

**BEFORE THE  
UNITED STATES DEPARTMENT OF TRANSPORTATION  
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION**

**IN THE MATTER OF:**

**Robinson Fuel, Inc.,  
  
(Respondent),**

PHMSA Case No. 11-0085-SCT-SW

**COMPROMISE ORDER**

**By this Order I find that Robinson Fuel, Inc. (Respondent) committed three violations of the Hazardous Materials Regulations (HMR), 49 C.F.R. Parts 171-180. Accordingly, I assess Respondent a \$10,390 civil penalty for these violations.**

**I. Summary**

Respondent: Robinson Fuel, Inc  
P.O. Box 545  
Panhandle, Texas 79068  
Attn: James Rotramel, President

No. of Violations: 3

Total Payment Due: \$10,390

**II. Finding**

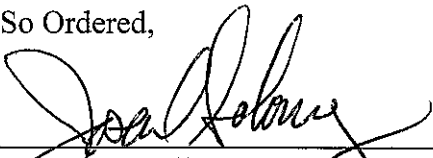
This matter comes before me after Respondent and the Pipeline and Hazardous Materials Safety Administration (PHMSA) agreed to a disposition of this civil enforcement action. I have reviewed the Compromise Agreement (Agreement) and I find the terms as outlined therein are in the best interest of justice. I find Respondent

committed the violations as described in the Agreement, which is attached as Addendum A to this Order, and I impose a civil penalty of **\$10,390**. Respondent must pay the civil penalty in accordance with the instructions contained in addendum B to this Order.

The attached Agreement, in its entirety, is incorporated into this Order. All of the terms and conditions of the Agreement shall be given the full force and effect of an Order issued pursuant to the Federal hazardous materials transportation law, 49 U.S.C. § 5101, et seq., or the Hazardous Materials Regulations, 49 C.F.R. Parts 171 – 180.

Dated: 7/23/2013

So Ordered,

  
\_\_\_\_\_  
Vanessa L. Allen Sutherland  
Chief Counsel  
Pipeline and Hazardous Materials Safety Administration

**CERTIFICATE OF SERVICES**

This is to certify that on the 25<sup>th</sup> day of July, 2013, the undersigned served in the following manner the designated copies of this Order with attached addendums to each party listed below:

Mr. James Rotramel, President  
Robinson Fuel, Inc.  
P.O. Box 545  
Panhandle, Texas 79068

Original Order with  
Copy of Agreement  
Certified Mail Return Receipt

Mr. Billy C. Hines, Director  
PHMSA Hazardous Materials Safety  
Southwest Region Office  
8701 S. Gessner Road, Suite 900  
Houston, TX 77074

One Copy  
Via Electronic Mail

Mr. Tay Rucker, Investigator  
PHMSA Hazardous Materials Safety  
Southwest Region Office  
8701 S. Gessner Road, Suite 900  
Houston, TX 77074

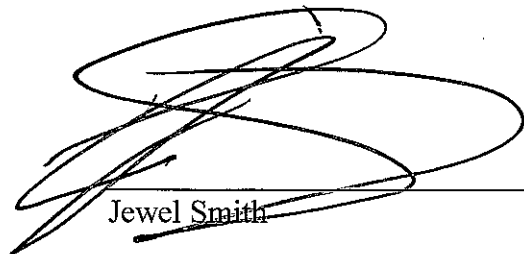
One Copy  
Via Electronic Mail

Amelia Samaras, Attorney  
Pipeline and Hazardous Materials  
Safety Administration  
Office of Chief Counsel

One Copy  
Via Electronic Mail

U.S. DOT Dockets  
U.S. Department of Transportation  
1200 New Jersey Ave., S.E.  
East Building  
Washington, D.C. 20590

One Copy  
Personal Delivery



Jewel Smith

### ***Payment Information***

Robinson Fuel, Inc. (Respondent) must pay a total civil penalty of \$10,390 in accordance with the following:

#### Due date

Respondent must make an initial payment of 1,731.70 within **30** days of the date of this Order.

Respondent must pay an additional \$1,731.66 each 30 days thereafter (6 total payments) until Respondent has paid the entire \$10,390 civil penalty.

#### Payment Method

Respondent must pay the civil penalty by one of the following: (1) wire transfer, (2) certified check or money order, or (3) credit card via the Internet.

(1) Wire Transfer.

Detailed instructions for sending a wire transfer through the Federal Reserve Communications System (Fedwire) to the account of the U.S. Treasury are contained in the enclosure to this Order. Please direct questions concerning wire transfers to:

Financial Operations Division  
Attn: Robin Cecil  
Federal Aviation Administration  
Mike Monroney Aeronautical Center  
AMZ-341  
P.O. Box 269039  
Oklahoma City, OK 73125  
Telephone (405) 954-8893.

(2) Check or Money Order.

Make check or money order payable to "U.S. Department of Transportation" (include the Ref. No. of this case on the check or money order) and send to:

Chief, Financial Operations Division  
Attn: Robin Cecil  
Federal Aviation Administration  
Mike Monroney Aeronautical Center  
AMZ-341

P.O. Box 269039  
Oklahoma City, OK 73125.

(3) Credit Card.

To pay electronically using a credit card, visit the following website address and follow the instructions:

<https://www.pay.gov/paygov/>

**INSTRUCTIONS FOR ELECTRONIC FUNDS TRANSFER TO  
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION,  
U.S. DEPARTMENT OF TRANSPORTATION**

1. <u>RECEIVER'S ABA NO.</u> 021030004	2. <u>TYPE SUBTYPE</u> (provided by sending bank)
3. <u>SENDING BANK ARB NO.</u> (provided by sending bank)	4. <u>SENDING BANK REF NO.</u> (provided by sending bank)
5. <u>AMOUNT</u>	6. <u>SENDING BANK NAME</u> (provided by sending bank)
7. <u>RECEIVER NAME:</u> TREAS NYC	8. <u>PRODUCT CODE</u> (Normally CTR, or sending bank)
9. <u>BENEFICIAL (BNF)- AGENCY LOCATION CODE</u> BNF=/AC-69140001	10. <u>REASONS FOR PAYMENT</u> <i>Example:</i> PHMSA Payment for Case #/Ticket

**INSTRUCTIONS:** You, as sender of the wire transfer, must provide the sending bank with the information for Block (1), (5), (7), (9), and (10). The information provided in blocks (1), (7), and (9) are constant and remain the same for all wire transfers to the Pipeline and Hazardous Materials Safety Administration, Department of Transportation

**Block #1** - RECEIVER ABA NO. - "021030004". Ensure the sending bank enters this nine digit identification number; it represents the routing symbol for the U.S. Treasury at the Federal Reserve Bank in New York.

**Block #5** - AMOUNT - You as the sender provide the amount of the transfer. Please be sure the transfer amount is punctuated with commas and a decimal point. **EXAMPLE:** **\$10,000.00**

**Block #7** - RECEIVER NAME- "TREAS NYC." Ensure the sending bank enters this abbreviation, which must be used for all wire transfer to the Treasury Department.

**Block #9** - BENEFICIAL - AGENCY LOCATION CODE - "BNF=/AC-69140001"  
Ensure the sending bank enters this information. This is the Agency Location Code for

Pipeline and Hazardous Materials Safety Administration, Department of Transportation

**Block #10** - REASON FOR PAYMENT – “AC-Payment for PHMSA Case#” To ensure your wire transfer is credited properly, enter the case number/ticket number or Pipeline Assessment number.”

**Note:** - A wire transfer must comply with the format and instructions or the Department cannot accept the wire transfer. You, as the sender, can assist this process by notifying, at the time you send the wire transfer, the General Accounting Division at (405) 954-8893.

**BEFORE THE  
UNITED STATES DEPARTMENT OF TRANSPORTATION  
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION**

**IN THE MATTER OF:**

**Robinson Fuel, Inc.,  
  
(Respondent)**

PHMSA Case No. 11-0085-SCT-SW

**COMPROMISE AGREEMENT**

**I. Parties**

The Parties to this Compromise Agreement (Agreement) are:

Robinson Fuel, Inc. ("Respondent"), a distributor, shipper, and carrier of hazardous materials, including the inhalation hazard anhydrous ammonia and gasoline, located at 501 Highway 60 E, Panhandle, Texas 79068

and

**The Pipeline and Hazardous Materials Safety Administration** ("PHMSA"), a modal Administration of the United States Department of Transportation.

**II. Authority/Jurisdiction**

A. The Parties enter into this agreement under authority of 49 U.S.C. § 5123(e) and 49 C.F.R. § 107.327(a)(1).

B. For the Purposes of this Agreement, Respondent acknowledges:

(1) As a person who transports hazardous materials, Respondent is a regulated entity subject to the Hazardous Materials Regulations (HMR) and to the jurisdiction of (a) the Secretary of Transportation, (b) the PHMSA's Associate Administrator for Hazardous Materials Safety, and (c) PHMSA's Office of Chief Counsel (49 U.S.C. § 5103(b) and 49 C.F.R. § 107.301);

(2) PHMSA has sufficient proof to show, by a preponderance of the evidence, Respondent's violation of the Federal regulations listed in Section V below; and

(3) Respondent received proper notice of PHMSA's actions in this proceeding.

### III. Background

A. On April 6, 2011, an inspector from PHMSA's Office of Hazardous Materials Enforcement (OHME) conducted a routine compliance inspection at Respondent's business pursuant to 49 U.S.C. § 5121 and 49 C.F.R. § 107.305. PHMSA's inspector reported three alleged violations of the HMR. At the conclusion of the compliance inspection, PHMSA's inspector conducted an "exit briefing" during which the inspector discussed the alleged violations and the required corrective actions with Respondent's representative.

B. Upon completion of the compliance inspection, the inspector submitted a report to the chief of OHME's Southwest Region, who reviewed the report for accuracy and sufficiency of evidence. Based on that review, the Region Chief referred the matter to PHMSA's Office of Chief Counsel thereby recommending the initiation of a civil penalty action against Respondent pursuant to 49 C.F.R. § 107.311.

C. Based on a preliminary assessment of the apparent nature, circumstances, extent, and gravity of the probable violations, as set forth in the inspector's report, on February 8, 2013, an attorney from the PHMSA's Office of Chief Counsel issued a Notice of Probable Violation (Notice) alleging three violations of the HMR and proposing a \$13,865 civil penalty.

### IV. Basis of Agreement

A. Reply to Notice. On March 7, 2013, Respondent requested an extension, which PHMSA granted. On March 25, 2013 Respondent submitted a timely reply to the Notice. In its reply, Respondent did not contest the alleged violations, but provided corrective documentation. The PHMSA attorney then followed up with requests for further corrective action documentation to establish that Respondent had corrected all alleged violations.

B. Corrective Action. During the course of various emails and phone calls, Respondent's representative answered follow up questions from the PHMSA attorney and fully corrected errors discovered in the corrective action documentation. The following is a summary of all of Respondent's corrective actions.

Violation Number	Respondent's Corrective action
1	Respondent provided a letter to Xcel Energy stating that it will no longer provide anhydrous ammonia in non-specification nurse tanks for industrial / non-agricultural purposes. Respondent provided photographs to show that all tanks are now properly marked and placarded. Respondent also provided tank testing records for all tanks with illegible data plates. Respondent removed at least one tank from service that did not qualify to operate under 49 C.F.R. § 173.315(m).
2	Respondent provided test records demonstrating the gasoline non-specification cargo tank successfully underwent external visual, thickness, and pressure tests.
3	Respondent provided copies of employees' hazmat training certifications.



C. Finances. Respondent did not request mitigation based on finances.

D. Informal Conference. On various dates, including May 8, May 15, May 17, and June 14, 2013, the Office of Chief Counsel and Respondent (parties) spoke via phone and via email about the case, corrective actions, and regulatory requirements.

E. Small Business Size. Evidence in the record also substantiates that Respondent is a small business.

## V. Violations and Civil Penalty

In a subsequent Order, the Chief Counsel will find that Respondent committed the following violations and will assess the following civil penalty:

Viol. No.	HMR Violation	NOPV Penalty Amount	Compromise Penalty Amount
1	Respondent offered the hazardous material, RQ, Ammonia, anhydrous, 2.2 UN 1005, for transportation in commerce in unauthorized, non-specification packages because they did not have legible ASME data plates, were not properly marked and placarded, and/or were transported for non-agricultural use, in violation of 49 C.F.R. §§ 171.2(a), (b), (e), (f), and (g); 173.22(a); 173.24(c); and 173.315(m).	\$7,650	\$5,728
2	Respondent filled and transported hazardous material, Gasoline, 3, UN 1203, PG II, in commerce in an unauthorized, non-DOT specification cargo tank, in violation of 49 C.F.R. §§ 171.2 (b), (e), and (f); 173.8(a), (b), and (d); and 180.407(c).	\$4,725	\$3,544
3	Respondent allowed employees to perform functions subject to the HMR while failing to provide each hazmat employee with general awareness, function specific, safety, and security training, in violation of 49 C.F.R. §§ 171.2(b); 172.702(b); and 172.704(a), (c), and (d).	\$1,490	\$1,118
<b>TOTAL</b>	-----	<b>\$13,865</b>	<b>\$10,390</b>

## VI. Factors Considered in Determining the Civil Penalty

In determining the amount of a civil penalty, PHMSA considered the following statutory criteria (49 U.S.C. § 5123(c)):

- (1) The nature, circumstances, extent, and gravity of the violations;
- (2) The degree of culpability and history of prior violations;
- (3) Respondent's size;

- (4) Respondent's ability to pay the penalty and its ability to continue to do business; and
- (5) Other matters as justice may require.

Documentation of Respondent's corrective actions for these violations and the fact that Respondent is a small business, justify assessing a civil penalty of \$10,390. Respondent may pay the civil penalty in 6 payments.

## **VII. Terms and Conditions**

A. Respondent agrees to pay the sum of \$10,390, as full satisfaction of civil penalty proposed in the Notice.

(1) Respondent must pay \$1,731.70 within thirty days from the date of the Order, which the Chief Counsel will issue after Respondent signs and returns this agreement.

(2) Respondent must pay an additional \$1,731.66 each thirty days after making its first payment (6 total payments) and until Respondent has paid the entire \$10,390 civil penalty.

B. By entering into this agreement, Respondent waives any right:

(1) to present further written or oral explanations, information, and arguments in this matter;

(2) to Administrative appeal; and

(3) to seek judicial review or otherwise contest or challenge the validity of this Agreement or the Notice associated with this case.

C. This Agreement resolves only the violations noted in PHMSA Case No. 11-0085-SCT-SW as referenced in Section V of this agreement and in the Notice. In the event Respondent commits any future violations of the Federal hazardous material transportation law, 49 U.S.C. § 5101 *et seq.*, the HMR, or any exemption, or order issued thereunder these violations shall constitute a prior violation under 49 U.S.C. § 5123.

D. After Respondent signs and returns this Agreement, PHMSA's representative will present the Agreement to the Chief Counsel requesting that the Chief Counsel adopt the terms of this Agreement by issuing a Compromise Order (49 C.F.R. § 107.327(a)(1)). The terms of this Agreement constitute an offer of compromise until accepted by the Chief Counsel.

E. After issuance of the Compromise Order, Respondent must pay the civil penalty in accordance with the terms of this Agreement. Upon receipt of Respondent's final payment, the Chief Counsel will close this case with prejudice to the Respondent (49 C.F.R. § 107.327(a)(1)(ii)).

## **VIII. Miscellaneous Provisions**

A. By signing this Agreement, Respondent or its representative warrants to have read the agreement and understood its terms and conditions.

B. The individuals signing on behalf of the Respondent and PHMSA represent that they are authorized to sign and have authority to enter into this Agreement.

C. Respondent's failure to sign and return this agreement within thirty (30) days from its receipt will result in the withdrawal of the offer of compromise contained within this Agreement and the Chief Counsel will issue an Order pursuant to 49 C.F.R. § 107.317(d).

D. Respondent must return the signed Agreement to:

Amelia Samaras, Attorney  
United States Department of Transportation  
Pipeline and Hazardous Materials Safety Administration  
Mail Stop: E26-105  
1200 New Jersey Ave., SE  
Washington, D.C. 20590-0001

Or

amelia.samaras@dot.gov

**Respondent**

Federal Tax ID #: 1-75-2442945-7<sup>1</sup>

By:

Ernest Cadenhead Date: 7-16-13  
James Rotramel, President Ernest Cadenhead, General Manager

**Pipeline and Hazardous Materials Safety Administration**

By:

Amelia Samaras Date: 7/23/13  
Amelia Samaras, Attorney

<sup>1</sup> The Taxpayer Identifying Number is required by 31 U.S.C. § 7701(c)(3). PHMSA will use this number for purposes of collecting and reporting on any delinquent amounts arising out of this agreement.