



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
1 CONGRESS STREET, SUITE 1100, BOSTON, MA 02114

December 17, 2007

VIA HAND-DELIVERY

Ms. Wanda Rivera
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region I
1 Congress Street, Suite 1100 (RAA)
Boston, MA 02114-2023

RECEIVED

DEC 17 2007

EPA ORC
Office of Regional Hearing Clerk

Re: In the Matter of Fusco Brothers, Inc., Docket Number EPCRA 01-2008-0018

Dear Ms. Rivera:

Enclosed for filing please find an Expedited Settlement Agreement resolving the above-captioned matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Catherine Smith".

Catherine Smith
Senior Enforcement Counsel
U.S. Environmental Protection Agency
Region I

Enclosure

cc: Victor Fusco Jr.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
One Congress Street, Suite 1100
Boston, MA 02114-20231

RECEIVED

DEC 17 2007

EXPEDITED SETTLEMENT AGREEMENT (ESA)

DOCKET NO: EPCRA-01-2008-0018

This ESA is issued to:

Fusco Bros., Inc.
866 Marshall Phelps Rd.
Windsor, CT 06095

EPA ORC
Office of Regional Hearing Clerk

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, Joel Blumstein, Acting Enforcement Manager, Office of Environmental Stewardship, and by Fusco Brothers, Inc. (Respondent), pursuant to Section 325 of the Emergency Planning and Community Right-To-Know Act (EPCRA), 42 U.S.C. § 11045, and 40 C.F.R. §§ 22.13(b) and 22.18(b).

ALLEGED VIOLATIONS

Complainant alleges that Respondent, owner and operator of the facility located at 866 Marshall Phelps Road, Windsor, Connecticut, 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 Section 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, 2007.

SETTLEMENT

EPA and Respondent agree that settlement of this matter for a penalty of **\$2,000.00 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 **\$2,000.00 DOLLARS** 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-01-2008-0018 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).

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,

Fusco Brothers, Inc.

By: Victor C. Fusco Jr. Date: November 30, 2007
(Signature)

Name (print): VICTOR C. FUSCO JR.

Title (print): PRESIDENT

APPROVED BY EPA

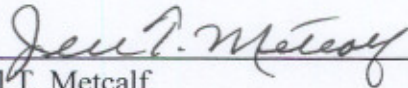
Joel Blumstein
Joel Blumstein
Acting Enforcement Manager
Office of Environmental Stewardship
U.S. EPA Region 1

Date: 12/10/07

ORDER

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

IT IS SO ORDERED:



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

Date: 12/13/07

In the Matter of Fusco Brothers Inc., Docket Number EPCRA-01-2008-0018

In Re: Fusco Brothers, Inc.
EPA Docket Number: EPCRA-01-2008-0018

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 Rivera
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:

Victor Fusco Jr.
Fusco Brothers, Inc.
866 Marshall Phelps Rd.
Windsor, CT 06905

Dated: 12/17/07


Catherine S. Smith
Senior Enforcement Counsel
U.S. Environmental Protection Agency,
Region 1
Mail Code (SES)
One Congress Street, Suite 1100
Boston, MA 02114-2023
Tel (617) 918-1777
FAX (617) 918-0777