

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Chris Jendras
Name of Case Attorney

6/29/12
Date

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

Case Docket Number EPCRA-01-2012-0037

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:

In the matter of Questech Corporation
92 PARK Street
Rutland Vermont

Total Dollar Amount of Receivable \$ 5,000.00 Due Date: 7/30/12

SEP due? Yes _____ No X Date Due _____

Installment Method (if applicable)

INSTALLMENTS OF:
1ST \$ _____ on _____
2nd \$ _____ on _____
3rd \$ _____ on _____
4th \$ _____ on _____
5th \$ _____ 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

RECEIVED

JUN 29 2012

EPA ORC
Office of Regional Hearing Clerk

June 29, 2012

VIA HAND DELIVERY

Ms. Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region I
5 Post Office Square, Suite 100 (RAA)
Boston, MA 02109

Re: In the Matter of Questech Corporation, 92 Part Street, Rutland, Vermont
Docket Number EPCRA-01-2012-0037

Dear Ms. Santiago:

Enclosed for filing please find the original and one copy of the Consent Agreement and Final Order and Certificate of Service resolving the above referenced matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Chris Jendras".

Chris Jendras
Environmental Protection Specialist
U.S. Environmental Protection Agency
Region I
RCRA, EPCRA and Federal Programs Unit

cc: Robert Harrington
Questech Corporation

RECEIVED

JUN 29 2012

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

EPA ORC
Office of Regional Hearing Clerk

_____)
 In the Matter of:)
)
Questech Corporation)
 92 Park Street)
 Rutland, Vermont 05701)
)
 Respondent.)
)
 Proceeding under Section 325(c) of the Emergency)
 Planning and Community Right-to-Know Act,)
 42 U.S.C. § 11045(c))
 _____)

**CONSENT AGREEMENT
AND FINAL ORDER**

Docket No.
EPCRA-01-2012-0037

Complainant, the United States Environmental Protection Agency, Region 1 ("EPA") alleges that Respondent, Questech Corporation, has violated Section 313 of Title III of the Superfund Amendments and Reauthorization Act, 42 U.S.C. §11023 (also known as the Emergency Planning and Community Right-to-Know Act or "EPCRA"), and the federal regulations promulgated thereunder.

EPA and Respondent agree that settlement of this matter is in the public interest and that entry of this Consent Agreement and Final Order ("CAFO") without further litigation is the most appropriate means of resolving this matter. Pursuant to 40 C.F.R. § 22.13(b) of EPA's "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; Final Rule," 40 C.F.R. Part 22, EPA and Respondent agree to simultaneously commence and settle this action by the issuance of this CAFO.

RECEIVED
JUN 24 2012
EPA OIG
Office of Regional Hearing Clerk

Therefore, before any hearing, without adjudication of any issue of fact or law, upon the record, and upon consent and agreement of EPA and Respondent, it is hereby ordered and adjudged as follows:

I. EPCRA STATUTORY AND REGULATORY AUTHORITY

1. Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), requires owners or operators of a facility subject to the requirements of Section 313(b) to submit annually, no later than July 1 of each year, a Toxic Chemical Release Inventory Reporting Form, EPA Form 9350-1 (hereinafter, "Form R"), for each toxic chemical listed under 40 C.F.R. § 372.65 that was manufactured, processed, or otherwise used during the preceding calendar year in quantities exceeding the toxic chemical thresholds established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. §§ 372.25 and 372.28. If the owner or operator determines that the alternative reporting threshold specified in 40 C.F.R. § 372.27 applies, the owner or operator may submit an alternative threshold certification statement that contains the information required under 40 C.F.R. § 372.95 (the alternative threshold certification statement is also known as "Form A"). Each Form R or Form A is required to be submitted to the Administrator of EPA and to the state in which the subject facility is located. Form Rs and Form As are hereinafter referred to as "TRI Forms."

2. Section 313(b) of EPCRA, 42 U.S.C. § 11023(b), and 40 C.F.R. § 372.22 provide that owners or operators of facilities that have 10 or more full-time employees; that are in a Standard Industrial Classification ("SIC") code or North American Industry Classification System ("NAICS") code set forth in 40 C.F.R. §§ 372.23; and that manufactured, processed, or otherwise used a toxic chemical listed under 40 C.F.R.

§ 372.65 in a quantity exceeding the established threshold during a calendar year are required to submit a TRI Form for each of these substances for that year.

3. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c) (as amended by the Federal Civil Penalties Inflation Adjustment Act, 28 U.S.C. § 2461, and the Debt Collection Improvement Act, 31 U.S.C. § 3701), and EPA's Civil Monetary Penalty Inflation Adjustment Rule, promulgated thereunder at 40 C.F.R. Part 19, authorizes the assessment of civil administrative penalties of up to \$32,500 per day for each violation of Section 313 of EPCRA that occurred after March 15, 2004 through January 12, 2009, and \$37,500 per day for each violation that occurred after January 12, 2009.

II. GENERAL ALLEGATIONS

4. Respondent Questech Corp. is a corporation incorporated under the laws of the State of Vermont with a usual place of business at 92 Park Street, Rutland, Vermont.

5. Respondent manufactures two types of decorative tile and finishes switch plates. The tiles are manufactured using a metal or stone solid which is blended with polystyrene resin to make the plastic tile at its facility ("the facility") located at 92 Park Street, Rutland, Vermont.

6. On or about June 22, 2011, an authorized employee of the EPA inspected the facility for the purpose of determining Respondent's compliance with EPCRA Section 313 reporting requirements.

7. Respondent is a "person," as that term is defined by Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

8. Respondent is an owner or operator of a "facility," as that term is defined by Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and 40 C.F.R. § 372.3.

9. The facility has 10 or more "full-time employees," as that term is defined by 40 C.F.R. § 372.3.

10. The facility is classified in a SIC code or NAICS code set forth in 40 C.F.R. § 372.23.

11. During the calendar year 2009, Respondent manufactured, processed or otherwise used a toxic chemical listed under 40 C.F.R. § 372.65 at the facility in quantities exceeding the established thresholds.

12. The requirements of Section 313 of EPCRA, 42 U.S.C. § 11023, therefore apply to Respondent's facility.

III. EPCRA VIOLATIONS

Failure to File TRI Form for Styrene for Reporting Year 2009

13. The foregoing paragraphs 1 through 12 are incorporated by reference as if fully set forth herein.

14. During the calendar year 2009, Respondent manufactured, processed or otherwise used styrene, a chemical listed under 40 C.F.R. § 372.65, at the facility in a quantity exceeding the established threshold. Respondent was therefore required to submit to the Administrator of EPA a TRI Form for this chemical on or before July 1, 2010.

15. Respondent failed to submit this form to the Administrator of EPA on or before July 1, 2010. Respondent's failure to submit this form was in violation of Section 313 of EPCRA and 40 C.F.R. Part 372.

VI. TERMS OF SETTLEMENT

16. Respondent certifies that it has corrected the alleged violation cited in this CAFO and will operate the facility in compliance with Section 313 of EPCRA and the regulations promulgated thereunder.

17. Respondent hereby certifies that the facility is presently in compliance with the requirements of Section 312 of EPCRA, 42 U.S.C. § 11022, and 40 C.F.R. Part 370.

18. Respondent agrees that EPA has jurisdiction over the subject matter alleged in this CAFO and hereby waives any defenses it might have as to jurisdiction and venue.

19. Respondent acknowledges that it has been informed of its right to request a hearing in this proceeding and hereby waives its right to a judicial or administrative hearing or appeal on any issue of law or fact set forth in this CAFO.

20. Without admitting or denying the facts and violations alleged in this CAFO, Respondent consents to the terms and issuance of this CAFO and agrees to the payment of the civil penalty set forth herein.

21. Pursuant to the relevant factors for penalties issued pursuant to Section 325(c)(1) of EPCRA, 42 U.S.C. § 11045(c)(1), and taking into account any such matters as justice may require, Complainant has determined that it is fair and proper that Respondent pay a total civil penalty in the amount of five thousand dollars (\$5,000) to resolve the alleged violations of Section 313 of EPCRA.

22. Within thirty (30) days of the effective date of this CAFO, Respondent shall pay the penalty of \$5,000 by cashier's or certified check, payable to "Treasurer,

United States of America,” and referencing the title and docket number of the action (“*In the Matter of Questech Corp.*, EPCRA-01-2012-0037”). The check shall be mailed via first class U.S. Postal Service mail to:

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

with a copy of the check to:

Chris Rascher, Environmental Engineer
Office of Environmental Stewardship (OES05-1)
U.S. Environmental Protection Agency, Region I
5 Post Office Square, Suite 100
Boston, Massachusetts 02109-3912

23. 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. In the event that any partial payment of the civil penalty, plus interest thereon, is not paid when due without demand, the penalty plus accrued interest shall be payable with additional interest from the original due date to the date of payment, at the rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b)(2). In addition, a penalty charge of six percent per year will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. However, should assessment of the penalty charge on the debt be required, it will be assessed as of the first day payment is due under 31 C.F.R. § 901.9(d).

24. The penalty provided for herein is a penalty within the meaning of 26 U.S.C. § 162(f) and is not deductible for purposes of federal, state, or local taxes.

25. The provisions of this CAFO shall be binding upon Respondent and

Respondent's officers, directors, agents, servants, employees, and successors or assigns.

26. Respondent shall bear its own costs and attorneys fees in this proceeding.


27. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 325(c) of EPCRA for the violations of the EPCRA specifically alleged in this CAFO. Compliance with this CAFO shall not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with such laws and regulations. This CAFO in no way relieves Respondent or its employees of any criminal liability. Nothing in this CAFO shall be construed to limit the authority of the United States to undertake any action against Respondent in response to conditions which may present an imminent and substantial endangerment to the public.

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

29. In accordance with 40 C.F.R. § 22.31(b), the effective date is the date on which this CAFO is filed with the Regional Hearing Clerk.

RESPONDENT:

Questech Corporation

By: 
Robert Harrington
Vice-President of Operations

Date: 6/28/12

COMPLAINANT:

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

By: Audrey Zucker
Joanna Jerison *acting for*
Legal Enforcement Manager
Office of Environmental Stewardship
EPA, Region 1


Date: 6/28/12

VII. FINAL ORDER

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

Date:

June 28, 2012


LeAnn Jensen
Acting Regional Judicial Officer
U.S. EPA, Region 1

In the Matter of Questech Corporation
Docket No. EPCRA-01-2012-0037

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order (CAFO) was sent to the following persons, in the manner specified, on the date below:

Original and one copy
hand-delivered:

Wanda Santiago
Regional Hearing Clerk
U.S. EPA, Region 1
5 Post Office Square (RAA)
Boston, MA 02109-3912

Copy of CAFO
By mail

Robert Harrington
Vice-President of Operations
Questech Corporation
92 Park Street
Rutland, VT 05701

Dated: 6/29/12



Chris Jendras
U.S. Environmental Protection Agency, Region 1
Office of Environmental Stewardship
RCRA, EPCRA and Federal Facility Programs
5 Post Office Square, Suite 100 (OES05-1)
Boston, MA 02109-3912
Tel: (617) 918-1845
Fax: (617) 918-0845
Email: jendras.chris@epa.gov