

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION II  
290 Broadway  
New York, NY 10007

**EXPEDITED SETTLEMENT AGREEMENT (ESA)**

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG. II  
2007 OCT 11 1:57  
REGIONAL HEARING  
CLERK

**DOCKET NO: EPCRA-02-2007-4002**

**This ESA is issued to:** In the Matter of Saratoga Apple, Inc.

**At:** 1174 Rt. 29 , Schuylerville, New York 12871

**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 (“EPA”) Region II, by its duly delegated official, the Director of the Emergency and Remedial Response Division, and by Saratoga Apple, 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).

**ALLEGED VIOLATIONS**

EPA alleges that Respondent, owner and/or operator of the facility at the Saratoga Apple, Inc. facility located at 1174 Rt. 29 , Schuylerville, New York 12871 (“Facility”), failed to timely submit a completed emergency and hazardous chemical inventory form (Tier I or Tier II form as described in 40 C.F.R. § 370.25 and 40 C.F.R. Part 370, Subpart D) for the year 2005 as required by section 312 of EPCRA, 42 U.S.C. § 11022, and the regulations set forth at 40 C.F.R. Part 370, and as noted in the attached Findings and Alleged Violations Form (“Form”). Under section 312 of EPCRA, 42 U.S.C. § 11022, and the regulations at 40 C.F.R. Part 370, Respondent was required to submit its Tier I or Tier II form for the year 2006 on or before March 1, 2007.

**SETTLEMENT**

EPA and Respondent agree that settlement of this matter for a civil penalty of **TWO THOUSAND DOLLARS (\$ 2,000)** is in the public interest. In signing this ESA, 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 any right to contest the allegations contained herein. Upon signing and returning this ESA to EPA, Respondent waives the opportunity for a hearing or appeal pursuant to 40 C.F.R. § 22.15(c) or 40 C.F.R. § 22.30.

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 violation has been corrected, and that (2) Respondent will submit payment of the of **TWO THOUSAND DOLLARS (\$ 2,000)** civil penalty within 45 days of the effective date of this ESA (this ESA is effective upon filing with the Regional Hearing Clerk). Each party shall bear its own costs and fees, if any.

The signed original ESA must be sent, within 30 days of the date of Respondent's receipt of the ESA, by certified mail to:

Ellen Banner  
USEPA - Region II  
Response & Prevention Branch MS-211  
2890 Woodbridge Avenue  
Edison, New Jersey 08837

After the effective date of this ESA, Respondent will receive a fully executed copy of this ESA. Within 45 days of the effective date of this ESA, Respondent's payment shall be made by sending a cashier's or certified check payable to the "Treasurer, United States of America" in the amount of **TWO THOUSAND DOLLARS (\$ 2,000)** to the following address:

U.S. EPA-Region II (Regional Hearing Clerk)  
P.O. Box 360188M  
Pittsburgh, Pennsylvania 15251

The Docket Number of this ESA must be included on the check. (The Docket Number is located at the top left corner of the first page of this ESA). A copy of the check, and any transmittal letter shall be sent by certified mail to Ellen Banner at the address above.

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 or in the attached Form. 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.

If the signed original ESA is not returned to the EPA Region 2 office at the above address in correct form by the Respondent within 30 days of the date of Respondent's receipt (60 days if an extension is granted), or if Respondent does not pay the civil penalty within 45 days of the effective date of this ESA, the proposed ESA is withdrawn, without prejudice to EPA's ability to file an enforcement action for the violations identified herein.

In addition, if Respondent fails to comply with the provisions of this ESA, by either failing to timely submit the above-referenced payment, or by failing to correct the violations listed in the attached Form, Respondent agrees that upon written notice from EPA this ESA shall become null and void, and that EPA may file an enforcement action against Respondent for the violations addressed herein.

This ESA is binding on the parties signing below.

In the Matter of In the Matter of Saratoga Apple, Inc., DOCKET NO: EPCRA-02-2007-4002

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,

Name (print): NATHAN DARROW


Title (print): PRESIDENT

Signature: Nathan Darrow

Date Sept-11, 07


In the Matter of In the Matter of Saratoga Apple, Inc., DOCKET NO: EPCRA-02-2007-4002

APPROVED BY EPA:

  
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George Pavlou, Director  
Emergency and Remedial Response Division  
U.S. EPA Region II

Date 9/27/07

IT IS SO ORDERED:

  
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*for* Alan J. Steinberg  
Regional Administrator  
U.S. EPA Region II

Date Sept. 28, 2007