



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

SEP 30 2009

REPLY TO THE ATTENTION OF:

LC-8J

CERTIFIED MAIL

Receipt No.7001 0320 0006 0189 9132

Mr. William Boyer
Registered Agent for
Automated Circuit Technology
1325 West Green Lake Drive
West Bend, Indiana 53090

Consent Agreement and Final Order, Docket No. **EPCRA-05-2009-0033**

Dear Mr. Boyer:

Enclosed is a copy of a fully executed Consent Agreement and Final Order in resolution of the above case. This document was filed on September 30, 2009, with the Regional Hearing Clerk.

The civil penalty in the amount of \$4,513 is to be paid in the manner described in paragraphs 27 and 28. In the comment or description field of the electronic funds transfer, please state: Automated Circuit Technology, Inc., the docket number of this CAFO (above), and the following billing document number BD 2750944E035. Payment is due by October 2009 (within 30 calendar days of the filing date).

Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in black ink, which appears to read "Kenneth Zolnierczyk", is written over the typed name.

Kenneth Zolnierczyk
Pesticides and Toxics Compliance Section

Enclosures

RECEIVED
SEP 30 2009

REGIONAL HEARING CLERK

In the Matter of:	USEPA REGION 5)	Docket No. EPCRA-05-2009-0033
Automated Circuit Technology, Inc.)	
Menominee Falls, Wisconsin)	Proceeding to Assess a Civil Penalty
)	Under Section 325(c) of the Emergency
)	Planning and Community Right-to-Know
Respondent.)	Act of 1986, 42 U.S.C. § 11045(c)
)	

Consent Agreement and Final Order Commencing and Concluding the Proceeding

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 325(c) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 U.S.C. § 11045(c), and Sections 22.13(b) and 22.18(b)(2) and (3) of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (Consolidated Rules) as codified at 40 C.F.R. Parts 22.

2. The Complainant is the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region 5.

3. Respondent is Automated Circuit Technology, Inc., a corporation doing business in the State of Wisconsin.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO, and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

9. Respondent certifies that it is complying with Section 313 of EPCRA, 42 U.S.C. § 11023.

Statutory and Regulatory Background

10. Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. §§ 372.22 and 372.30 require the owner or operator of a facility that has 10 or more full-time employees; is covered by certain Standard Industrial Classification (SIC) codes; meets one of the criteria set forth in 40 C.F.R. § 372.22(b)(1)-(3); and manufactured, processed, or otherwise used a toxic chemical in an amount in excess of an applicable threshold quantity of that chemical listed under Section 313(f) of EPCRA and 40 C.F.R. § 372.28, during the calendar year, to complete and submit a toxic chemical release inventory form (Form R) to the Administrator of EPA and to the state in which the subject facility is located by July 1 for each toxic chemical manufactured, processed, or otherwise used in quantities exceeding the established threshold during the preceding calendar year.

11. As set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28, the reporting threshold amount for lead manufactured, processed, or otherwise used at a facility is 100 pounds for calendar years including and subsequent to 2001.

12. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), authorizes the Administrator of EPA to assess a civil penalty of up to \$25,000 per day for each violation of Section 313 of EPCRA. The Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461 (note) (1990), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 (note) (1996), required federal agencies to issue regulations adjusting for inflation the maximum civil penalties that can be imposed pursuant to each agency's statutes. The EPA may assess a civil penalty of up to \$27,500 per day for each violation of Section 313 of EPCRA that occurred from January 31, 1997 through March 15, 2004, and may assess a civil penalty of up to \$32,500 per day for each violation of Section 313 of EPCRA that occurred from March 15, 2004, through January 12, 2009, pursuant to Section 325(c)(1) and (3) of EPCRA, 42 U.S.C. § 11045(c)(1) and (3), and 40 C.F.R. Part 19.

Factual Allegations and Alleged Violations

13. Respondent is a "person" as that term is defined at Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

15. At all times relevant to this CAFO, Respondent was an owner or operator of the facility located at N 90 W14739 Commerce Drive, Menominee Falls (facility).

16. At all times relevant to this CAFO, Respondent had "10 or more full-time employees," as defined at 40 C.F.R. § 372.3, and was an employer at the facility.

17. Respondent's facility consists of buildings, equipment, structures, and other stationary items which are located on a single site or on contiguous or adjacent sites, and which are owned or operated by the same person.

18. Respondent's facility is a "facility" as that term is defined at Section 329(4) of EPCRA, 42 U.S.C. § 11049(4).

19. The facility has a SIC code of 3679, a covered SIC code as defined at Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.22.

Count 1

20. During calendar year 2004, Respondent's facility processed, as that term is defined at 40 C.F.R. § 372.3, lead, a chemical category or CAS No. listed under 40 C.F.R. § 372.65, in the amount of 988 pounds, which is greater than 100 pounds, the threshold for reporting, as set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28.

21. Respondent was required to submit to the Administrator of EPA and to Ohio a Form R for lead for calendar year 2004 by July 1, 2005.

22. Respondent did not submit to the Administrator of EPA and to Ohio a Form R for lead for calendar year 2004 by July 1, 2005.

23. Respondent submitted Form R for lead to the Administrator of EPA, and to Ohio a Form R for lead for calendar year 2004, on September 25, 2006.

24. Respondent's failure to submit timely a Form R for lead to the Administrator of EPA and to Ohio for calendar year 2004 violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

Civil Penalty

25. Pursuant to Section 325 of EPCRA, 42 U.S.C. § 11045, Complainant determined that an appropriate civil penalty to settle this action is \$4,513.00. In determining the penalty amount, Complainant considered the nature, circumstances, extent and gravity of the violations, and with respect to Respondent, its ability to pay, prior history of violations, economic benefit or savings resulting from the violations, and other matters as justice might require. Complainant also considered EPA's *Enforcement Response Policy for Section 313 of the Emergency Planning and Community Right-to-Know Act (1986)* and *Section 6607 of the Pollution Prevention Act*.

26. Complainant has determined the penalty amount in part based on information submitted to EPA by Respondent.

27. Within 30 days after the effective date of this CAFO, Respondent must pay a \$4,513.00 civil penalty for the EPCRA violation. Respondent must pay the penalty by cashier's or certified check, payable to the "Treasurer, United States of America." If the check is sent by regular U.S. Postal Service mail, the check must be sent to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

If the check is sent by express mail, the check must be sent to:

U.S. Bank
Government Lockbox 979077 U.S. EPA Fines and Penalties
Contact: Natalie Pearson
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, Missouri 63101

The check must note the following: "In the Matter of Automated Circuit Technology, Inc.," the docket number of this CAFO and the billing document number.

28. A transmittal letter, stating Respondent's name, the case title, Respondent's complete address, the case docket number and the billing document number, must accompany the payment. Respondent must send a copy of the check and transmittal letter to:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Kenneth Zolnierczyk (LC-8J)
Pesticides and Toxics Compliance Section
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Andre Daugavietis (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

29. This civil penalty is not deductible for federal tax purposes.

30. If Respondent does not pay the civil penalty timely, EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States' enforcement expenses for the collection action. The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

31. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date the payment was due at a rate established pursuant to 31 U.S.C. § 3717. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In

addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

32. This CAFO resolves only Respondent's liability for federal civil penalties for the violation and facts alleged in the CAFO.

33. This CAFO does not affect the right of the EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

34. This CAFO does not affect Respondent's responsibility to comply with EPCRA and other applicable federal, state, and local laws, and regulations.

35. This CAFO shall terminate upon payment of the required penalty amount as set forth above.

36. This CAFO is a "final order" for purposes of EPA's Enforcement Response Policy for Section 313 of EPCRA.

37. The terms of this CAFO bind Respondent and its successors, and assigns.

38. Each person signing this agreement certifies that he or she has the authority to sign this agreement for the party whom he or she represents and to bind that party to its terms.

39. Each party agrees to bear its own costs and attorney's fees, in this action.

40. This CAFO constitutes the entire agreement between the parties.

In the Matter of:
Automated Circuit Technology, Inc.

Automated Circuit Technology, Inc., Respondent

SEPTEMBER 14TH, 2009
Date

William L. Boyer
William Boyer, President
Automated Circuit Technology, Inc.

U.S. Environmental Protection Agency, Complainant

September 29TH, 2009
Date

Margaret M. Guerriero
Margaret M. Guerriero
Director
Land and Chemicals Division

In the Matter of:

Automated Circuit Technology, Inc.

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

Date

9/29/09

Walter W. Karalulph
for
Bharat Mathur
Acting Regional Administrator
U.S. Environmental Protection Agency
Region 5

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SEP 30 2009

REGIONAL HEARING CLERK
USEPA
REGION 5

CASE NAME: Automated Circuit Technology, Inc., Menominee Falls, WI
DOCKET NO. EPCRA-05-2009-0033

CERTIFICATE OF SERVICE

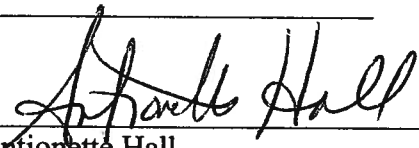
I hereby certify that today I filed the original of this **Consent Agreement and Final Order** and this **Certificate of Service** in the office of the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

I further certify that I then caused a true and correct copy of the filed document to be mailed on the date below, via Certified Mail, Return Receipt Requested, to:

William Boyer
President
Automated Circuit Technology, Inc.
1325 West Green Lake Drive
West Bend, Wisconsin 53090

Certified Mail Receipt number: _____

Dated 9/30/09, 2009


Antionette Hall
Administrative Program Assistant
U.S. Environmental Protection Agency
Region 5
Land and Chemicals Division (L-8J)
77 West Jackson Boulevard
Chicago, IL 60604-3590

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