

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
One Congress Street, Suite 1100
Boston, MA 02114-2023

RECEIVED

2009 AUG 18 P 3: 13

EXPEDITED SETTLEMENT AGREEMENT (ESA)

EPA ORC
OFFICE OF
REGIONAL HEARING CLERK

DOCKET NO: EPCRA-01-2009-0084

This ESA is issued to:

Roby's Propane Gas, Inc.

P.O. Box 129

West Wareham, MA 02576

for violating Section 312 of the Emergency Planning and Community Right-To-Know Act

This Expedited Settlement Agreement (ESA) is being entered into by the United States Environmental Protection Agency, Region 1 (EPA or Complainant), by its duly delegated official, Susan Studlien, Director, Office of Environmental Stewardship, and by Roby's Propane Gas, Inc. (Respondent) pursuant to section 325 of the Emergency Planning and Community Right-To-Know Act (EPCRA), 42 U.S.C. § 11045, and by 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).

ALLEGED VIOLATIONS

Complainant alleges that Respondent, owner and operator of the facility located at 100 West Grove Street, Middleboro, MA (facility), failed to timely submit a completed emergency and hazardous chemical inventory form (Tier II form, as described in 40 C.F.R. § 370.25 and 40 C.F.R. Part 370, Subpart D) for the year 2006, as required by 312 of the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. § 11022, and the regulations set forth at 40 C.F.R. Part 370. Under section 312 of EPCRA, 42 U.S.C. § 11022, and 40 C.F.R. Part 370, Respondent was required to submit its Tier II form for the year 2006 on or before March 1 of 2007.

SETTLEMENT

EPA and Respondent agree that settlement of this matter for a penalty of **TWO THOUSAND DOLLARS (\$2,000)** is fair, appropriate and in the public interest. In signing this Agreement, Respondent (1) admits that Respondent is subject to the requirements of Section 312 of EPCRA; (2) admits that EPA has jurisdiction over Respondent and Respondent's conduct as alleged herein; (3) neither admits nor denies the factual allegations contained herein; (4) consents to the assessment of this penalty; and (5) waives its right to a judicial or administrative hearing on any issue of law or fact set forth herein. Each party to this action agrees to bear its own costs and fees, if any.

DOCKET NO: EPCRA-01-2009-0084

In re. Roby's Propane Gas, Inc.

By its signature below Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that (1) the alleged violations have been corrected, and (2) Respondent agrees to pay the penalty in accordance with the terms of this ESA.

If the signed original ESA is not returned to the EPA Region 1 office at the above address in correct form by the Respondent **within 30 days**, the proposed ESA is withdrawn, without prejudice to EPA's ability to file an enforcement action for the violations identified herein.

Respondent agrees to submit payment of the penalty within 30 days of the date on which this ESA is filed with the Regional Hearing Clerk. EPA will forward a copy of the fully executed ESA to Respondent as soon as it is filed with the Regional Hearing Clerk. The civil penalty of **TWO THOUSAND DOLLARS (\$2,000)** should be paid by cashier's or certified check, payable to "Treasurer, United States of America" and sent to:

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

The name of the matter and Docket No. EPCRA-01-2009-0084 must be included on the check. Respondent must also send a copy of the check to:

Rose Toscano
EPCRA Enforcement Coordinator (SER)
U.S. Environmental Protection Agency, Region 1
One Congress Street
Boston, MA 02114-2023

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).

DOCKET NO: EPCRA-01-2009-0084
In re. Roby's Propane Gas, Inc.

Upon Respondent's submission of the original signed ESA and payment of the penalty as set forth in this ESA, EPA will take no further civil action against Respondent for the alleged violations of EPCRA identified in this ESA. EPA does not waive any right to issue an enforcement action for any other past, present, or future violations by Respondent of EPCRA or any other federal statute or regulation.

This ESA is binding on the parties signing below.

In accordance with 40 C.F.R. § 22.31(b), this ESA is effective upon filing with the Regional Hearing Clerk.

IT IS SO AGREED,

Roby's Propane Gas, Inc.

By: Waldo N. Roby
(Signature)
Name (print): WALDO N. ROBY
Title (print): PRESIDENT

Date: 8-3-2009

DOCKET NO: EPCRA-01-2009-0084
In re: Roby's Propane Gas, Inc.

APPROVED BY EPA:

By: Susan Studlien
(Signature)

Date: 08/11/09

Name (print): SUSAN STUDLIEN

Title (print): DIRECTOR

Office of Environmental Stewardship
U.S. EPA Region 1

ORDER

I hereby ratify the foregoing Expedited Settlement Agreement and incorporate it herein by reference.

IT IS SO ORDERED:

Jill T. Metcalf
Jill T. Metcalf

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

Date: August 18, 2009

In Re: Roby's Propane Gas, Inc.
EPA Docket Number: EPCRA-01-2009-0084

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Expedited Settlement Agreement (ESA) has been sent to the following persons on the date noted below:


Original and one copy,
hand-delivered:

Wanda Santiago
Regional Hearing Clerk (RAA)
U.S. EPA, Region I
One Congress Street, Suite 1100
Boston, MA 02114-2023

Copy of ESA
and Final Order
First Class Mail,
Return Receipt requested:

Waldo Roby, President
Roby's Propane Gas, Inc.
P.O. Box 129
West Wareham, MA 02576

Dated: 8/18/09


Amelia Welt Katzen
Senior Enforcement Counsel
U.S. Environmental Protection Agency,
Region 1
Mail Code (SES)
One Congress Street, Suite 1100
Boston, MA 02114-2023
Tel (617) 918-1869
FAX (617) 918-0869

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I
ONE CONGRESS STREET, SUITE 1100
BOSTON, MA 02114-2023

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2009 AUG 18 P 3:53

EPA ORC
OFFICE OF
REGIONAL HEARING CLERK

August 18, 2009

BY HAND

Ms. Wanda Santiago
Regional Hearing Clerk (RAA)
U.S. EPA, Region 1
One Congress Street
Boston, MA 02114

Re: Roby's Propane Gas, Inc.
Docket No. EPCRA -01-2009-0084

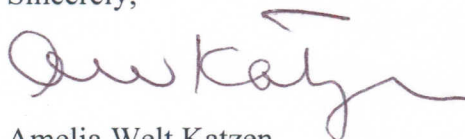
Dear Ms. Santiago:

Enclosed for filing are an original and copy of the Expedited Settlement Agreement and Certificate of Service regarding the above-captioned matter.

Please file the foregoing documents in the original manner.

Thank you.

Sincerely,



Amelia Welt Katzen
Senior Enforcement Counsel

Enclosures

Cc: Waldo Roby

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Judy Lao for Amelia Welt Katzen 8/16/09
Name of Case Attorney Date

in the ORC (RAA) at 918-1454
Office & Mail Code Phone number

Case Docket Number EPCRA-01-2009-0084

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:

Roby's Propane Gas, Inc.
P.O. Box 129
West Wareham, MA 02576

Total Dollar Amount of Receivable \$ 2,000.00 Due Date: 9/18/09

SEP due? Yes No 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