



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

January 14, 2009

REPLY TO THE ATTENTION OF:

LC-8J

CERTIFIED MAIL

Receipt No. 7001 0320 0006 0183 0289

Kevin Grant, President
Electro-Max, Inc.
105 N. Rowell Road
Hampshire, Illinois 60140

RECEIVED
JAN 14 2009

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

Consent Agreement and Final Order, Docket No. EPCRA-05-2008-0015

Dear Mr. Grant:

Enclosed is a copy of a fully executed Consent Agreement and Final Order in resolution of the above case. This document was filed on January 14, 2009, with the Regional Hearing Clerk.

The civil penalty in the amount of \$6,500 is to be paid in the manner described in paragraphs 10 and 11. A transmittal letter, stating Electro-Max, Inc., the docket number of this CAFO (above), and the following billing document number BD 2750944E009, must accompany the payment. Payment is due by February 13, 2009 (within 30 calendar days of the filing date).

Thank you for your cooperation in resolving this matter.

Sincerely,

Robert Allen
Pesticides and Toxics Compliance Section

Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:) Docket No. EPCRA-05-2008-0015
)
Electro-Max, Inc.)
Hampshire, Illinois,) Proceeding to Assess a Civil Penalty Under
) Section 325(c) of the Emergency Planning
) and Community Right-to-Know Act of
Respondent.) 1986, 42 U.S.C. § 11045(c)

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Consent Agreement and Final Order

Preliminary Statement

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

1. Complainant, the Director of the Land and Chemicals Division, United States Environmental Protection Agency (EPA), Region 5, brought this administrative action seeking a civil penalty under Section 325(c) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 U.S.C. § 11045(c).

2. On June 30, 2008, EPA filed a Complaint in this action against Respondent Electro-Max, Inc. On July 17, 2008, EPA filed an Amended Complaint in this action. The Amended Complaint alleges that in 2002 Respondent manufactured nitrate compounds and otherwise used nitric acid at its Hampshire, Illinois facility in quantities exceeding the threshold for reporting under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and that Respondent violated Section 313 of EPCRA and 40 C.F.R. Part 372 by failing to submit Toxic Chemical Release Inventory Reporting Forms (Form R) for nitrate compounds and nitric acid by July 1, 2003 for calendar year 2002.

3. Respondent filed an Answer and requested a hearing under Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), and 40 C.F.R. § 22.15.

Stipulations

4. Respondent admits the jurisdictional allegations in the Complaint and neither admits nor denies the factual allegations in the Complaint, other than those it admitted in its Answer.
5. Respondent waives any right to contest the allegations in the Complaint and its right to appeal this Consent Agreement and Final Order (CAFO).
6. Respondent certifies that it is complying fully with EPCRA.
7. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.
8. The parties agree that settling this action without further litigation, upon the terms in this CAFO, is in the public interest.

Civil Penalties

9. In consideration of Respondent's cooperation and compliance efforts, as well as litigation risk, EPA agrees to mitigate the proposed penalty of \$11,000 to \$6,500.
10. Within 30 days after the effective date of this CAFO, Respondent must pay the \$6,500 civil penalty by sending a cashier's or certified check, payable to the "Treasurer, United States of America," to:

For checks sent by regular U.S. Postal Service mail:

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

For checks sent by express mail:

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

The check must note the case title, the docket number of this CAFO, and the billing document number.

11. A transmittal letter, stating Respondent's name, complete address, the case title, 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-13J)
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Robert Allen (LC-8J)
Pesticides and Toxics Compliance Section
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Mony Chabria (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

12. This civil penalty is not deductible for federal tax purposes.
13. 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.

14. 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 by the Secretary of the Treasury. 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

15. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the Complaint.

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

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

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

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

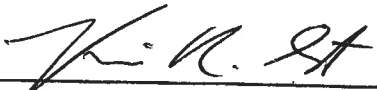
20. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

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

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

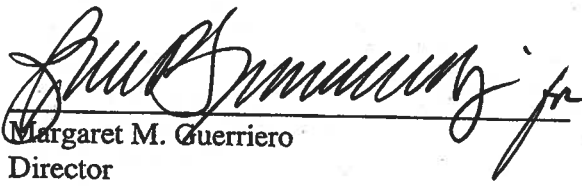
Electro-Max, Inc., Respondent

12/21/08
Date


Kevin Grant
President
Electro-Max, Inc.

United States Environmental Protection Agency, Complainant

1/9/09
Date


Margaret M. Guerriero
Director
Land and Chemicals Division

**In the Matter of:
Electro-Max, Inc.
Docket No. EPCRA-05-2008-0015**

**In the Matter of:
Electro-Max, Inc.
Docket No. EPCRA-05-2008-0015**

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.

1/13/09
Date

Lynn Buhl
Lynn Buhl
Regional Administrator
United States Environmental Protection Agency
Region 5

CERTIFICATE OF SERVICE

I hereby certify that the original signed copy of the Consent Agreement and Final Order in resolution of the civil administrative action involving Electro-Max Inc., was filed on January 14, 2009, with the Regional Hearing Clerk (E-13J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, and that I mailed, by Certified Mail, Receipt No. 7001 0320 0006 0183 0289 a copy of the original to the Respondent:

Kevin Grant, President
Electro-Max, Inc.
105 N. Rowell Road
Hampshire, Illinois 60140

and forwarded intra-Agency copies to:

Marcy Toney, Regional Judicial Officer, ORC/C-14J
Monesh Chabria, Counsel for Complainant/C-14J
Eric Volck, Cincinnati Finance/MWD



Frederick Brown, PTCS (LC-8J)
U.S. EPA - Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Docket No. EPCRA-05-2008-0015 *JR*

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