



ENCLOSURE 1

FSO-193-98

COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

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Director

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CONSENT AGREEMENT

WITH

Cellofoam North America Inc
Falmouth Plant
P. O. Box 406
Conyers, Georgia 30207

Registration No. 40696

SECTION A: Purpose

This Agreement establishes a Reasonably Available Control Technology (RACT) standard for the Cellofoam North America Inc, Falmouth plant, for the control of volatile organic compound (VOC) emissions in the Northern Virginia Ozone Nonattainment Area as required by 9 VAC 5-40-300 of the State Air Pollution Control Board's Regulations. This RACT standard shall be the basis for VOC emissions control for this plant.

SECTION B: References

Unless the context indicates otherwise, the following words and terms have the meanings assigned to them below:

"Agreement" means this Consent Agreement.

"Cellofoam" or "affected facility" means Cellofoam North America Inc, Falmouth Manufacturing Plant, located at 33 Baron Park Road, Falmouth, Stafford County, Virginia.

"Board" or "SAPCB" means the State Air Pollution Control Board, a collegiate body of the Commonwealth of Virginia described in § 10.1-1301 of the Code. Particular powers and duties of the Board are described in Section C of this

document.

"Code" means the Code of Virginia.

"Calculated weighted average of VOC contained in the low and reduced VOC polystyrene beads processed" means the calculated VOC percent weight content of the beads, adjusted to account for the quantity of beads processed. The weighted average VOC percent content is calculated as follows: 1) calculate the product of the certified bead weight percent VOC content times the quantity (in tons) of the beads processed, for each lot of beads processed; 2) sum the products calculated in the first step; 3) divide the quantity calculated in the second step by the total quantity (in tons) of beads processed.

"DEQ" means the Department of Environmental Quality, an agency of the Commonwealth described in § 10.1-1183 of the Code.

"Director" means the Director of the Department of Environmental Quality. Particular powers and duties of the Director are described in Section C of this document.

"EPA" means the United States Environmental Protection Agency.

"Low and reduced VOC beads" means any expandable, polystyrene containing resin materials which are specially reformulated by the manufacturer so that the VOC content of the materials is less than conventional resin formulations.

"Major Stationary Source" means any stationary source which emits, or has the potential to emit 100 tons per year or more of any pollutant subject to regulation under the federal clean air act, or 25 tons per year or more of volatile organic compounds or nitrogen oxides in ozone nonattainment areas classified as serious in 9 VAC 5-20-204 of the SPCB Regulations. The area in which the affected facility is located is a nonattainment area classified as serious in 9 VAC 5-20-204 of the SPCB Regulations.

"New source review program" means a program for the preconstruction review and permitting of new stationary

sources or expansions to existing ones in accordance with regulations promulgated to implement the requirements of §§ 110 (a)(2)(C), 165 (relating to permits in prevention of significant deterioration areas) and 173 (relating to permits in nonattainment areas) of the federal Clean Air Act.

"Non-CTG" means a source type for which the EPA has not issued a Control Technique Guideline (CTG), and thus has not established RACT for that source type.

"Reasonably Available Control Technology" or "RACT" means the lowest emission limit that a particular source is capable of meeting by the application of control technology that is both reasonably available, as well as technologically and economically feasible.

"Regional Director" means the Director of the Northern Virginia Regional Office of the Department of Environmental Quality, 806 Westwood Office Park, located in Fredericksburg, Spotsylvania County, Virginia 22401.

"SAPCB Regulations" means 9 VAC 5 Chapters 10 through 80 and 170.

"SIP" means the State Implementation Plan.

"Theoretical potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. It is based on emissions at design capacity or maximum production and maximum operating hours (8,760 hours per year) before add-on controls, unless the source is subject to state and federally enforceable permit conditions which limit production rates or hours of operation.

"VAC" or "9 VAC" means Title 9 of the Virginia Administrative Code. This title comprises the environmental regulations for the Commonwealth of Virginia, including the regulations of the State Air Pollution Control Board.

"VOC" means volatile organic compounds as defined by 9 VAC 5-10-20 of the SAPCB Regulations.

SECTION C: Authority

1. Chapter 13 of Title 10.1 of the Code creates the Board and vests in it the authority to supervise and control various aspects of air pollution in the Commonwealth. Among the Board's powers is the authority to promulgate regulations "abating, controlling and prohibiting" air pollution, found in § 10.1-1308 of the Code.
2. Pursuant to its authority, the Board has promulgated the SAPCB Regulations, which first took effect March 17, 1972, and have been periodically amended.
3. Pursuant to § 10.1-1307 D of the Code, the Board has the authority to issue orders to diminish or abate the causes of air pollution and to enforce its regulations. Orders of the Board are enforceable pursuant to §§ 10.1-1316 and 10.1-1320 of the Code.
4. The Director is the executive officer of the Board. Under § 10.1-1307.2 A of the Code, the Director is to perform those duties required of him by the Board. Additionally under § 10.1-1307.3 of the Code, the Director has such powers to supervise, administer and enforce the provisions of Chapter 13 of Title 10.1 of the Code, as well as the regulations and orders of the Board, as are conferred upon him by the Board. The powers and duties conferred and imposed upon the Director under §§ 10.1-1307.2 and 10.1-1307.3 of the Code are continued under § 10.1-1185 of the Code.
5. Under § 10.1-1307.2 B of the Code, the Director may be vested with the authority of the Board when it is not in session, subject to such regulations or delegation as may be prescribed by the Board. 9 VAC 5-170-180 of the SAPCB Regulations contains the Delegation of Authority from the Board to the Director. In 9 VAC 5-170-180.B the Director is given the authority, with some exceptions, to act for the Board when it is not in session and to issue consent

orders and emergency special orders.

SECTION D: Findings

1. Cellofoam operates an expandable polystyrene rigid board insulation manufacturing facility located at 33 Baron Park Road in Stafford County, Virginia.
2. 9 VAC 5-40-300 of the SAPCB Regulations, which became effective on July 1, 1991, requires RACT for all non-CTG major stationary sources of VOC emissions in the Northern Virginia Ozone Nonattainment Area, which includes the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park; and the Counties of Arlington, Fairfax, Loudoun, Prince William and Stafford.
3. Cellofoam was determined to be a non-CTG major stationary source of VOC emissions in the Northern Virginia Ozone Nonattainment Area.
4. On March 3, 1993, the Board notified Cellofoam of its requirement to develop a RACT standard for VOC emissions from the affected facility.
5. On March 23, 1993, Cellofoam notified the Board that it agrees that Cellofoam is an affected facility.
6. On July 28, 1993, the Board provided Cellofoam with guidelines to be used in performing a RACT analysis.
7. Cellofoam performed a RACT analysis, which was submitted to the DEQ on November 4, 1993.
8. The DEQ provided comments to Cellofoam regarding the RACT analysis on April 11, 1994, and on July 11, 1994.
9. Cellofoam submitted a revised RACT analysis to the DEQ on September 27, 1994.
10. Cellofoam submitted revision pages for the September 27, 1994, RACT analysis to the DEQ on February 6, 1995. The

September 27, 1994, RACT analysis, amended February 6, 1995, is the final RACT submittal.

11. Potential uncontrolled VOC emissions based on polystyrene beads containing 6.5 percent by weight pentane are 138 tons per year.
12. It was determined that it is cost effective to control the emissions referenced in Paragraph D.11 by utilization of low and reduced VOC beads in the production process.
13. On March 14, 1995, the DEQ provided Cellofoam with a draft version of a consent agreement to establish RACT for the affected facility.
14. On March 30, 1995, DEQ received Cellofoam's response and comment, dated March 24, 1994, to the March 14, 1995, draft consent agreement.
15. On April 13, 1995, Cellofoam submitted a letter to DEQ explaining that a daily cap or a daily calculated average of polystyrene bead VOC content would pose an economic burden on the affected facility. Cellofoam proposes that compliance with the RACT be determined by a weekly calculated weighted average of VOC contained in the low and reduced VOC polystyrene beads that were processed during the week.

SECTION E: Agreement

Accordingly, the Board and Cellofoam agree that:

1. VOC emissions from the affected facility shall be controlled and reduced as outlined in this Agreement.
2. Volatile Organic Compound (VOC) emissions from the expanded polystyrene production plant shall be controlled by the use of low and reduced VOC polystyrene beads.

3. The calculated weighted average of VOC contained in the low and reduced VOC polystyrene beads processed at this plant shall be no more than 5% (percent) weight, calculated on a weekly basis.
4. The Regional Director reserves the right to sample and test the polystyrene beads used in production at the Cellofoam plant to verify vendor certification of polystyrene bead VOC content.
5. Cellofoam shall keep a detailed daily material log which documents the daily quantity of polystyrene beads processed at this facility and the percentage of VOC contained in each lot (shipment) of polystyrene beads processed. The material log shall provide sufficient information to demonstrate compliance with the conditions of this Agreement. As a minimum, the log shall include daily entries indicating the bead lot numbers processed, the corresponding manufacturer's certified VOC content of the beads processed, and the quantity in tons of each lot processed that day. Detailed documentation of the material log shall be available on site for inspection by the Regional Director, Northern Virginia DEQ Office and shall be current for the most recent five (5) years.
6. Cellofoam shall submit quarterly reports to the Regional Director, Fredericksburg Office of the DEQ Northern Virginia Region. The report shall be submitted within 30 days after the end of each three (3) month period. If any weekly calculated weighted average VOC content of the low and reduced VOC polystyrene beads processed is greater than 5% (percent), at a minimum, include the following in the quarterly report: the week, the mass of the beads processed that week, and the weekly calculated weighted average of VOC contained in the low and reduced VOC polystyrene beads processed. If none of the calculated weekly averages exceed the 5% (percent) level, state this fact in the quarterly report.
7. Cellofoam shall comply with all applicable provisions of the SAPCB Regulations including the requirements for

monitoring, notification, recordkeeping, reporting, maintenance, and malfunction.

8. At any time in the future, should Cellofoam plan any modifications (within the context of the new source review program) of the affected facility covered by this Agreement, Cellofoam shall have the right to apply to the Board for a new source review permit and the Board may consent to such modifications provided such modifications will meet all of the new source review permit program regulatory requirements in existence at that time.
9. The Board may modify, rewrite, or amend this Agreement with the consent of Cellofoam, for good cause shown by Cellofoam, or on its own motion provided approval of the changes is accomplished in accordance with the SAPCB Regulations, the Administrative Process Act (§ 9-6.14:1 et. seq.) and 40 CFR Part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans).
10. So long as this Agreement remains in effect, Cellofoam waives the right to any hearing pursuant to §§ 9-6.14:11 and 9-6.14:12 of the Code and to judicial review of any issue of fact or law contained herein. Nothing herein, however, shall be construed as a waiver of the right to a hearing or to judicial review of any action taken by the Board to enforce this Agreement.
11. Failure by Cellofoam to comply with any of the terms of this Agreement shall constitute a violation of an Order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
12. Cellofoam declares it has received fair and due process under the Administrative Process Act (§ 9-6.14:1 et. seq.).

13. This Agreement shall become effective upon signature by both parties and shall continue in effect indefinitely or until otherwise terminated by the Board.

The foregoing Consent Agreement has been executed on behalf of the STATE AIR POLLUTION CONTROL BOARD of the COMMONWEALTH OF VIRGINIA and on behalf of Cellofoam North America Inc, each by its duly authorized representatives, or self, on the dates indicated below.

DEPARTMENT OF ENVIRONMENTAL QUALITY
OF THE COMMONWEALTH OF VIRGINIA

8/10/98

(date)

BY:

John M. Dennis
for Dennis H. Treacy
Director

Cellofoam North America Inc

July 23, 98

(date)

BY:

Gregory R. Bontrager
Gregory R. Bontrager
President

STATE OF GEORGIA
CITY/COUNTY OF Newton

The foregoing instrument was acknowledged before me this 23rd day of July, 1998, by Gregory R. Bontrager, President of Cellofoam North America Inc, a Delaware Corporation on behalf of the Corporation.

My commission expires November 4th 2001

April Dawn Johnson
Notary Public

