

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2**

-----X
In the Matter of :
RIMTEC CORPORATION :
Respondent. :
Proceeding under Section 325(c) of Title III :
of the Superfund Amendments and Reauthorization Act :
-----X

**CONSENT AGREEMENT
AND
FINAL ORDER**

**DOCKET NUMBER
EPCRA-02-2008-4105**

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2008 SEP 12 AM 11:14
REGIONAL HEARING

PRELIMINARY STATEMENT

This administrative proceeding for the assessment of a civil penalty was instituted pursuant to Section 325(c) of Title III of the Superfund Amendments and Reauthorization Act, 42 U.S.C. §11001 *et seq.* [also known as the Emergency Planning and Community Right-to-Know Act of 1986 (hereinafter, "EPCRA")].

The Complainant in this proceeding, the Director of the Division of Enforcement and Compliance Assistance, Region 2, United States Environmental Protection Agency ("EPA"), issued a Complaint and Notice of Opportunity for Hearing to Rimtec Corporation ("Respondent") on March 28, 2008.

The Complaint alleged six violations of Section 313 of EPCRA, 42 U.S.C. §11023 and regulations pursuant to that Section, 40 C.F.R. Part 372.

FINDINGS OF FACT
AND CONCLUSIONS OF LAW

1. Respondent is Rimtec Corporation (TRIS Facility ID No.: 08016FRNKLBEVER)
2. At all times relevant hereto, Respondent has owned and operated a facility located at 1702 Beverly Road, Burlington, New Jersey 08016 (hereinafter, "Respondent's facility").
3. Respondent is a "person" within the meaning of Section 329(7) of EPCRA, 42 U.S.C. §11049(7).
4. Respondent is an owner of a "facility" as that term is defined by Section 329(4) of EPCRA, 42 U.S.C. §11049(4), and by 40 C.F.R. §372.3.
5. Respondent's facility is subject to the requirements of EPCRA, Section 313(b), 42 U.S.C. §11023(b), and 40 C.F.R. §372.22.
6. On or about July 1, 2006 Respondent voluntarily submitted Toxic Release Inventory Form R reports (Form R report) to the EPA for zinc compounds for each of calendar years 2002, 2003 and 2004. Each Form R report was one year or greater late.
7. EPA representatives determined that Respondent had failed to submit, in a timely manner, to the Administrator and to the State of New Jersey complete and correct Form R reports for zinc compounds for each of calendar years 2002, 2003 and 2004.
8. Respondent's failure to submit, in a timely manner, a complete and correct Form R report for zinc compounds as for calendar year 2002 constitutes a failure to comply with Section 313 of EPCRA, 42 U.S.C. §11023, and with 40 C.F.R. Part 372.
9. Respondent's failure to submit, in a timely manner, a complete and correct Form R report for zinc compounds for calendar year 2003 constitutes a failure to comply with Section 313 of EPCRA, 42 U.S.C. §11023, and with 40 C.F.R. Part 372.
10. Respondent's failure to submit, in a timely manner, a complete and correct Form R report for zinc compounds for calendar year 2004 constitutes a failure to comply with Section 313 of EPCRA, 42 U.S.C. §11023, and with 40 C.F.R. Part 372.
11. The parties met to begin informal settlement discussion on April 23, 2008 and finalized discussions on July 16, 2008.

TERMS OF CONSENT AGREEMENT

Based on the foregoing, and pursuant to Section 325(c) of EPCRA, and in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Etc., 40 C.F.R. §22.18 (hereinafter, "Consolidated Rules"), it is hereby agreed by and between the parties, and Respondent voluntarily and knowingly agrees as follows:

1. Respondent certifies herein that any and all EPA Toxic Chemical Release Inventory Forms submitted for the above-described violations comply with the requirements of Section 313 of EPCRA and the regulations set forth at 40 C.F.R. Part 372.

2. For the purpose of this proceeding, Respondent: (a) admits the jurisdictional allegations of the Complaint as applied to the facility; and (b) neither admits nor denies the specific factual allegations contained in the Complaint and the Findings of Fact and Conclusions of Law section above.

3. Respondent shall pay by cashier's or certified check in two installments, a civil penalty totaling **SEVENTEEN THOUSAND SIX HUNDRED TWENTY FIVE DOLLARS (\$17,625)** Payment shall be made by cashier's or certified check or by Electronic Fund Transfer (EFT). If the payment is made by check, then the check shall be made payable to the "**Treasurer, United States of America,**" and shall be mailed to:

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

4. Each check shall be identified with a notation thereon listing the following: **In the Matter of Rimtec Corporation** and shall bear thereon the **Docket Number EPCRA-02-2008-4105**. The first payment of **\$8,813** must be received at the above address on or before 45 calendar days after the date of signature of the Final Order at the end of this document (the date by which payment must be received shall hereafter be referred to as the "due date"). The second payment of **\$8,812** must be received at the above address on or before December 30, 2008. If Respondent chooses to make the payment by EFT, then Respondent shall provide the following information to its remitter bank:

- 1) Amount of Payment
- 2) SWIFT address: FRNYUS33, 33 Liberty Street, New York, NY 10045
- 3) Account Code for Federal Reserve Bank of New York receiving payment: 68010727.
- 4) Federal Reserve Bank of New York ABA routing number: 021030004.
- 5) Field Tag 4200 of the Fedwire message should read " D 68010727 Environmental Protection Agency."
- 6) Name of Respondent: **Rimtec Corporation**
- 7) Case Number: **EPCRA-02-2008-4105.**

Such EFT must be received on or before 45 calendar days after the Effective Date of this CAFO. Whether the payment is made by check or by EFT, the Respondent shall promptly thereafter furnish reasonable proof that such payment has been made to both:

Ms. Karen Maples, Regional Hearing Clerk
Office of the Regional Hearing Clerk
U.S. Environmental Protection Agency -Region 2
290 Broadway, 16th Floor (1631)
New York, New York 10007-1866

And

Kenneth S. Stoller, P.E., QEP, DEE, Chief
Pesticides and Toxic Substances Branch
U.S. Environmental Protection Agency - Region 2
2890 Woodbridge Avenue, Bldg. 10, MS-105
Edison, New Jersey 08837

a. Failure to pay the penalty in full according to the above provisions will result in the referral of this matter to the U.S. Department of Justice for collection.

b. Further, if payment is not received on or before the due date, interest will be assessed, at the annual rate established by the Secretary of the Treasury pursuant to 31 U.S.C. §3717, on the overdue amount from the due date through the date of payment. In addition, a late payment handling charge of \$15.00 will be assessed for each 30 day period (or any portion thereof) following the due date in which the balance remains unpaid.

c. A 6% per annum penalty also will be applied on any principal amount not paid within 90 days of the due date.

SUPPLEMENTAL ENVIRONMENTAL PROJECT

5. Respondent agrees to undertake the following Supplemental Environmental Project ("SEP") which the parties agree is intended to secure significant environmental or public health protection and improvements:

a. Within two months of receiving a copy of this Agreement signed by the Regional Administrator, Respondent shall purchase fire and safety emergency equipment as outlined in the quote in **Appendix A** for the Burlington Township Fire Department which is a volunteer fire department serving approximately 20,000 residents in a 14 square mile area between Trenton and Camden, New Jersey. The department consists of three volunteer fire companies that cover the residential, commercial and industrial properties that make up the township, in addition to the three major highways intersecting the area and the Conrail/NJ rail line. **Appendix B**

b. Respondent hereby certifies that, as of the date of this Consent Agreement and Final Order, Respondent 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 in compliance 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.

c. The total expenditure for the SEP shall be not less than \$10,000.

d. Whether Respondent has complied with the terms of this Consent Agreement and Final Order through implementation of the SEP project as herein required shall be the sole determination of EPA.

6. a. Respondent shall submit a SEP Completion Report to EPA on or by six months of receiving a copy of this Agreement signed by the Regional Administrator. The SEP Completion Report shall contain the following information:

(i) Itemized costs, documented by copies of purchase orders and receipts or canceled checks;

(ii) Certification that the purchased equipment was received by the Burlington Township Fire Department pursuant to the provisions of this Consent Agreement and Final Order.

b. Respondent agrees that failure to submit the SEP Completion Report or any Periodic Report required by subsection (a) above shall be deemed a violation of this Consent Agreement and Final Order, and Respondent shall become liable for stipulated penalties pursuant to paragraph 10, below.

7. Respondent agrees that EPA may contact the Burlington Township Fire Department at any time in order to confirm that the SEP was carried out as agreed above.

8. Respondent shall maintain legible copies of documentation for any and all documents or reports submitted to EPA pursuant to this Consent Agreement and Final Order, and Respondent shall provide the documentation of any such data to EPA within seven days of a request for such information. In all documents or reports, including, without limitation, the SEP Report, submitted to EPA pursuant to this Consent Agreement and Final Order, Respondent shall, by its officers, sign and certify under penalty of law that the information contained in such document or report is true, accurate, and not misleading by signing the following statement:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

9. a. Following receipt of the SEP Report described in paragraph 6, above, EPA will do one of the following:

- (i) Accept the report;
- (ii) Reject the SEP Report, notify Respondent in writing of deficiencies in the SEP Report and grant Respondent an additional thirty (30) days in which to correct any deficiencies; or
- (iii) Reject the SEP Report and seek stipulated penalties in accordance with paragraph 10 herein.

b. If EPA elects to exercise option (ii) or (iii) above, EPA shall permit Respondent the opportunity to object in writing to the notification of deficiency or disapproval given pursuant to this paragraph within ten (10) days of receipt of such notification. EPA and Respondent shall have an additional thirty (30) days from the receipt by EPA of the notification of objection to reach agreement. If agreement cannot be reached on any such issue within this thirty (30) day period,

EPA shall provide a written statement of its decision to Respondent, which decision shall be final and binding upon Respondent. Respondent agrees to comply with any requirements imposed by EPA as a result of any such deficiency or failure to comply with the terms of this Consent Agreement and Final Order. In the event the SEP is not completed as contemplated herein, as determined by EPA, stipulated penalties shall be due and payable by Respondent to EPA in accordance with paragraph 10 herein.

10. a. In the event that Respondent fails to comply with any of the terms or provisions of this Consent Agreement and Final Order relating to the performance of the SEP described in paragraph 5, above, and/or to the extent that the actual expenditures for the SEP do not equal or exceed the cost of the SEP described in paragraph 5 above, Respondent shall be liable for stipulated penalties according to the provisions set forth below:

(i) Except as provided in subparagraph (ii) immediately below, for a SEP which has not been completed satisfactorily pursuant to paragraph 9, Respondent shall pay a stipulated penalty to the United States in the amount of **\$8,000**.

(ii) If the SEP is not completed satisfactorily, but 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 pay any stipulated penalty.

(iii) If the SEP is satisfactorily completed, but Respondent spent less than 90 percent of the amount of money required to be spent for the project, Respondent shall pay a stipulated penalty to the United States in the amount determined as follows:

$$\text{Stipulated penalty} = [1 - \frac{\text{\$amount SEP cost expended}}{\$10,000}] \times \$8,000$$

(iv) If the SEP is satisfactorily completed, and Respondent spent at least 90 percent of the amount of money which was required to be spent was expended on the SEP, Respondent shall not pay any stipulated penalty.

b. The determinations of whether the SEP has been satisfactorily completed, whether Respondent has made a good faith timely effort to implement the SEP and/or whether the reason for submitting a late completion report is acceptable shall be in the sole discretion of EPA.

c. Stipulated penalties for subparagraph (iii) above 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.

d. Respondent shall pay stipulated penalties within fifteen (15) days of receipt of written demand by EPA for such penalties. Method of payment shall be in accordance with the provisions of paragraph 3. Interest and late charges shall be paid as stated in paragraph 3 herein.

11. Complainant at its discretion may waive any stipulated penalties specified above.

12. Any public statement, oral or written, 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 U.S. Environmental Protection Agency for violations of Section 313 of EPCRA, 42 U.S.C. § 11023 and regulations pursuant to that Section, 40 C.F.R. Part 372."

13. a. If any event occurs which causes or may cause delays in the completion of the SEP as required under this Agreement, Respondent shall notify EPA in writing within 10 days of the delay or Respondent's knowledge of the anticipated delay, whichever is earlier. The notice shall describe in detail the anticipated length of delay, the precise cause of delay, the measures taken by Respondent to prevent or minimize delay, and the timetable by which those measures will be implemented. Respondent shall adopt all reasonable measures to avoid or minimize any such delay. Failure by Respondent to comply with the notice requirements of this paragraph shall render this paragraph void and of no effect as to the particular incident involved and constitute a waiver of Respondent's right to request an extension of its obligation under this Agreement based on such incident.

b. If the parties agree that the delay or anticipated delay in compliance with this Agreement has been or will be caused by circumstances entirely beyond the control of Respondent, the time for performance hereunder may be extended for a period no longer than the delay resulting from such circumstances. In such event, the parties shall stipulate to such extension of time.

c. In the event that EPA does not agree that a delay in achieving compliance with the requirements of this Agreement has been or will be caused by circumstances beyond the control of Respondent, EPA will notify Respondent in writing of its decision and any delays in completion of the SEP shall not be excused.

d. The burden of proving that any delay is caused by circumstances entirely beyond the control of Respondent shall rest with Respondent. Increased cost or expenses associated with the implementation of actions called for by this Agreement shall not, in any event, be a basis for changes in this Agreement or extensions of time under section (b) of this paragraph. Delay in achievement of one interim step shall not necessarily justify or excuse delay in achievement of subsequent steps.

14. Respondent certifies that it will not claim as a deduction or charitable contribution or capitalize or otherwise take any credit for the purposes of federal, state, or local taxes for the monies expended in the performance of the SEP.

15. This Consent Agreement is being voluntarily and knowingly entered into by the parties in full and final settlement of the civil liabilities that might have attached as a result of the allegations contained in the Complaint. Respondent has read the Consent Agreement, understands its terms, finds it to be reasonable and consents to the issuance and its terms. Respondent consents to the issuance of the accompanying Final Order. Respondent agrees that all terms of settlement are set forth herein.

16. Respondent explicitly and knowingly consents to the assessment of the civil penalty as set forth in this Consent Agreement and agrees to pay the penalty in accordance with the terms of this Consent Agreement.

17. Respondent explicitly waives its right to request or to seek any Hearing on the Complaint or any of the allegations therein asserted, on this Consent Agreement or on the Findings of Fact and Conclusions of Law herein, or the accompanying Final Order.

18. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.08 to be present during discussions with or to be served with and to reply to any memorandum or communication addressed to the Regional Administrator or the Deputy Regional Administrator where the purpose of such discussion, memorandum, or communication is to discuss a proposed settlement of this matter or to recommend that such official accept this Consent Agreement and issue the attached Final Order.

19. This Consent Agreement and Final Order does not waive, extinguish, or otherwise affect respondent's obligation to comply with all applicable provisions of EPCRA and the regulations promulgated thereunder.

20. Each undersigned signatory to this Consent Agreement certifies that he or she is duly and fully authorized to enter into and ratify this Consent Agreement and all the terms and conditions set forth in this Consent Agreement.

21. Each party hereto agrees to bear its own costs and fees in this matter.

22. Respondent consents to service upon Respondent by a copy of this Consent Agreement and Final Order by an EPA employee other than the Regional Hearing Clerk.

In the Matter of Rimtec Corporation
Docket Number EPCRA-02-2008-4105

RESPONDENT:

RIMTEC CORPORATION

BY: *Atsuo Shinoda*
Authorizing Signature

NAME: *ATSUO SHINODA*
(PLEASE PRINT)

TITLE: *PRESIDENT & COO*

DATE: *8/13/2008*

COMPLAINANT:

Dore LaPosta
Dore LaPosta, Director
Division of Enforcement and Compliance Assistance
U.S. Environmental Protection Agency - Region 2
290 Broadway
New York, New York 10007

DATE: *8/20/08*

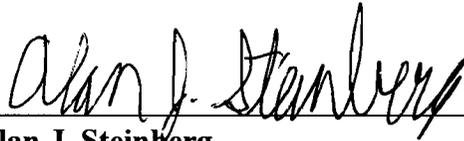
In the Matter of Rimtec Corporation
Docket Number EPCRA-02-2008-4105

FINAL ORDER

The Regional Administrator of the U.S. Environmental Protection Agency, Region 2, ratifies the foregoing Consent Agreement. The Agreement entered into by the parties in full settlement of EPA's Complaint bearing **Docket No. EPCRA-02-2008-4105, issued In the Matter of Rimtec Corporation** is hereby approved, incorporated herein, and issued as an Order. The effective date of this Order shall be the date of filing with the Regional Hearing Clerk, U.S. EPA Region 2, New York, New York.

DATE: _____

4-28-08



Alan J. Steinberg
Regional Administrator
U.S. Environmental Protection Agency - Region 2
290 Broadway
New York, New York 10007

APPENDIX A

In the Matter of Rimtec Corporation
Docket Number EPCRA-02-2008-4105



Kevin Montgomery
<kmonty@rimtec.com>
07/16/2008 11:47 AM

To Mary Kowalski/R2/USEPA/US@EPA
cc
bcc
Subject Quote for Fire Equipment

Hello Mary Ann,
Here is the finalized quote.
If you have any questions please let me know.
Kevin Montgomery
Rimtec Corporation

This email was Anti Virus checked by Astaro Security Gateway.
<http://www.astaro.com>



NA_080716_107596347.pdf

CONTINENTAL FIRE & SAFETY, Inc.

180 VOLUSIA AVE.
TRENTON, NJ 08610-2826
609-588-0096 - fax 609-584-0405

QUOTE

DATE	QUOTE NO.
7/16/2008	08-1982

NAME / ADDRESS
RIMTEC CORPORATION 1702 BEVERLY ROAD BURLINGOTN, NJ 08016 ATTN: KEVIN MONTGOMERY

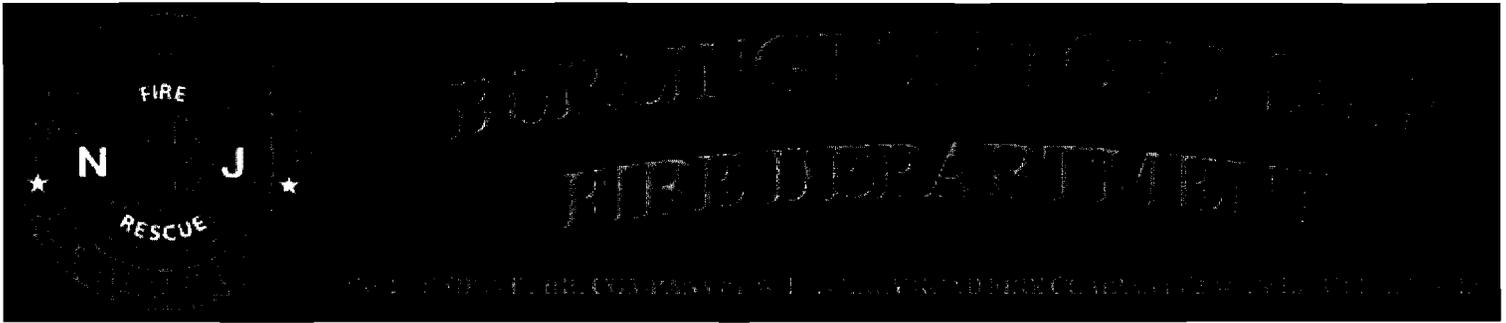
TERMS	REP	FOB
NET 30	CF	

DESCRIPTION	QTY	COST	TOTAL
CAIRNS RS1 NFPA T/O COAT TO BTFD SPECIFICATIONS	6	839.00	5,034.00
CAIRNS RS1 NFPA T/O PANT TO BTFD SPECIFICATIONS	6	599.00	3,594.00
CAIRNS CLOTHING (GLOBE MFG.) NJ STATE CONTRACT #71048			
ATI 1.75" x 50' JAFLINE HD YELLOW D/J HOSE	11	104.00	1,144.00T
SHIPPING AND HANDLING (HOSE)	1	100.00	100.00T
NJ Sales Tax		7.00%	87.08
			TOTAL
			\$9,959.08

Web Site	WWW.CONTINENTALFIREANDSAFETY.COM
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APPENDIX B

In the Matter of Rimtec Corporation
Docket Number EPCRA-02-2008-4105



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BTFD HISTORY

District History

The Burlington Township Fire Department operates under the auspices of the Fire Commission. Prior to 1990 the Township was protected by three independent fire companies, partially funded from general fund revenues of the Township of Burlington and partially funded by fundraisers completed by the individual fire companies. At that time, the Fire District was formed, with a dedicated fire tax. The primary purpose of the Fire District Commission was to coordinate the efforts of the three fire companies and to provide a more reliable source of funding for the improvements that were needed to cope with the rapid growth that was taking place in the Township. Since then the three fire companies continue to exist as independent entities, with a Township Fire Chief who exercises overall control and coordination of fire suppression efforts. In addition to the Fire Chief the District has a Director of Fire Services to coordinate the efforts of the three stations and direct the department into the future among many other tasks.

Control of the Fire District is vested in a Board of Fire Commissioners consisting of five members. The registered voters of the Township of Burlington at an annual election elect the members of the Board. (Similar to the Mayor and Council structure presently used in Burlington Twp.) The Board of Commissioners is legally responsible for all aspects of providing fire protection to the residents and property owners in the Township and they are obligated to oversee the operation of the fire department.

PHOTO OF THE MONTH



INDEPENDENT FIRE CO. #1



1309 Rancocas Road
 Burlington Twp., NJ 08016
 609-386-0462

BEVERLY ROAD FIRE CO. #2



1001 Beverly Road
 Burlington Twp., NJ 08016
 609-386-0595

RELIEF FIRE CO. #3



1020 Neck Road

COMMENTS

Page looks great!

Anne Marie Berardinucci

Submit a comment

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ABOUT US

A Volunteer Fire Department

Did you know that the Burlington Township Fire Department is over 99% volunteer? Whether it be day or night, work week or week end, the people Burlington Township relies on to provide fire protection and rescue are giving freely of their time to help their community.

Many hours of training and work go in to providing the level of service required for a town of over 20,000 residents and numerous commercial businesses.

Volunteers are always needed. Not just for fire fighting, but for planning the future of the department, managing the finances, maintaining the buildings and equipment and much, much more.

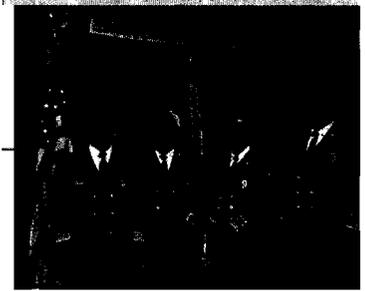
Please call the Fire District office at 609-239-5802 to learn how you can be a hero in your own community.

BTFD Salutes its Men and Women in the Armed Forces

We are proud of our volunteer firefighters and their dedication to service for their country and community. Please keep them and all the men and women of America's Armed Services in your thoughts and prayers.

Formed on March 19, 1940, the Burlington Township Fire Department serves approximately 20,000 residents in a 14.72 square mile area. Burlington Township is roughly half way between Trenton and Camden NJ, with portions bordered by the Delaware River. Three volunteer fire companies cover the residential, commercial and industrial properties that make up the township. Independent Fire Company #1 was organized in 1914, Beverly Road Fire Company #2 in 1925 and Relief Fire Company #3 in 1957. They also respond to incidents on the 3 major highways that intersect the town, the NJ Turnpike, I-295 and NJ Route 130 as well as the Conrail/NJ Transit rail line

PHOTO OF THE MONTH



INDEPENDENT FIRE CO. #1



1309 Rancocas Road
Burlington Twp., NJ 08016
609-386-0462

BEVERLY ROAD FIRE CO. #2



1001 Beverly Road
Burlington Twp., NJ 08016
609-386-0595

RELIEF FIRE CO. #3



1020 Neck Road

COMMENTS

New site looks great; very informative!!!

Ross

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Copyright © 2008 Burlington Township Fire Department
Webmaster

In the Matter of Rimtec Corporation

Docket No. EPCRA-02-2008-4105

CERTIFICATE OF SERVICE

I certify that I have this day caused to be sent the Foregoing fully executed CONSENT AGREEMENT and FINAL ORDER, bearing the above-referenced Docket Number, in the following manner to the respective addressees below:

Original and One Copy
by Interoffice Mail:

Ms. Karen Maples, Regional Hearing Clerk
Office of the Regional Hearing Clerk
U.S. Environmental Protection Agency -Region 2
290 Broadway, 16th Floor (1631)
New York, New York 10007-1866

Copy by Certified Mail,
Return Receipt Requested:

Atsuo Shinoda, President
Rimtec Corporation
1702 Beverly Road
Burlington, New Jersey 08016

Copy by Mail:

Raymond S. Johnston, Vice President Production
Rimtec Corporation
1702 Beverly Road
Burlington, New Jersey 08016

Kevin Montgomery, Environmental Health & Safety Manager
Rimtec Corporation
1702 Beverly Road
Burlington, New Jersey 08016

Mr. Andrew Oppermann, EPCRA Section 313
New Jersey Department of Environmental Protection
Division of Environmental Safety and Health
Office of Pollution Prevention and Right-To-Know
22 S. Clinton Avenue, 3rd Floor
P.O. Box 443
Trenton, New Jersey 08625-0443

Dated: September 9, 2008



Mary Ann Kowalski, MS, MPH
Pesticides and Toxic Substances Branch
U.S. Environmental Protection Agency - Region 2
2890 Woodbridge Avenue (MS-105)
Edison, New Jersey 08837-3679