

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Rosina R. Toscano 8/3/11
Name of Case Attorney Date

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

Case Docket Number EPCRA-01-2011-0056

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:

Foam - Tite Amesbury Group
57 South Hunt Road
Amesbury, MA

Total Dollar Amount of Receivable \$ 2,000 Due Date: 9/2/11

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 _____



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
5 Post Office Square, SUITE 100
BOSTON, MA 02109

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 Foam-Tite Amesbury Group, Docket Number EPCRA 01-2011-0056**

Dear Ms. Santiago:

Enclosed for filing please find the original and one copy of the Expedited Settlement Agreement and Certificate of Service resolving the above-captioned matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Rosina R. Toscano". The signature is fluid and cursive.

Rosina R. Toscano
EPCRA Enforcement
U.S. Environmental Protection Agency
Region I

Enclosures

cc: Richard Murray, Ph.D. Foam-tite Amesbury Group, E&S Affairs Manager



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
5 POST OFFICE SQUARE, SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

VIA FIRST CLASS U.S. MAIL, CERTIFIED, RETURN RECEIPT REQUESTED

JUL 28 2011

Jon Petromelis, President
Foam-Tite Amesbury Group
57 South Hunt Road
Amesbury, MA 01913

Re: Expedited Settlement Offer for Violations of EPCRA Section 312
In Re. Foam-Tite Amesbury Group 57 South Hunt Road, Amesbury, MA
EPA Docket No. EPCRA-01-2011-0056

Dear Mr. Petromelis:

On November 3, 2010, the United States Environmental Protection Agency, Region 1 (EPA) inspected your facility located at 57 South Hunt Road, Amesbury, MA and identified violations of the regulations promulgated under Section 312 of the Emergency Planning and Community Right to Know Act (EPCRA), 42 U.S.C. § 11022, found at 40 C.F.R. Part 370. EPA has authority under Section 325 of EPCRA, 42 U.S.C. § 11045, to pursue civil penalties for violations of Section 312 of EPCRA and 40 C.F.R. Part 370, of up to \$25,000 per day for each violation. Pursuant to the Debt Collection Improvement Act, 31 U.S.C. § 3701, and 40 C.F.R. Part 19, violations that occurred after March 15, 2004 through January 12, 2009 are subject to penalties of up to \$32,500 per day for each violation, and violations that occur after January 12, 2009 are subject to penalties of up to \$37,500 per day.

EPA encourages the expeditious settlement of certain violations of EPCRA, including the EPCRA Section 312 violations discovered in the course of EPA's inspection of your facility. Enclosed is an Expedited Settlement Agreement (ESA), which contains an offer to quickly resolve the violations found at your facility for a greatly reduced penalty. The ESA complies with the *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.

You may resolve the cited violations by taking the steps described below within 30 days of your receipt of this letter. Please be advised that the ESA contains a discounted, non-negotiable penalty amount which is lower than the amount available in EPA's September 30, 1999, "Enforcement Response Policy for Section 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."

In order to take advantage of the expedited settlement option, you must take the following three steps **within 30 days of your receipt of this notice**:

1. Correct all the violations identified in the enclosed ESA. In addition to the cited violation, you should know that the reporting obligation under Section 312 of EPCRA is an annual requirement, and the Tier II form for a given reporting year is due by March 1 of the following year.
2. Sign the original ESA. You are required in the ESA to certify that you have corrected the violations and agree to pay the penalty.
3. Send the signed ESA by certified mail to:

Rose Toscano, EPCRA Enforcement Coordinator
EPCRA Enforcement Coordinator (Mail Code OES05-1)
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

Do not send payment with the signed ESA. Please be aware that by signing the ESA, you waive your opportunity for a formal hearing or appeal pursuant to Section 325 of EPCRA and 40 C.F.R. § 22.15(c) and agree to be bound by the ESA's terms.

When EPA receives the signed ESA, it will be forwarded to the Director of the Office of Environmental Stewardship, or her delegatee, and Regional Judicial Officer for approval. After the Regional Judicial Officer signs the ESA, EPA will file the ESA with the Regional Hearing Clerk and mail you a fully executed copy. You must then, within 30 days of the filing of the ESA, send a payment of \$2,000 by cashier's or certified check as specified in the ESA and a copy of the check to Rose Toscano at the address specified above.

The ESA, when fully executed by both parties, is binding upon both you and EPA. Upon the Regional Judicial Officer's approval of the ESA and receipt of your payment, EPA will take no further action against you for the violations cited in the ESA.

If you do not return the signed ESA within 30 days of your receipt of this letter, the expedited settlement offer will be automatically withdrawn without prejudice to EPA's ability to file an enforcement action for the cited violations. EPA will neither accept nor approve the ESA if returned more than 30 days after the date of your receipt of this letter. EPA will treat any response to the proposed ESA other than acceptance of the settlement offer as an indication that you are not interested in pursuing an expedited settlement of this matter. If you do not sign and return the ESA and pay the penalty on time, EPA may pursue more formal enforcement measures to correct the violations, including seeking civil penalties of up to \$37,500 per day for each violation.

Please be aware that, regardless of whether you sign and return the enclosed ESA and pay the penalty within the designated time frame, you are still obligated to comply fully with the EPCRA regulations, including correcting the violations that have been specifically identified in the ESA.

This letter and the enclosed ESA constitute an offer of settlement and are not admissible in any future enforcement actions if the parties do not enter into the ESA. While the terms of the ESA are non-negotiable, if you have any other questions regarding the expedited settlement process, please contact Rose Toscano at 617-918-1861 or by e-mail at toscano.rosina@epa.gov. Please address any communications from counsel to Catherine Smith, EPA Enforcement Counsel, at 617-918-1777.

Sincerely,



Joanna Jerison
Legal Enforcement Manager
Office of Environmental Stewardship

Enclosures: Expedited Settlement Agreement
Information Sheet for Small Business Resources

cc: Rose Toscano, OES
Catherine Smith, Esquire, OES
Richard Murray, Foam-Tite Amesbury Group

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
5 POST OFFICE SQUARE, SUITE 100
Boston, MA 02109-3912

EXPEDITED SETTLEMENT AGREEMENT (ESA)

DOCKET NO: EPCRA-01-2011-0056

This ESA is issued to:

Foam-Tite Amesbury Group
57 South Hunt Road
Amesbury, MA 01913

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, Joanna Jerison, Legal Enforcement Manager, Office of Environmental Stewardship, and by Foam-Tite Amesbury Group (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 57 South Hunt Road, Amesbury, MA (facility), failed to timely submit a completed emergency and hazardous chemical inventory form (Tier II form) for the year 2009, 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 2009 on or before March 1, 2010.

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.

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-01-2011-0056 must be included on the check. Respondent must also send a copy of the check to:

Rosina Toscano
EPCRA Enforcement Coordinator (Mail Code OES05-1)
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

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).

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

DOCKET NO: EPCRA-01-2011-0056

In re. Foam-Tite Amesbury Group

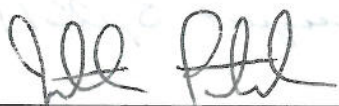
enforcement action for any other past, present, or future violations by Respondent of EPCRA or any other federal statute or regulation.

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,

Foam-Tite Amesbury Group

By: 
(Signature)
John Petromelis
President

Date: 8-1-11

APPROVED BY EPA:

By: 

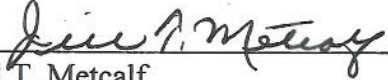
Date: 8/3/11

Joanna Jerison
Legal Enforcement Manager,
Office of Environmental Stewardship
U.S. EPA Region 1

ORDER

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

IT IS SO ORDERED:



Jill T. Metcalf
Acting Regional Judicial Officer
U.S. EPA, Region 1

Date: August 3, 2011