

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Andrea Simpson  
Name of Case Attorney

8/9/12  
Date

in the ORC (RAA) at 918-1113  
Office & Mail Code Phone number

Case Docket Number RCRA-01-2011-0124

Site-specific Superfund (SF) Acct. Number \_\_\_\_\_

This is an original debt  This is a modification

Name and address of Person and/or Company/Municipality making the payment:

Rhodes Technologies  
498 Washington Street  
Coventry, RI 02816

Total Dollar Amount of Receivable \$ 20,900 Due Date: 9/8/12

SEP due? Yes  No  Date Due \_\_\_\_\_

Installment Method (if applicable)

INSTALLMENTS OF:  
1<sup>st</sup> \$ \_\_\_\_\_ on \_\_\_\_\_  
2<sup>nd</sup> \$ \_\_\_\_\_ on \_\_\_\_\_  
3<sup>rd</sup> \$ \_\_\_\_\_ on \_\_\_\_\_  
4<sup>th</sup> \$ \_\_\_\_\_ on \_\_\_\_\_  
5<sup>th</sup> \$ \_\_\_\_\_ on \_\_\_\_\_

For RHC Tracking Purposes:

Copy of Check Received by RHC \_\_\_\_\_ Notice Sent to Finance \_\_\_\_\_

**TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:**

IFMS Accounts Receivable Control Number \_\_\_\_\_

If you have any questions call: \_\_\_\_\_  
in the Financial Management Office

\_\_\_\_\_ Phone Number



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

**BY HAND**

August 9, 2012

Wanda Santiago  
Regional Hearing Clerk  
U.S. Environmental Protection Agency - Region I  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912

Re: In the Matter of: Rhodes Technologies  
Docket No. RCRA-01-2011-0124

Dear Ms. Santiago:

Enclosed for filing in the above-referenced matter, please find the original and one copy of the Consent Agreement and Final Order.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrea Simpson", with a long horizontal flourish extending to the right.

Andrea Simpson

Enclosures

cc: Honorable Susan L. Biro  
Honorable Barbara J. Gunning  
James P. Doyle, Esq.  
Andrew Kolesar, Esq.



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Re: In the Matter of: Rhodes Technologies  
Docket No. RCRA-01-2011-0124

Dear Ms. Santiago:

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Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "Andrea Simpson".

Andrea Simpson

Enclosures

cc: Honorable Susan L. Biro  
Honorable Barbara J. Gunning  
James P. Doyle, Esq.  
Andrew Kolesar, Esq.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION I**

**RECEIVED**  
**AUG 09 2012**  
EPA ORC *WS*  
Office of Regional Hearing Clerk

In the Matter of:	)	
	)	
Rhodes Technologies	)	Docket No. RCRA-01-2011-0124
498 Washington Street	)	
Coventry, Rhode Island 02816	)	
	)	
Proceeding under Section 3008(a)	)	CONSENT AGREEMENT AND
of the Resource Conservation and	)	FINAL ORDER
Recovery Act, 42 U.S.C. § 6928(a)	)	
	)	

**CONSENT AGREEMENT AND FINAL ORDER**

**CONSENT AGREEMENT**

1. The U.S. Environmental Protection Agency (“EPA”), Region 1, has alleged that Rhodes Technologies (“Rhodes” or “Respondent”) has violated Subtitle C of the Resource Conservation and Recovery Act (“RCRA”), Sections 3002 and 3004, 42 U.S.C. §§ 6922 and 6924, and certain federal and state hazardous waste regulations promulgated pursuant to RCRA. EPA Region I (“Complainant”) and Rhodes (together, the “Parties”) have agreed to settle this matter through this administrative Consent Agreement and Final Order (“CAFO”). EPA’s regulations governing RCRA administrative penalty actions and settlements are set out in the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 C.F.R. Part 22.

## I. PRELIMINARY STATEMENT

2. On September 30, 2011, EPA Region 1 issued a complaint, compliance order, and notice of opportunity for hearing (“Complaint”) in this action to Rhodes. Pursuant to 40 C.F.R. § 22.14(c), EPA Region 1 amended the Complaint as of right and filed an Amended Complaint on February 27, 2012.

3. On March 16, 2012, Rhodes served its answer, objection to compliance order, and request for hearing (“Answer”) to the Amended Complaint.

4. On April 10, 2012, the Parties accepted an offer from the Office of Administrative Law Judges for alternative dispute resolution (“ADR”) and actively engaged in ADR for several months.

5. On July 18, 2012, EPA Region 1 filed a motion for leave to further amend the Amended Complaint, and Respondent agreed not to oppose such motion. The Presiding Officer granted this motion, and EPA Region 1 filed a Second Amended Complaint.

6. The Second Amended Complaint contains three counts alleging that Rhodes violated Subtitle C of RCRA, and federal and federally-authorized state hazardous waste regulations implementing RCRA. The alleged violations took place at Rhodes’s pharmaceutical chemical manufacturing facility (“Facility”) located in Coventry, Rhode Island. The Second Amended Complaint proposed a total civil penalty of \$24,466.

7. After cooperative settlement negotiations, the Parties have agreed that settlement of this matter is in the public interest and that entry of this CAFO without further litigation is the most appropriate means of resolving the matter.

## **II. GENERAL TERMS**

8. The terms of this CAFO shall apply to and be binding on Complainant and on Respondent, its officers, directors, successors and assigns.

9. Solely for purposes of this proceeding, Respondent admits the jurisdictional allegations of the Second Amended Complaint, and neither admits nor denies the factual allegations contained in the Second Amended Complaint. Further, Respondent waives any right to a judicial or administrative hearing or appeal on any allegation of law or fact set forth in the Second Amended Complaint and waives its right to appeal the Final Order accompanying this CAFO.

10. Respondent consents to the assessment of the civil penalty set out in Section IV below. Respondent also consents to any conditions specified in this CAFO.

## **III. COMPLIANCE CERTIFICATION**

11. Respondent certifies that its Tank T0102 is in compliance with the Subpart BB regulations specified in Section V.1 of the Second Amended Complaint. Respondent further certifies that it is in compliance with hazardous waste determination regulations regarding the Facility's palladium catalyst waste, and with the Facility's contingency plan requirements, specified in Sections V.2 and V.3 of the Second Amended Complaint.

## **IV. CIVIL PENALTY**

12. Rhodes shall pay a civil penalty totaling \$20,900. EPA Region 1 has determined, consistent with statutory penalty criteria and applicable policies, that this is an appropriate settlement penalty based on the nature of the alleged violations and other relevant factors.

13. To pay the penalty, Rhodes shall submit, no later than 30 days after the effective date of this CAFO, a cashier's or certified check in the amount of \$20,900, payable to the order of the "Treasurer, United States of America," and referencing the title of this action and the RCRA case docket number (RCRA-01-2011-0124). The check shall be sent via regular mail to the following address:

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

If Rhodes sends the check via express mail, the following address shall be used:

U.S. Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
St. Louis, MO 63101  
Contact: Natalie Pearson  
phone 314-418-4087

Rhodes shall send a notice of the penalty payment and a copy of the check to:

Wanda I. Santiago  
Regional Hearing Clerk  
U.S. EPA, Region 1  
Mail code ORA-18-1  
5 Post Office Square, Suite 100  
Boston, Massachusetts 02109-3912

and

Steven J. Viggiani  
Senior Enforcement Counsel  
U.S. EPA, Region 1  
Mail code OES04-3  
5 Post Office Square, Suite 100  
Boston, Massachusetts 02109-3912



14. If Rhodes fails to pay the full amount of the civil penalty by its due date, Rhodes shall pay interest on the late amount pursuant to 31 U.S.C. § 3717, plus any late charges to cover the cost of processing and handling the delinquent claim. The interest on the late amount shall be calculated at the rate of the U.S. Treasury tax and loan rate, in accordance with 31 C.F.R. § 901.9(b)(2).

15. All payments made pursuant to this Section are penalties within the meaning of Section 162(f) of the Internal Revenue Code, 26 U.S.C. § 162(f), and Respondent shall not use these payments in any way as, or in furtherance of, a tax deduction under federal law.

#### **V. EFFECT OF SETTLEMENT**

16. This CAFO constitutes a settlement by EPA of all claims for federal civil penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g), for the violations set out in Section V of the Second Amended Complaint.

17. Nothing in this CAFO shall be construed to limit the authority of EPA or the United States to undertake any action against Rhodes for criminal activity, or to respond to conditions which may present an imminent and substantial endangerment to the public health, welfare or the environment. EPA reserves all rights and remedies available to it to enforce the provisions of this CAFO, RCRA and its implementing regulations and permits, and any other federal, state or local law or regulation.

18. This CAFO shall not relieve Rhodes of its obligations to comply with all applicable provisions of federal or state law, and shall not be construed to be a ruling or

determination regarding any issue related to any federal, state or local permit. Except as provided in Paragraph 16 above, compliance with this CAFO shall not be a defense to any action subsequently commenced pursuant to environmental laws and regulations administered by EPA.

19. Each Party shall bear its own costs, disbursements and attorneys fees in connection with this enforcement action, and specifically waives any right to recover such costs, disbursements or fees from the other Party pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504, or other applicable law.

20. Rhodes's undersigned representative certifies that he or she is fully authorized by Rhodes to enter into the terms and conditions of this CAFO and to execute and legally bind Rhodes to it.

**SO SIGNED AND AGREED:**

For Complainant:



Joanna Jerison  
Legal Enforcement Manager  
Office of Environmental Stewardship  
EPA Region I

For Respondent:



Randy Shamblen  
President  
Rhodes Technologies

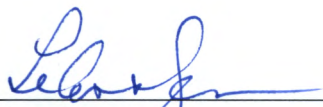
Date: 8/8/12

Date: 08/03/2012

**FINAL ORDER**

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. Respondent is hereby ordered to comply with the terms of this CAFO, which shall be effective on the date that it is filed with the Regional Hearing Clerk.

**SIGNED:**

  
\_\_\_\_\_  
LeAnn Jensen  
Acting Regional Judicial Officer  
EPA Region 1

Date: August 8, 2012

In the Matter of: Rhodes Technologies  
Docket No. RCRA-01-2011-0124

CERTIFICATE OF SERVICE FOR CONSENT AGREEMENT AND FINAL ORDER

I hereby certify that on August 9, 2012, I provided the foregoing Consent Agreement and Final Order to the recipients listed below in the manner described herein:

Original and one copy,  
via hand delivery:

Wanda I Santiago  
Regional Hearing Clerk  
U.S. EPA, Region 1  
Mail Code ORA18-1  
5 Post Office Square, Suite 100  
Boston, MA 02109


Copy, via certified mail,  
return receipt requested:

Andrew Kolesar, Esq.  
Thompson Hine LLP  
312 Walnut Street, 14<sup>th</sup> Floor  
Cincinnati, OH 45202

Copy, via certified mail,  
return receipt requested:

James P. Doyle  
Associate General Counsel  
Rhodes Technologies  
498 Washington Street  
Coventry, RI 02816

Date: 8/9/12

  
Andrea Simpson

Senior Enforcement Counsel  
U.S. EPA, Region 1  
Mail Code OES04-2  
5 Post Office Square, Suite 100  
Boston, MA 02109  
Phone: (617) 918-1738  
E-mail: simpson.andrea@epa.gov