



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

NOV 09 2006

REPLY TO THE ATTENTION OF:

DT-8J

CERTIFIED MAIL

Receipt No. 7001 0320 0005 8932 9126

Harlan Stenstrom, President  
Acc-Tronics Manufacturing, Inc.  
4255 White Bear Parkway  
St. Paul, MN 55110

Consent Agreement and Final Order, Docket No. *EPCRA-05-2007-0003*

Dear Mr. Stenstrom:

I have enclosed an original signed copy of a fully executed Consent Agreement and Final Order in resolution of the above case. This document was filed on November 9, 2006 with the Regional Hearing Clerk.

The civil penalty in the amount of \$2,000 is to be paid in the manner prescribed in paragraph 30 and 31. Please be certain that the number BD 2750744E002 and the docket number are written on both the transmittal letter and on the check. The payment is due by December 11, 2006.

Thank you for your cooperation in resolving this matter.

Sincerely,

Terence Bonace  
Pesticides and Toxics Branch

Enclosures

cc: Marcy Toney, Regional Judicial Officer/C-14J (w/Encl.)  
Ann Coyle, ORC/C-14J (w/Encl.)  
Ray Marasigan, Finance/MF-10J (w/Encl.)

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

**In the Matter of:** )  
 )  
**Accu-Tronics Manufacturing, Inc.** )  
**St. Paul, Minnesota,** )  
 )  
**Respondent.** )  
\_\_\_\_\_ )

**Docket No.** *EPCRA-DS-2007-0003* )  
 )  
**Proceeding to Assess a Civil Penalty** )  
**Under Section 325(c) of the Emergency** )  
**Planning and Community Right-to-Know** )  
**Act of 1986, 42 U.S.C. § 11045(c)** )

2007 NOV 9 PM 2:59  
REGION 5 CLERK

**Consent Agreement and Final Order**

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. Part 22 (2005).
2. Complainant is the Chief of the Pesticides and Toxics Branch, Region 5, United States Environmental Protection Agency (U.S. EPA).
3. Respondent is Accu-Tronics Manufacturing, Inc. (Respondent), a corporation doing business in Minnesota.
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) (2005).
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 entry of this CAFO and the assessment of the specified civil penalty, and agrees to comply with the terms of the 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.

### **Statutory and Regulatory Background**

9. U.S. EPA promulgated the Toxic Chemical Release Reporting Community Right-to-Know Rules at 40 C.F.R. Part 372 pursuant to Sections 313 and 328 of EPCRA, 42 U.S.C. §§ 11023 and 11048.

10. Section 313(b) of EPCRA, 42 U.S.C. § 11023(b), and 40 C.F.R. § 372.22 provide that the requirements of Section 313 and Part 372 apply to any facility that has 10 or more full-time employees and a Standard Industrial Classification (SIC) Code between 20 and 39, and that manufactures, imports, processes, or otherwise uses a toxic chemical identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 372.65, in amounts that exceed the threshold for reporting, as set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and in 40 C.F.R. §§ 372.25 or 372.27.

11. Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30 require the owner or operator of a facility, subject to the requirements of Section 313 and Part 372, to complete and submit to the Administrator of U.S. EPA and to the state in which the facility is located, no later than July 1, 1988, and each July 1 thereafter, a chemical release form published pursuant to Section 313(g) of EPCRA, 42 U.S.C. § 11023(a), for each toxic chemical listed

under Section 313(c) of EPCRA, 42 U.S.C. § 11023(a), that was manufactured, processed, or otherwise used at the facility during the preceding calendar year in a quantity exceeding the threshold established by Section 313(f).

12. On October 29, 1999 (64 Fed. Reg. 58750), as amended on January 17, 2001 (66 Fed. Reg. 4527), U.S. EPA lowered the threshold for lead (CAS No. 7439-92-1) and lead compounds to 100 pounds for manufacturing, processing, or otherwise using, with the exception of lead contained in a stainless steel, brass, or bronze alloy, as permitted under Section 313(f)(2) of EPCRA, 42 U.S.C. § 11023(f)(2).

13. U.S. EPA published the Toxic Chemical Release Inventory Reporting Form, U.S. EPA Form 9350-1 (1-88) (Form R) at 40 C.F.R. § 372.85, pursuant to Section 313(g) of EPCRA, 42 U.S.C. § 11023(g).

14. All persons required to report pursuant to Section 313(b) must use Form R according to Section 313(a) of EPCRA, 42 U.S.C. § 11023(a).

15. Under 40 C.F.R. § 372.18, violators of the requirements of Part 372 are liable for a civil penalty not to exceed \$25,000 each day for each violation as provided in Section 325(c) of EPCRA, 42 U.S.C. § 11045(c).

16. Under Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), the U.S. EPA Administrator may assess a civil penalty of up to \$25,000 per day of violation of EPCRA Section 313. The Debt Collections Improvements Act of 1996, 31 U.S.C. § 3701, and its implementing regulations at 40 C.F.R. Part 19 increased these statutory maximum penalties to \$27,500 per day of violation

that occurred from January 31, 1997, through March 15, 2004, and to \$32,500 per day of violation for violations that occurred after March 15, 2004.

**Factual Allegations and Violations**

17. Respondent is a corporation incorporated in the State of Minnesota.

18. Respondent is a “person” as defined by Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

19. Respondent owned or operated a “facility,” as that term is defined under Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), located at 4255 White Bear Parkway, St. Paul, Minnesota (Respondent’s facility or facility) during the 2004 calendar year.

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

21. During the calendar year 2004, Respondent employed at its facility the equivalent of at least 10 employees with total paid hours equal to or more than 20,000 hours per calendar year.

22. Respondent’s facility is covered by SIC Code 3679.

23. Lead is a chemical identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 372.65.

24. The reporting threshold for lead (CAS No. 7439-92-1) identified by Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed under 40 C.F.R. § 372.28, that is processed during the 2004 calendar year and is not contained in stainless steel, brass or bronze alloy is 100 pounds.

25. During the 2004 calendar year, Respondent's facility processed, as defined by 40 C.F.R. § 372.3, 559 pounds of lead (CAS No. 7439-92-1) not contained in stainless steel, brass or bronze alloy.

26. Section 313 of EPCRA, 42 U.S.C. § 11023, required Respondent to submit to the Administrator of U.S. EPA and the State of Minnesota a Form R for lead for the 2004 calendar year on or before July 1, 2005.

27. Respondent submitted a Form R for lead to U.S. EPA and the State of Minnesota on November 2, 2005.

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

#### **Civil Penalty**

29. In consideration of the nature, circumstances, extent and gravity of the violation, Respondent's ability to pay, past history of violations, culpability, and economic benefit, other matters as justice may require, and Respondent's cooperation and good faith efforts to comply, U.S. EPA has determined that an appropriate penalty to settle this action is \$2,000.

30. Within 30 days after the effective date of this CAFO, Respondent must pay the \$2,000 civil penalty by sending a cashier's or certified check, payable to the "Treasurer, United States of America," to:

U.S. EPA, Region 5  
P.O. Box 371531  
Pittsburgh, PA 15251-7531

The check must state Respondent's name and the case docket number.

31. A transmittal letter, stating Respondent's name, 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:

Attn: Regional Hearing Clerk (E-13J)  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Blvd.  
Chicago, Illinois 60604

Attn: Terence Bonace (DT-8J)  
Pesticides and Toxics Branch  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

Ann L. Coyle (C-14J)  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Blvd.  
Chicago, Illinois 60604

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

33. If Respondent does not pay timely the civil penalty, U.S. 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.

34. 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, U.S. EPA will assess a six percent per year penalty on any principal amount 90 days past due.

**General Provisions**

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

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

37. This CAFO does not affect Respondent's responsibility to comply with EPCRA and other applicable federal, state and local laws, and regulations. Except as provided in paragraph 37, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by Complainant.

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

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

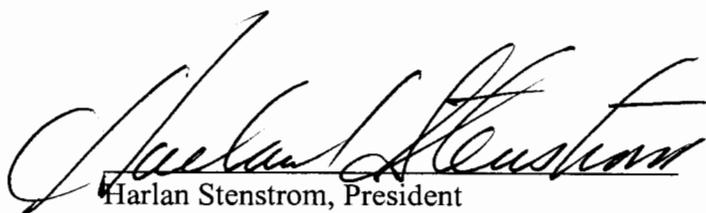
40. Each person signing this consent agreement certifies that he or she has the authority to sign this consent agreement for the party whom he or she represents and to bind that party to its terms.

41. Each party agrees to bear its own costs and attorneys' fees in this action.

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

**Accu-Tronics Manufacturing, Inc., Respondent**

10-11-06  
Date

  
Harlan Stenstrom, President  
Accu-Tronics Manufacturing, Inc.

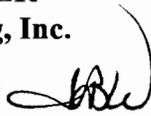
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*[Handwritten initials]*



**CONSENT AGREEMENT AND FINAL ORDER**

**In the Matter of: Accu-Tronics Manufacturing, Inc.**

**Docket No. FIFRA-05-2007-0003** 

**Final Order**

It is ordered as agreed to by the parties and as stated in the Consent Agreement, effective immediately upon filing of this CAFO with the Regional Hearing Clerk. This Final Order disposes of this proceeding pursuant to 40 C.F.R. § 22.18.

11/03/06  
Date

  
\_\_\_\_\_  
Mary A. Gade  
Regional Administrator  
U.S. Environmental Protection Agency  
Region 5

2007 NOV 6 PM 3:00  
REGIONAL HEARING CLERK  
FEDERAL

**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 Accu-Tronics Manufacturing, Inc, was filed on November 9, 2006, with the Regional Hearing Clerk (E-13J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590, and that I mailed by Certified Mail, Receipt No. 7001 0320 0006 1456 2511, a copy of the original to the Respondents:

Harlan Stenstrom, President  
Acc-Tronics Manufacturing, Inc.  
4255 White Bear Parkway  
St. Paul, MN 55110

and forwarded copies (intra-Agency) to:

Marcy Toney, Regional Judicial Officer, ORC/C-14J  
Ann Coyle, Counsel for Complainant/C-14J  
Ray Marisigan, Finance/MF-10J

  
\_\_\_\_\_

Elizabeth Lytle  
Pesticides and Toxics Branch  
U.S. EPA - Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

Docket No. *EPCRA-05-2007-0003*

  
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