



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

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EPA REGION III, PHILA. PA

<b>In the Matter of</b>	)	<b>U.S. EPA Docket Nos.: CERC-03-2012-</b>
	)	<b>0233; EPCRA-03-2012-0233</b>
<b>The Mushroom Company</b>	)	
<b>902 Woods Road</b>	)	
<b>Cambridge, Maryland 21613,</b>	)	
	)	
<b>Respondent.</b>	)	
	)	<b>Proceedings Pursuant to Sections 103 and</b>
<b>The Mushroom Company</b>	)	<b>109 of the Comprehensive Environmental</b>
<b>902 Woods Road</b>	)	<b>Response, Compensation and Liability</b>
<b>Cambridge, Maryland 21613,</b>	)	<b>Act, 42 U.S.C. §§ 9603 and 9609, and</b>
	)	<b>Sections 304 and 325 of the Emergency</b>
<b>Facility.</b>	)	<b>Planning and Community Right-to-Know</b>
	)	<b>Act, 42 U.S.C. §§ 11004 and 11045</b>
	)	
	)	

**CONSENT AGREEMENT**

**STATUTORY AUTHORITY**

This Consent Agreement is proposed and entered into under the authority vested in the President of the United States by Section 109 of the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 U.S.C. § 9609, as re-delegated to the Administrator of the U.S. Environmental Protection Agency (“EPA”) and under the authority vested in the Administrator of EPA by Section 325 of the Emergency Planning and Community Right-to-Know Act (“EPCRA”), 42 U.S.C. § 11045, and under the authority provided by the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination 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 “CA/FO”) 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 CA/FO, agree to comply with the terms of this CA/FO.

### JURISDICTION

1. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. §§ 22.1(a)(7) and 22.1(a)(8).
2. The Regional Judicial Officer has the authority to approve this settlement and conclude this proceeding pursuant to 40 C.F.R. §§ 22.4(b) and 22.18(b)(3).
3. For the purpose of this proceeding, Respondent admits to the jurisdictional allegations in this Consent Agreement and agrees not to contest EPA's jurisdiction with respect to the execution or enforcement of this Consent Agreement.
4. With the exception of Paragraph 3, above, for the purpose of this proceeding, Respondent neither admits nor denies the factual allegations or conclusions of law set forth in this Consent Agreement, but expressly waives its rights to contest said allegations.

### EPA'S FACTUAL ALLEGATIONS

5. The Mushroom Company ("Respondent") is a Pennsylvania corporation, with its principal place of business located at 902 Woods Road in Cambridge, Maryland.
6. As a corporation, Respondent is a "person" as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21), Section 329(7) of EPCRA, 42 U.S.C. § 11049(7), and their respective regulations, 40 C.F.R. §§ 302.3 and 355.61.
7. At all times relevant to this CAFO, Respondent has been in charge of the mushroom processing facility located at 902 Woods Road in Cambridge, Maryland ("Facility"), within the meaning of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), and has been the owner or operator of the Facility, within the meaning of Section 304 of EPCRA, 42 U.S.C. § 11004.
8. The Facility is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9), Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and their respective regulations, 40 C.F.R. §§ 302.3 and 355.61.
9. On June 28, 2011, EPA conducted an inspection of the Facility to determine Respondent's compliance with Section 103 of CERCLA and Sections 302-312 of EPCRA.
10. Section 102(a) of CERCLA, 42 U.S.C. § 9602(a), requires the Administrator of the EPA to publish a list of substances designated as hazardous substances, which, when released into the environment may present substantial danger to public health or welfare or to the environment, and to promulgate regulations establishing that quantity of any hazardous substance, the release of which shall be required to be reported under Section 103(a) of CERCLA, 42 U.S.C. § 9603(a) ("Reportable Quantity" or "RQ"). The list of hazardous substances is codified at 40 C.F.R. § 302.4.

11. Section 302(a) of EPCRA, 42 U.S.C. § 11002(a), requires the Administrator of EPA to publish a list of Extremely Hazardous Substances (“EHSs”) and to promulgate regulations establishing that quantity of any EHS the release of which shall be required to be reported under Section 304(a) through (c) of EPCRA, 42 U.S.C. § 11004(a) through (c), (“Reportable Quantity” or “RQ”). The list of EHSs and their respective RQs is codified at 40 C.F.R. Part 355, Appendices A and B.

12. The State Emergency Response Commission (“SERC”) for the Facility is, and at all times relevant to this CA/FO has been, the Maryland Department of the Environment, located at 1800 Washington Boulevard in Baltimore, Maryland.

13. The Local Emergency Planning Committee (“LEPC”) for the Facility is, and at all times relevant to this CA/FO has been, the Dorchester County Emergency Management Agency, located at 829 Fieldcrest Road in Cambridge, Maryland.

14. At all times relevant to this CA/FO, the Facility was a facility at which a hazardous chemical was produced, used or stored.

15. Beginning on or about May 29, 2010, an estimated 1,761 pounds of ammonia, Chemical Abstracts Service (“CAS”) Registry No. 7664-41-7, was released from the Facility (the “Release”).

**EPA’S FACTUAL ALLEGATIONS RELATED TO THE  
VIOLATION OF SECTION 103(a) OF CERCLA**

16. The factual allegations contained in Paragraphs 5 through 15 of this CA/FO are incorporated by reference herein as though fully set forth at length.

17. Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), as implemented by 40 C.F.R. Part 302, requires, in relevant part, a person in charge of a facility to immediately notify the National Response Center (“NRC”) established under Section 311(d)(2)(E) of the Clean Water Act, as amended, 33 U.S.C. § 1321(d)(2)(E), as soon as he/she has knowledge of a release (other than a federally permitted release) of a hazardous substance from such facility in a quantity equal to or greater than the RQ.

18. The chemical ammonia is a hazardous substance, as defined under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), and 40 C.F.R. § 302.3, with an RQ of 100 pounds, as listed in 40 C.F.R. § 302.4.

19. The Release from the Facility constitutes a release of a hazardous substance in a quantity equal to or exceeding the RQ for that hazardous substance, requiring immediate notification of the NRC pursuant to Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

20. The Release was not a “federally permitted release” as that term is used in Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), and 40 C.F.R. § 302.6, and defined in Section 101(10) of CERCLA, 42 U.S.C. § 9601(10).

21. Respondent first became aware that the Release was occurring at approximately 7:45 p.m. on May 29, 2010. The release was terminated at approximately 8:11 p.m.

22. Respondent did not notify the NRC of the Release until approximately 1:58 p.m. on May 30, 2010.

23. Respondent failed to immediately notify the NRC of the Release as soon as Respondent knew or should have known that a release of a hazardous substance had occurred at the Facility in an amount equal to or exceeding the applicable RQ, as required by Section 103 of CERCLA, 42 U.S.C. § 9603, and 40 C.F.R. § 302.6.

**EPA’S CONCLUSION OF LAW RELATED TO THE  
VIOLATION OF SECTION 103 OF CERCLA**

24. Respondent’s failure to immediately notify the NRC of the Release is a violation of Section 103 of CERCLA, 42 U.S.C. § 9603. Respondent is, therefore, subject to the assessment of penalties under Section 109 of CERCLA, 42 U.S.C. § 9609.

**EPA’S FACTUAL ALLEGATIONS RELATED TO THE VIOLATION  
OF SECTION 304(a) AND (b) OF EPCRA – SERC**

25. The factual allegations contained in Paragraphs 5 through 24 of this CA/FO are incorporated by reference herein as though fully set forth at length.

26. Section 304(a) and (b) of EPCRA, 42 U.S.C. § 11004(a) and (b), as implemented by 40 C.F.R. Part 355, Subpart C, requires, in relevant part, the owner or operator of a facility at which hazardous chemicals are produced, used, or stored to notify the SERC and LEPC immediately following a release of a hazardous substance or an EHS in a quantity equal to or exceeding the RQ for the hazardous substance or EHS. The list of EHSs and their respective RQs is codified at 40 C.F.R. Part 355, Appendices A and B.

27. The chemical ammonia is a hazardous substance, as defined under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), and 40 C.F.R. § 302.3, and an EHS as defined under Section 302(a) of EPCRA, 42 U.S.C. § 11002(a), and 40 C.F.R. § 355.61, with an RQ of 100 pounds, as listed in 40 C.F.R. Part 355, Appendices A and B, and 40 C.F.R. § 302.4.

28. The Release required immediate notification to the SERC pursuant to Section 304(a)(3) and (b) of EPCRA, 42 U.S.C. § 11004(a)(3) and (b), and 40 C.F.R. Part 355, Subpart C.

29. Respondent did not notify the SERC of the Release until approximately 6:50 p.m. on May 30, 2010.

30. Respondent failed to immediately notify the SERC of the Release of ammonia as soon as Respondent knew that a release of a hazardous substance had occurred at the Facility in an amount equal to or exceeding its RQ, as required by Section 304(a) and (b) of EPCRA, 42 U.S.C. § 11004(a) and (b), and 40 C.F.R. Part 355, Subpart C.

**EPA'S CONCLUSION OF LAW RELATED TO THE  
VIOLATION OF SECTION 304(a) AND (b) OF EPCRA – SERC**

31. Respondent's failure to notify the SERC immediately of the Release is a violation of Section 304(a) and (b) of EPCRA, 42 U.S.C. § 11004(a) and (b). Respondent is, therefore, subject to the assessment of penalties under Section 325(b) of EPCRA, 42 U.S.C. § 11045(b).

**EPA'S FACTUAL ALLEGATIONS RELATED TO THE VIOLATION  
OF SECTION 304(c) OF EPCRA – SERC**

32. The factual allegations contained in Paragraphs 5 through 31 of this CA/FO are incorporated by reference herein as though fully set forth at length.

33. Section 304(c) of EPCRA, 42 U.S.C. § 11004(c), as implemented by 40 C.F.R. Part 355, Subpart C, requires, in relevant part, that, when there has been a release of a hazardous substance or an EHS in a quantity equal to or greater than the RQ from a facility at which hazardous chemicals are produced, used, or stored, the owner or operator of that facility must provide a written follow-up report regarding the release to the SERC as soon as practicable.

34. The Release constitutes a release of a hazardous substance in a quantity equal to or exceeding its RQ requiring immediate notification of the SERC pursuant to Section 304(a) and (b) of EPCRA, 42 U.S.C. § 11004(a) and (b), and 40 C.F.R. Part 355, Subpart C, and, consequently, requiring submission of a written follow-up report to the SERC pursuant to Section 304(c) of EPCRA, 42 U.S.C. § 11004(c), and 40 C.F.R. Part 355, Subpart C.

35. Respondent did not provide a written follow-up report regarding the Release to the SERC, as required by Section 304(c) of EPCRA, as implemented by 40 C.F.R. Part 355, Subpart C.

**EPA'S CONCLUSION OF LAW RELATED TO THE  
VIOLATION OF SECTION 304(c) OF EPCRA – SERC**

36. Respondent's failure submit a followup report to the SERC for the Release is a violation of Section 304(c) of EPCRA, 42 U.S.C. § 11004(c). Respondent is, therefore, subject to the assessment of penalties under Section 325(b) of EPCRA, 42 U.S.C. § 11045(b).

**EPA'S FACTUAL ALLEGATIONS RELATED TO THE VIOLATION  
OF SECTION 304(c) OF EPCRA – LEPC**

37. The factual allegations contained in Paragraphs 5 through 36 of this CA/FO are incorporated by reference herein as though fully set forth at length.

38. Section 304(c) of EPCRA, 42 U.S.C. § 11004(c), as implemented by 40 C.F.R. Part 355, Subpart C, requires, in relevant part, that, when there has been a release of a hazardous substance or an EHS in a quantity equal to or greater than the RQ from a facility at which hazardous chemicals are produced, used, or stored, the owner or operator of that facility must provide a written follow-up report regarding the release to the LEPC as soon as practicable.

39. The Release constitutes a release of a hazardous substance in a quantity equal to or exceeding its RQ requiring immediate notification of the LEPC pursuant to Section 304(a) and (b) of EPCRA, 42 U.S.C. § 11004(a) and (b), and 40 C.F.R. Part 355, Subpart C, and, consequently, requiring submission of a written follow-up report to the LEPC pursuant to Section 304(c) of EPCRA, 42 U.S.C. § 11004(c), and 40 C.F.R. Part 355, Subpart C.

40. Respondent did not provide a written follow-up report regarding the Release to the LEPC, as required by Section 304(c) of EPCRA, as implemented by 40 C.F.R. Part 355, Subpart C.

**EPA'S CONCLUSION OF LAW RELATED TO THE  
VIOLATION OF SECTION 304(c) OF EPCRA – LEPC**

41. Respondent's failure to submit a follow-up report to the LEPC is a violation of Section 304(c) of EPCRA, 42 U.S.C. § 11004(c). Respondent is, therefore, subject to the assessment of penalties under Section 325(b) of EPCRA, 42 U.S.C. § 11045(b).

**SETTLEMENT**

42. In full and final settlement and resolution of all allegations referenced in the foregoing findings of fact and conclusions of law, and in full satisfaction of all civil penalty claims pursuant thereto, for the purpose of this proceeding, the Respondent consents to the assessment of a civil penalty for the violations of Section 103 of CERCLA, 42 U.S.C. § 9603, in the amount of **\$5,222.00** ("CERCLA civil penalty"), and Section 304(a) and (b) of EPCRA, 42

U.S.C. § 11004(a) and (b), and Section 304(c) of EPCRA, 42 U.S.C. § 11004(c), set forth above, in the amount of **\$16,358.00** (“EPCRA civil penalty”), for a total penalty of **\$21,580.00**

43. Respondent consents to the issuance of this Consent Agreement, and consents for purposes of settlement to the payment of the civil penalty cited in the foregoing Paragraph and to performance of the Supplemental Environmental Project, as set forth below.

### **SUPPLEMENTAL ENVIRONMENTAL PROJECT**

44. The following Supplemental Environmental Project (“SEP”) is consistent with applicable EPA policy and guidelines, specifically EPA’s Supplemental Environmental Projects Policy, effective May 1, 1998.

45. Respondent agrees to purchase Emergency Response Equipment for the Cambridge Rescue Fire Company. The SEP is described further in the SEP Scope of Work (“SEP Scope of Work”), attached hereto as Attachment A and incorporated herein by reference. Respondent shall complete the SEP in accordance with the schedule set forth in Attachment A (“SEP Completion Deadline”).

46. Respondent’s total expenditure for the SEP shall not be less than \$81,002.00, in accordance with the specifications set forth in the SEP Scope of Work. The SEP has been valued at \$81,009.00 pursuant to EPA’s Project Model. Respondent shall include documentation of the expenditures made in connection with the SEP as part of the SEP Completion Report described in Paragraph 50 below.

47. Respondent hereby certifies that, as of the date of this Consent Agreement, Respondent is not required to perform or develop the SEP by any federal, state, or local law or regulations; nor is Respondent required to perform or develop the SEP by any other agreement, grant or as injunctive relief in this or any other case. Respondent further certifies that it has not received, and is not presently negotiating to receive, credit in any other enforcement action for the SEP.

48. 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.

49. Respondent shall notify EPA EPCRA Coordinator Anne Gilley, at the address noted in Paragraph 50, below, when such SEP is complete. EPA may grant Respondent an extension of time to fulfill its SEP obligations if EPA determines, in its sole and unreviewable discretion, that, through no fault of Respondent, Respondent is unable to complete the SEP obligations within the time frame required by Paragraph 45 and, if extensions are granted, by this Paragraph. Requests for any extension must be made in writing within 48 hours of any event, such as an unanticipated delay in obtaining governmental approvals, the occurrence of which renders the Respondent unable to complete the SEP within the required time frame (“force

majeure event”), and prior to the expiration of the allowed SEP Completion Deadline. Any such requests should be directed to Anne Gilley, at the address noted in Paragraph 50 below.

50. SEP Completion Report

- a. Respondent shall submit to EPA a Completion Report for the SEP, c/o Anne Gilley, U.S. EPA Region III, 1650 Arch Street (Mailcode 3HS61), Philadelphia, PA 19103, within fourteen (14) days of completing the implementation of the SEP, as set forth in Paragraph 45. The SEP Completion Report shall contain the following information:
  - (i) detailed description of the SEP as implemented;
  - (ii) a description of any problems encountered and the solution thereto;  
and
  - (iii) itemized costs, including invoices.
- b. Respondent shall sign the report required by this Paragraph and certify under penalty of law that the information contained therein is true, accurate, and not misleading by including and 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.
- c. Respondent agrees that failure to submit reports required by this Paragraph 50 shall be deemed a violation of this CA/FO and, in such an event, Respondent will be liable for stipulated penalties pursuant to Paragraph 52 below.
- d. 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.

51. EPA Acceptance of SEP Completion Report

a. Upon receipt of the SEP Completion Report, EPA may exercise one of the following options:

- (i) notify the Respondent in writing that the SEP Completion Report is deficient, provide an explanation of the deficiencies, and grant Respondent an additional thirty (30) days to correct those deficiencies;
- (ii) notify the Respondent in writing that EPA has concluded that the project has been satisfactorily completed; or
- (iii) notify the Respondent in writing that EPA has concluded that the project has not been satisfactorily completed, and seek stipulated penalties in accordance with Paragraph 52 herein.

b. If EPA elects to exercise option (i) above, EPA shall permit Respondent the opportunity to object in writing to the notification of deficiency within ten (10) business 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 on changes necessary to the SEP Completion Report. If agreement cannot be reached within this thirty (30) day period, EPA shall provide to the Respondent a written statement of its decision on the adequacy of the completion of the SEP, which shall be final and binding upon Respondent. Respondent agrees to comply with any requirements imposed by EPA as a result of any failure to comply with the terms of this CA/FO. In the event either the SEP is not completed as required herein or the SEP Completion report is not submitted to EPA, as determined by EPA, stipulated penalties shall be due and payable by Respondent to EPA in accordance with Paragraph 52 herein.

52. Stipulated Penalties

a. In the event that Respondent fails to comply with any of the terms or provisions of this Consent Agreement relating to the performance of the SEP described in Paragraph 45 above and/or to the extent that the actual expenditures for the SEP do not equal or exceed the costs of the SEP required by Paragraph 46 above, Respondent shall be liable for stipulated penalties according to the provisions set forth below:

- (i) Except as provided in subparagraph (iii) below and Paragraph 51, if the SEP has not been completed satisfactorily pursuant to this CA/FO, Respondent shall pay a stipulated penalty to EPA in the amount of \$60,756.00.
- (ii) If the SEP is not completed in accordance with Paragraph 45, but the Complainant 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.

- (iii) If the SEP is completed in accordance with Paragraph 45, but the 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 EPA in the amount of \$6,076.00.
- (iv) If the SEP is completed in accordance with Paragraph 45, and the Respondent spent at least 90 percent of the amount of money required to be spent for the project, Respondent shall not be liable for any stipulated penalty.
- (v) For failure to submit the SEP Completion Report required by Paragraph 50, above, Respondent shall pay a stipulated penalty in the amount of \$500.00 for each day after the report was originally due until the report is submitted.

b. The determination of whether the SEP has been satisfactorily implemented and whether the Respondent has made a good faith, timely effort to implement the SEP shall be in the sole discretion of EPA.

c. Respondent shall pay stipulated penalties not more than fifteen (15) days after receipt of written demand by EPA for such penalties, in accordance with the provisions of Paragraphs 54-55, below. Interest and late charges shall be paid as set forth in Paragraphs 58 through 61, below.

#### **PAYMENT TERMS**

53. In order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with the civil penalties described in this CA/FO, Respondent shall pay the CERCLA civil penalty of \$5,222.00 and the EPCRA civil penalty of \$16,358.00 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, as set forth in the following paragraphs.

54. Payment of the CERCLA civil penalty shall be made in the following manner:

- a. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, CERC-03-2012-0233;
- b. All checks shall be made payable to **EPA-Hazardous Substances Superfund**;

- c. All payments made by check and sent by regular mail shall be addressed to:

U.S. EPA  
ATTN: Superfund Payments  
Cincinnati Finance Center  
P.O. Box 979076  
St. Louis, MO 63197-9000  
Contact: Heather Russell (513-487-2044)

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

U.S. EPA  
ATTENTION: Superfund Payments  
U.S. Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
St. Louis, MO 63101  
Contact: 314-418-1028

- 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](http://www.epa.gov/ocfo/finservices/make_a_payment.htm)

55. Payment of the EPCRA civil penalty shall be made in the following manner:

- a. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, EPCRA-03-2012-0233;
- 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: Heather Russell (513-487-2044)

- 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: 314-418-1028

- 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](http://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](http://www.epa.gov/ocfo/finservices/make_a_payment.htm)

56. Respondent shall submit copies of the check, or verification of wire transfer or ACH, to the following persons:

Lydia Guy (3RC00)  
Regional Hearing Clerk  
U.S. EPA, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029

and

Cynthia T. Weiss (3RC42)  
Senior Assistant Regional Counsel  
U.S. EPA, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029

57. The CERCLA civil penalty and EPCRA civil penalty stated herein are based upon Complainant's consideration of a number of factors, including, but not limited to, the following: the nature, circumstances, extent and gravity of the violation, and with respect to the violator, ability to pay, any prior history of such violations, the degree of culpability, economic benefit (if any) resulting from the violation, and such matters as justice may require. The penalty is consistent with 40 C.F.R. Part 19 and the Enforcement Response Policy for Sections 304, 311 and 312 of the Emergency Planning and Community Right-to-Know Act and Section 103 of the Comprehensive Environmental Response, Compensation and Liability Act (September 30, 1999).

58. 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 by the final due date or to comply with the conditions in this CA/FO shall result in the assessment of late payment charges, including interest, penalties, and/or administrative costs of handling delinquent debts.

59. Interest on the civil penalty assessed in this CA/FO will begin to accrue on the date that a copy of this fully executed CA/FO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalties that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).

60. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue in accordance with 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 Final Due

Date and an additional \$15.00 for each subsequent thirty (30) day period the penalties remain unpaid.

61. A penalty charge of six (6) percent per year will be assessed monthly on any portion of the civil penalties which remain delinquent more than ninety (90) calendar days in accordance with 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent, in accordance with 31 C.F.R. § 901.9(d).

62. Failure by the Respondent to pay the CERCLA civil penalty and the EPCRA civil 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 109 of CERCLA, 42 U.S.C. § 9609, and Section 325 of EPCRA, 42 U.S.C. § 11045. In any such collection action, the validity, amount and appropriateness of the penalty shall not be subject to review.

#### **GENERAL PROVISIONS**

63. For the purpose of this proceeding, Respondent expressly waives its right to a hearing and to appeal the Final Order under to Section 109 of CERCLA, 42 U.S.C. § 9609, and Section 325 of EPCRA, 42 U.S.C. § 11045.

64. The provisions of the CA/FO 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.

65. This CA/FO resolves only those civil claims which are alleged herein. 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 CA/FO shall be construed to limit the United States' authority to pursue criminal sanctions.

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

**The Mushroom Company**

**EPA Docket Nos. CERC-03-2012-0233  
EPCRA-03-2012-0233**

FOR THE MUSHROOM COMPANY



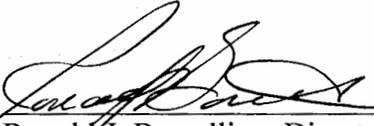
Dennis Newhard  
President and Chief Financial Officer

9/24/2012  
DATE

**The Mushroom Company**

**EPA Docket Nos. CERC-03-2012-0233  
EPCRA-03-2012-0233**

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY

  
\_\_\_\_\_  
Ronald J. Borsellino, Director  
Hazardous Site Cleanup Division

*September 25, 2012*  
DATE

# **Attachment A**

## Supplemental Environmental Project Scope of Work

Purchase of emergency response equipment and delivery to the Cambridge Rescue Fire Company. The emergency response equipment will enable the Cambridge Rescue Fire Company to fulfill obligations under EPCRA as a HAZMAT response company to gather, assess and communicate necessary information on hazardous chemicals at facilities and to respond to chemical releases. The equipment will include the following:

- 6 “Tuff-Books” and 1 HAZMAT Computer to give responders access to information files while in the field, thereby enhancing their ability to effectively and efficiently respond to emergencies.
  - Estimated Cost \$38,990
- Weather Instruments and Software to identify possible impact and route of chemical release.
  - Estimated Cost \$1,743
- Positive pressure ventilation (“PPV”) Fan to enable responders to clear out contaminated air from commercial-size facilities.
  - Estimated Cost \$3,489
- Pickup truck to pull DECON Trailer. Seats four and will be dedicated solely for use with DECON Trailer. Replaces a 25-year old vehicle that seated only two persons, necessitating the use of an additional vehicle.
  - Estimated Cost \$36,780

Schedule: Within 75 days of the Effective Date



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

<b>In the Matter of</b>	)	<b>U.S. EPA Docket Nos.: CERC-03-2012-</b>
	)	<b>0233; EPCRA-03-2012-0233</b>
<b>The Mushroom Company</b>	)	
<b>902 Woods Road</b>	)	
<b>Cambridge, Maryland 21613,</b>	)	
	)	
<b>Respondent.</b>	)	
	)	<b>Proceedings Pursuant to Sections 103 and</b>
<b>The Mushroom Company</b>	)	<b>109 of the Comprehensive Environmental</b>
<b>902 Woods Road</b>	)	<b>Response, Compensation and Liability</b>
<b>Cambridge, Maryland 21613,</b>	)	<b>Act, 42 U.S.C. §§ 9603 and 9609, and</b>
	)	<b>Sections 304 and 325 of the Emergency</b>
<b>Facility.</b>	)	<b>Planning and Community Right-to-Know</b>
	)	<b>Act, 42 U.S.C. §§ 11004 and 11045</b>
	)	
	)	

**FINAL ORDER**

Pursuant to Section 109 of the Comprehensive Emergency Response, Compensation and Liability Act, 42 U.S.C. § 9609, and Section 325 of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11045, and in accordance with 40 C.F.R. Part 22, and based on the representations in the Consent Agreement, the foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. The Respondent is ordered to comply with the terms of the referenced Consent Agreement.

**Effective Date**

This Final Order shall become effective upon the date of its filing with the Regional Hearing Clerk.

*Renee Sarajian*  
\_\_\_\_\_  
Renee Sarajian  
Regional Judicial Officer  
EPA, Region III

*9/26/12*  
\_\_\_\_\_  
DATE

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

RECEIVED  
2012 SEP 26 PM 3:02  
REGIONAL HEARING CLERK  
EPA REGION III, PHILA. PA

In the Matter of	)	U.S. EPA Docket Nos.: CERC-03-2012-
	)	0233; EPCRA-03-2012-0233
The Mushroom Company	)	
902 Woods Road	)	
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	)	
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902 Woods Road	)	Response, Compensation and Liability
Cambridge, Maryland 21613,	)	Act, 42 U.S.C. §§ 9603 and 9609, and
	)	Sections 304 and 325 of the Emergency
Facility.	)	Planning and Community Right-to-Know
	)	Act, 42 U.S.C. §§ 11004 and 11045
	)	

CERTIFICATE OF SERVICE

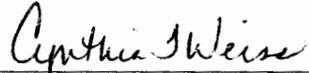
I, the undersigned, hereby certify that on the date provided below, I hand-delivered and filed the original of Consent Agreement and Final Order, along with enclosures and/or attachments, for the above-referenced matter, with the Regional Hearing Clerk, EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029, and that a true and correct copy of the Consent Agreement and Final Order, along with its enclosures and/or attachments, was sent to:

Via certified mail, return receipt requested

Amanda Neidert, Esquire  
Miles & Stockbridge PC  
10 Light Street  
Baltimore, MD 21202

SEP 26 2012

\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Cynthia T. Weiss (3RC42)  
Senior Assistant Regional Counsel