 262.34(a)(4) and 265.52(d).

Failure to update RCRA Contingency Plan when emergency coordinators change

37. The regulations at 40 C.F.R. §§ 262.34 (a)(4) and 265.54(d) require that a generator update the RCRA Contingency Plan when emergency coordinators change.

38. At the time of the May 2010 inspection, the facility had not updated the RCRA Contingency Plan when the emergency coordinator changed. The facility's Contingency Plan referenced an "emergency manager," but facility representatives stated that the Emergency Manager was no longer in that position for at least six months prior to the EPA inspection.

39. Respondent's failure to update the RCRA Contingency Plan when the emergency coordinator changed is a violation of 40 C.F.R. §§ 262.34(a)(4) and 265.52(d).

Failure to provide employees with annual RCRA refresher training

40. The regulations at 40 C.F.R. §§ 262.34(a)(4) and 265.16(c) require that a generator provide employees with annual RCRA refresher training.

41. At the time of the May 2010 inspection, the facility failed to provide employees with annual RCRA refresher training.

42. Respondent's failure to provide employees with annual RCRA refresher training is a violation of 40 C.F.R. §§ 262.34(a)(4) and 265.16(c).

Failure to have a device capable of summoning emergency assistance available

43. The regulations at 40 C.F.R. §§ 262.34(a)(4) and 265.32(a) and (b) require that a generator has a device capable of summoning emergency assistance available.

44. At the time of the May 2010 inspection, the inspector noted the absence of any device or method to summon emergency assistance, such as a telephone or alarm system in the Hazardous Waste Container Accumulation Area.

45. Respondent's failure to have a device capable of summoning emergency assistance in the Hazardous Waste Container Accumulation Area is a violation of 40 C.F.R. §§ 262.34(a)(4) and 265.32(a) and (b).

Failure to have an adequate supply of fire control and spill control equipment available

46. The regulations at 40 C.F.R. §§ 262.34(a)(4) and 265.32(c) require that a generator has an adequate supply of fire control and spill control equipment available at or near the Hazardous Waste Container Accumulation Area.

47. At the time of the May 2010 inspection, the facility did not have any fire control or spill control equipment at or near the Hazardous Waste Container Accumulation Area.

48. Respondent's failure to have an adequate supply of fire control and spill control equipment available at or near the Hazardous Waste Container Accumulation Area is a violation of 40 C.F.R. §§ 262.34(a)(4) and 265.16(c).

Failure to list all emergency equipment, including locations, physical descriptions, and descriptions of the equipment capabilities in the RCRA Contingency Plan

49. The regulations at 40 C.F.R. §§ 262.34(a)(4) and 265.52(e) require that a generator list all emergency equipment including locations, physical descriptions, and descriptions of the equipment capabilities in the RCRA Contingency Plan.

50. At the time of the May 2010 inspection, the facility's RCRA Contingency Plan did not include fire protection or spill response equipment, nor did it provide physical descriptions of all emergency equipment at the facility and did not describe the capabilities of each item of emergency response equipment.

51. Respondent's failure to list all emergency equipment, including locations, physical descriptions, and descriptions of the equipment capabilities in the facility's RCRA Contingency Plan is a violation of 40 C.F.R. §§ 262.34(a)(4) and 265.52(e).

Failure to provide description of evacuation routes or alternate routes in the RCRA Contingency Plan

52. The regulations at 40 C.F.R. §§ 262.34(a)(4) and 265.52(f) require that a generator provides a description of the evacuation routes or alternate routes in the RCRA Contingency Plan.

53. At the time of the May 2010 inspection, the facility's RCRA Contingency Plan did not describe primary or alternate evacuation routes to be used for facility evacuation.

54. Respondent's failure to provide a description of evacuation routes or alternate routes in the facility's RCRA Contingency Plan is a violation of 40 C.F.R. §§ 262.34(a)(4) and 265.52(f).

Failure to provide a description of arrangements with emergency response agencies in the RCRA Contingency Plan

55. The regulations at 40 C.F.R. §§ 262.34(a)(4) and 265.52(c) require that a generator provides a description of the arrangements with emergency response agencies in the RCRA Contingency Plan.

56. At the time of the May 2010 inspection, the facility's RCRA Contingency Plan did not include a description of the arrangements with local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services was not included in the plan.

57. Respondent's failure to provide a description of arrangement with emergency response agencies in the facility's RCRA Contingency Plan is a violation of 40 C.F.R. §§ 262.34(a)(4) and 265.52(c).

Count 3

Failure to Comply with Universal Waste Requirements

58. The allegations stated in Paragraphs 12 through 20 above are realleged and incorporated as if fully set forth herein.

59. At the time of the 2010 inspection, the inspector observed the Respondent failed to comply with a number of universal waste requirements, described below.

Failure to label containers with the words "Universal Waste – Lamp(s)" or "Waste Lamp(s)" or "Used Lamp(s)"

60. The regulations at 40 C.F.R. § 274.14(e) require that universal waste containers be labeled with the words "Universal Waste – Lamp(s)" or "Waste Lamp(s)" or "Used Lamp(s)"

61. At the time of the May 2010 inspection, the inspector observed five universal waste lamps storage containers in the maintenance shop, holding a combined amount of approximately 123 waste fluorescent lamps. The five universal waste lamps storage containers were not labeled as "universal waste lamps" or "waste lamps" or "used lamps."

62. Respondent's failure to properly label universal waste containers is a violation of 40 C.F.R. §§ 279.22(b)(1) and 279.22(b)(2).

Failure to date or otherwise track universal waste (lamps) to demonstrate length of time of accumulation

63. The regulations at 40 C.F.R. § 273.15(c) require that universal waste containers be dated or that a generator of universal waste otherwise track universal waste to demonstrate the length of time of accumulation.

64. At the time of the May 2010 inspection, the inspector observed five universal waste lamps storage containers in the maintenance shop, holding a combined amount of approximately 123 waste fluorescent lamps. The five universal waste lamps storage containers were not dated or otherwise tracked to show length of time of accumulation.

65. Respondent's failure to properly date or otherwise track length of time of accumulation of universal waste storage containers is a violation of 40 C.F.R. §§ 279.15(c).

Failure to keep a universal waste container closed

66. The regulations at 40 C.F.R. § 273.13(d)(1) require that universal waste containers be stored closed.

67. At the time of the May 2010 inspection, the inspector observed five universal waste lamps storage containers, holding a combined amount of approximately 123 waste fluorescent lamps. The five universal waste lamps storage containers were not closed.

68. Respondent's failure to properly maintain closed universal waste storage containers is a violation of 40 C.F.R. §§ 279.13(d)(1).

Inadequate training of employees in the handling and management of universal waste

69. The regulations at 40 C.F.R. § 273.16 require that generators of universal waste train employees in the handling and management of universal waste.

70. At the time of the May 2010 inspection, the inspector determined that the universal waste training has not been adequately performed at the facility, based on the number of universal waste violations observed.

71. Respondent's failure to adequately train employees in the handling and management of universal waste is a violation of 40 C.F.R. § 279.16.

III. CONSENT AGREEMENT

72. Respondent and EPA agree to the terms of this CAFO and Respondent agrees to comply with the terms of the Final Order portion of this CAFO.

73. Respondent admits the jurisdictional allegations of this CAFO and agrees not to contest EPA's jurisdiction in this proceeding or any subsequent proceeding to enforce the terms of the Final Order portion of this CAFO set forth below.

74. Respondent neither admits nor denies the factual allegations and legal conclusions set forth in this CAFO.

75. Respondent waives its right to a judicial or administrative hearing on any issue of fact or law set forth above, and its right to appeal the proposed Final Order portion of the CAFO.

76. Respondent and Complainant agree to conciliate the matters set forth in this CAFO

without the necessity of a formal hearing and to bear their respective costs and attorney's fees.

77. This CAFO addresses all civil administrative claims for the RCRA violations identified above. Complainant reserves the right to take any enforcement action with respect to any other violations of RCRA or any other applicable law.

78. Nothing contained in the Final Order portion of this CAFO shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state, and local environmental statutes and regulations and applicable permits.

79. Respondent certifies that by signing this CAFO that to best of its knowledge, Respondent's facility is in compliance with all requirements of RCRA, 42 U.S.C. § 6901 *et. seq.* and all regulations promulgated thereunder.

80. The effect of settlement described in Paragraph 77 above is conditioned upon the accuracy of Respondent's representations to EPA, as memorialized in Paragraph 79, above, of this CAFO.

81. The undersigned representative of Respondent certifies that he or she is fully authorized to enter the terms and conditions of this CAFO and to execute and legally bind Respondent to it.

82. In settlement of this matter, Respondent agrees to complete the following Supplemental Environmental Project (SEP), which the parties agree is intended to secure significant environmental and/or public health benefits. Respondent shall conduct a pollution prevention SEP that consists of the replacement of hazardous acetone with non-hazardous Acrastrip at Respondent's facility, at a cost of no less than Sixty-One Thousand Seven Hundred and Fifteen Dollars (\$61,715), in accordance with the Respondent's SEP Work Plan (attached hereto as Attachment A and incorporated by reference).

83. The total expenditure for the SEP shall be no less than \$61,715 and the SEP shall be completed no later than 180 days from the effective date of the Final Order. All work required to complete the SEP shall be performed in compliance with all federal, state, and local laws and regulations.

84. Within thirty (30) days of completion of the SEP, Respondent shall submit a SEP Completion Report to EPA, with a copy to the state agency identified below. The SEP Completion Report shall contain the following:

- (i) A detailed description of the SEP as implemented; and
- (ii) Itemized costs, documented by copies of purchase orders, receipts, or canceled checks.
- (iii) All reports shall be directed to the following:

Nicole Moran
U.S. Environmental Protection Agency
Region 7
901 North 5th Street
Kansas City, Kansas 66101.

85. In itemizing its costs in the SEP Completion Report, Respondent shall clearly identify and provide acceptable documentation for all eligible SEP costs. Where the report includes costs not eligible for SEP credit, those costs must be clearly identified as such. For purposes of this paragraph, "acceptable documentation" includes invoices, purchase orders or other documentation that specifically identifies and itemizes the individual costs of the goods and/or services for which payment is being made. Canceled drafts do not constitute acceptable documentation unless such drafts specifically identify and itemize the individual costs of the goods and/or services for which payment is being made.

86. Respondent agrees to the payment of stipulated penalties as follows: In the event the Respondent fails to comply with any of the terms or provisions of this Consent Agreement relating to the performance of the SEP as set forth in paragraphs 82 and 83 of this CAFO and/or to the extent that the actual expenditures of the SEP does not equal or exceed the cost of the SEP described in paragraphs 82 and 83 of this CAFO, Respondent shall be liable for stipulated penalties according to the provisions set forth below:

a. Except as provided in subparagraph (ii) and (iii) of this paragraph, if the SEP is not completed satisfactorily and timely pursuant to the agreement set forth in paragraphs 82 and 83 of this CAFO, Respondent shall be liable for and shall pay a stipulated penalty to the United States in the amount of Seventy Four Thousand and Fifty-Eight Dollars (\$74,058), minus any documented expenditures determined by EPA to be acceptable for the SEP, for a total equal to 120% of the projected costs of the SEP.

b. If Respondent fails to timely and completely submit the SEP Completion Report required by paragraph 84, Respondent shall be liable and shall pay a stipulated penalty in the amount of Two Hundred and Fifty Dollars (\$250).

c. If the SEP is not completed in accordance with paragraphs 82 and 83 of this CAFO, but EPA determines that the Respondent: (a) made good faith and timely efforts to complete the project; and (b) certifies, with supporting documentation, that at least 90 percent of the amount of money which was required to be spent was expended on the SEP, Respondent shall not be liable for any stipulated penalty.

87. Stipulated penalties 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.

88. Respondent 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 in accordance with the provisions of paragraph 1 of the Final Order portion of this CAFO.

89. Respondent certifies that it is not required to perform or develop the SEP by any federal, state, or local law or regulation; nor is Respondent required to perform or develop the SEP by agreement, grant or as injunctive relief in this or any other case or to comply with state or local requirements. Respondent further certifies that Respondent has not received, and is not presently negotiating to receive, credit in any other enforcement action for the SEP.

90. Respondent certifies that it is not a party to any open federal financial assistance transaction that is funding or could be used to fund the same activity as the SEP. Respondent further certifies that, to the best of its 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 SEP, 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.

91. For federal income tax purposes, Respondent agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP.

92. Any public statement, oral or written, in print, film or other media, made by Respondent 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 United States Environmental Protection Agency."

93. Late Payment Provisions: 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. Interest will therefore begin to accrue on a civil or stipulated penalty if it is not paid by the date required. Interest will be assessed at a rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b). A charge will be assessed to cover the costs of debt collection including processing and handling costs and attorneys fees. In addition, a non-payment penalty charge of six (6) percent per year compounded annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. Any such non-payment penalty charge on the debt will accrue from the date the penalty payment becomes due and is not paid. 31 C.F.R. §§ 901.9(c) and (d).

94. Respondent understands that failure to pay any portion of the civil penalty on the date the same is due may result in the commencement of a civil action in Federal District Court to collect said penalty, along with interest thereon at the applicable statutory rate.

95. This CAFO shall be effective upon entry of the Final Order by the Regional Judicial Officer for EPA, Region 7. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

96. Respondent consents to the issuance of the Final Order hereinafter recited and consents to the payment of the civil penalty as set forth in the Final Order.

97. The undersigned representative of Respondent certifies that he or she is fully authorized to enter the terms and conditions of the CAFO and to legally bind Respondent to it.

IV. FINAL ORDER

Pursuant to the authority of Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and according to the terms of this CA/FO, IT IS HEREBY ORDERED THAT:

A. Payment of Civil Penalty

1. Within thirty (30) days of the effective date of this CA/FO, Respondent will pay a civil penalty of Eleven Thousand and Twenty-One Dollars (\$11,021). The payment must be received at the address below on or before 30 days after the effective date of the Final Order (the date by which payment must be received shall hereafter be referred to as the “due date”). Such payment shall identify Respondent by name and docket number and shall be by certified or cashier's check made payable to the “United States Treasury” and sent to:

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

2. Wire transfers should be directed to the Federal Reserve Bank of New York:

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

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

3. A copy of the payment documentation shall also be mailed to:

Regional Hearing Clerk
U.S. EPA Region 7
901 North 5th Street
Kansas City, Kansas 66101

and to:

Kristen Nazar
Office of Regional Counsel
U.S. EPA Region 7
901 North 5th Street
Kansas City, Kansas 66101.

B. Reservation of Rights

4. Notwithstanding any other provision of this CAFO, EPA reserves the right to enforce the terms of the Final Order portion of this CAFO by initiating a judicial or administrative action under Section 3008 of RCRA, 42 U.S.C. § 6928, and to seek penalties against Respondent in an amount not to exceed Thirty-Two Thousand Five Hundred Dollars (\$32,500.00) per day per violation pursuant to Section 3008(c) of RCRA, for each day of non-compliance with the terms of the Final Order, or to seek any other remedy allowed by law. Pursuant to the Civil Monetary Penalties Inflation Adjustment Rule, 40 C.F.R. Part 19, penalties of up to \$32,500 per day are authorized for violations of Subchapter III of RCRA that occur between March 15, 2004, and January 12, 2009. For violations of Subchapter III of RCRA that occur after January 12, 2009, penalties of up to \$37,500 per day are authorized.

5. Complainant reserves the right to take enforcement action against Respondent for any future violations of RCRA and its implementing regulations and to enforce the terms and conditions of this CAFO.

6. Except as expressly provided herein, nothing in this CAFO shall constitute or be construed as a release from any claim (civil or criminal), cause of action, or demand in law or equity by or against any person, firm, partnership, entity, or corporation for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from Respondent's facility.

7. Notwithstanding any other provisions of the CAFO, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should EPA find that the future handling, storage, treatment, transportation, or disposal of solid waste or hazardous waste at Respondent's facility may present an imminent and substantial

endangerment to human health and the environment.

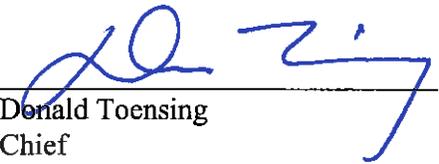
C. Parties Bound

8. This Final Order portion of this CAFO shall apply to and be binding upon Respondent and Respondent's agents, successors and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms, or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this CAFO.

For the Complainant:

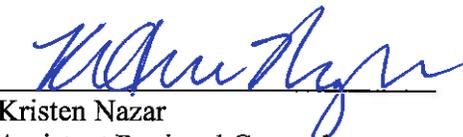
The United States Environmental Protection Agency

9-2-11
Date



Donald Toensing
Chief
RCRA Waste Enforcement and Materials Management Branch
Air and Waste Management Division

9/7/2011
Date



Kristen Nazar
Assistant Regional Counsel
Office of Regional Counsel

For Respondent:

SNF, Inc. d/b/a Brand FX Body Company

9/1/2011
Date

Janet Deim
Signature

Janet Deim
Printed Name

VPOperations
Title

In the Matter of SNF, Inc. d/b/a Brand FX Body Company
Docket No. RCRA-07-2011-0032

IT IS SO ORDERED. This Final Order is effective upon its final entry by the Regional Judicial Officer.

Sept. 13, 2011
Date

Robert Patrick
Robert Patrick
Regional Judicial Officer

**Brand FX Body Company
SEP Proposal #2**

Pollution Prevention - Convert Hazardous to Non Hazardous Cleaning Agent

Acetone Usage

<u>Year</u>	<u>Gallons</u>	<u>\$/Gallon</u>	<u>Total \$</u>
2008	10260	\$6.49	\$66,587
2009	7376	\$6.49	\$47,870
Average Acetone Usage			\$57,229

Acrastrip Usage

AS 950

2010			partial yr
2011 - Annualized	2529	\$29.38	\$74,302

AS 600

2010			partial yr
2011 - Annualized	2199	\$26.25	\$57,724
Acrastrip Est. Usages			\$132,026

Acetone vs. Acrastrip \$84,156

Required Equipment for Acrastrip

	<u>Qty</u>	<u>Cost</u>	
Cleaning Machines	3	\$1,825	<u>\$5,475</u>

Incremental Labor - Utilizing Acrastrip

	<u>People</u>	<u>Min/Day</u>	<u>Hrvy Rate</u>	<u>\$/Day</u>	<u>Annualized</u>
Acetone	22	15	\$15.86	\$87	\$21,808
Acrastrip	22	25	\$15.86	\$145	\$36,346
Total Incremental Labor					<u>\$14,538</u>

Summary

	<u>Total</u>
Increased Product Cost	\$84,156
Equipment	\$5,475
Incremental Labor	\$14,538
Total Cost Increase for Change	<u>\$104,169</u>



SEP PROPOSAL #2 ADDITIONAL INFORMATION

Acrastrip is a non-hazardous environmentally friendly cleaner that was designed to replace acetone. The Acrastrip was developed in a partnership with the U.S. EPA Dfe program.

Brand FX is using the Acrastrip to clean, flush and strip polyester resin and gel coats. Acrastrip has effectively out performed acetone due to its unique lifting characteristics and green technology.

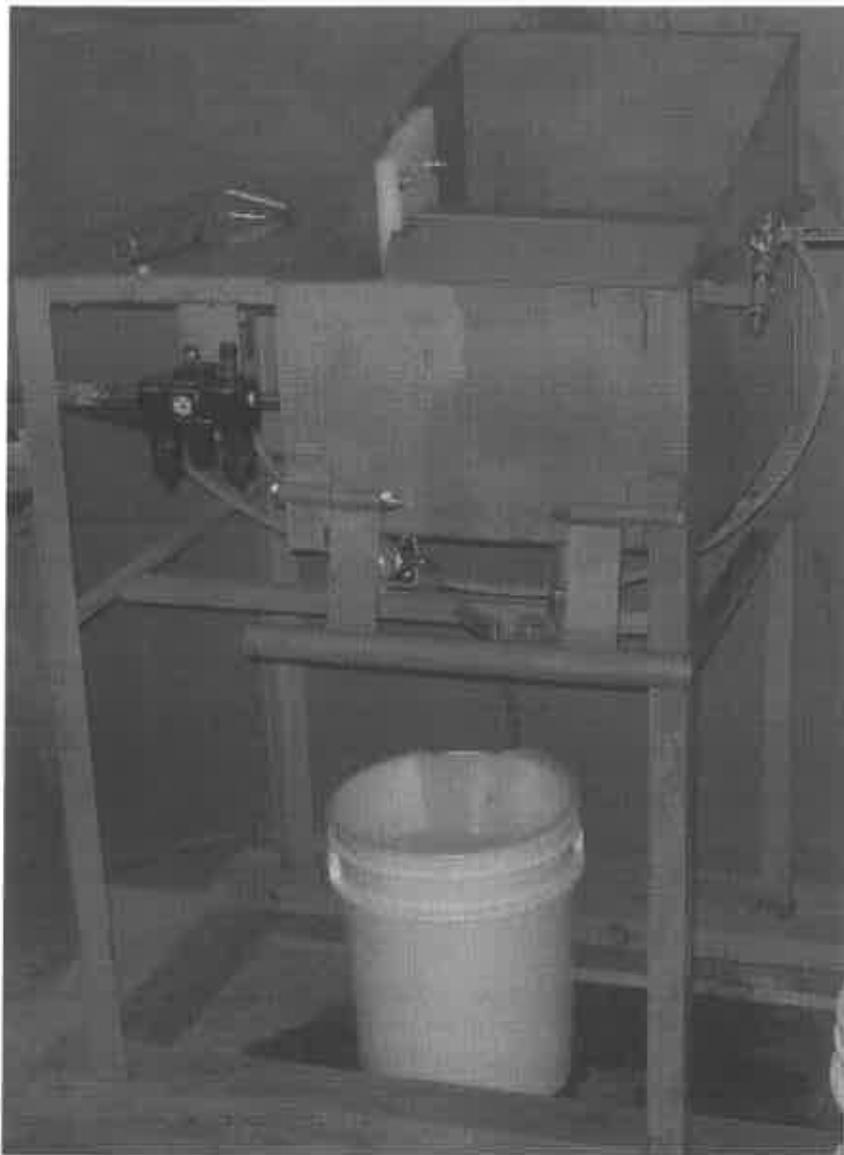
Acrastrip is used in lower volume compared to acetone because of its low evaporation rate, its recyclability and its elimination of hazardous waste. The 600 can be reduced to 33% with water. In addition Acrastrip is an excellent acetone replacement as it relates to final finish and surface preparation due to the fact it has no hazardous fumes. Acrastrip is a green alternative cleaner.

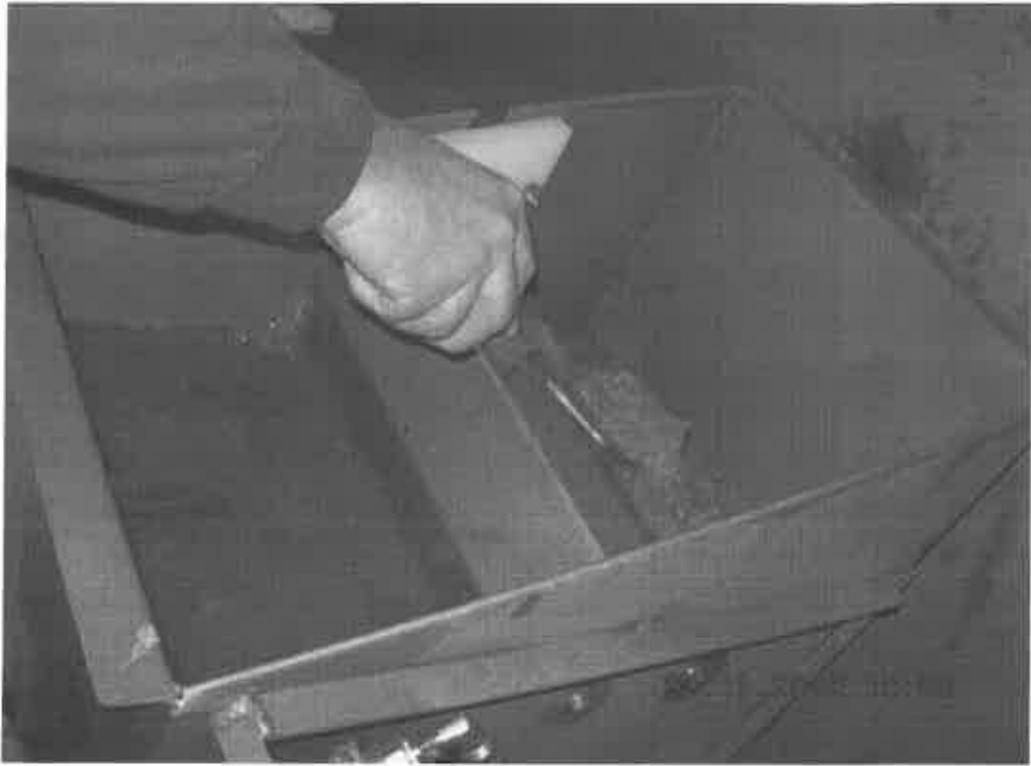
The Acrastrip 600 CRR is used for the cleaning of all laminating tools and chop guns and the AS 950 is more effective at removing cured resin and is used in the back lamination process.

Features and Benefits of Acrastrip Products

- Safer work environment
- No environmentally hazardous ingredients
- Ships DOT non-regulated
- Non-flammable & non-hazardous
- Generates non-hazardous waste

The benefits of a safer work environment and non hazardous waste come with the additional cost of extra labor to clean tools using the Acrastrip product and Acrabrush machine as well as labor to recycle the product through filtering. (See Page 2 for photos of the Acrabrush Machine)





IN THE MATTER OF SNF, Inc. d/b/a Brand FX Body Company, Respondent
Docket No. RCRA-07-2011-0032

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy hand delivered to
Attorney for Complainant:

Kristen Nazar
Assistant Regional Counsel
Region 7
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Janet Deim
Vice President Operations
SNF, Inc. d/b/a Brand FX Body Company
21201 510th Street
Pocahontas, Iowa 50574

Dated: 9/12/11



Kathy Robinson
Hearing Clerk, Region 7