



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

March 5, 2008

REPLY TO THE ATTENTION OF:  
LC-8J

CERTIFIED MAIL

Receipt No. 7001 0320 0005 8933 0108

Matthew Goeringer  
Vice President of Manufacturing  
Arc-Tronics, Incorporated  
150 Pagni Drive  
Elk Grove Village, Illinois 60007

Consent Agreement and Final Order, Docket No. **EPCRA-05-2008-0007**

Dear Mr. Goeringer:

Enclosed is a copy of a fully executed Consent Agreement and Final Order in resolution of the above case. This document was filed on March 5, 2008, with the Regional Hearing Clerk.

The civil penalty in the amount of \$22,750.00 is to be paid in the manner prescribed in paragraph 25. In the comment or description field of the electronic funds transfer, please state: Arc-Tronics, Incorporated, the docket number of this CAFO (above), and the following billing document number BD 2750844E009. Payment is due by April 6, 2008 (within 30 calendar days of the filing date).

Thank you for your cooperation in resolving this matter.

Sincerely,

  
Anthony Silvasi  
Pesticides and Toxics Compliance Section

Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

In the Matter of:

Arc-Tronics, Incorporated  
Elk Grove Village, Illinois,

Respondent.

) Docket No. EPCRA-05-2008-0007  
)  
) 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)

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Consent Agreement and Final Order

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. Part 22.
2. The Complainant is the Director of the Land and Chemicals Division, United States Environmental Protection Agency (U.S. EPA), Region 5.
3. Respondent is Arc-Tronics, Incorporated, a corporation doing business in the State of Illinois.
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 U.S. 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

U.S. 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 (1990), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 (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 U.S. 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 after March 15, 2004, 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).

14. At all times relevant to this CAFO, Respondent was an owner or operator of the facility located at 1150 Pagni Drive, Elk Grove Village, Illinois (facility).

15. 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 the employer at the facility.

16. 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.

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

18. 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**

19. During calendar year 2005, 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 2192 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.

20. Respondent was required to submit to the Administrator of U.S. EPA and to Illinois a Form R for lead for calendar year 2005 by July 1, 2006.

21. Respondent did not submit to the Administrator of U.S. EPA and to Illinois a Form R for lead for calendar year 2005 by July 1, 2006.

22. Respondent submitted Form R for lead to the Administrator of U.S. EPA and to Illinois on September 25, 2007 for calendar year 2005.

23. Respondent's failure to submit timely a Form R for lead to the Administrator of U.S. EPA and to Illinois for calendar year 2005 violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

### **Civil Penalty**

24. Pursuant to Section 325 of EPCRA, 42 U.S.C. § 11045, Complainant determined that an appropriate civil penalty to settle this action is \$22,750. 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 any other matters as justice may require. Complainant also considered U.S. 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 (1990) (amended) (April 12, 2001)*.

25. Within 30 days after the effective date of this CAFO, Respondent must pay a \$22,750 civil penalty for the EPCRA violations. Respondent must pay the penalty by electronic funds transfer, payable to the "Treasurer, United States of America," and sent to:

Federal Reserve Bank of New York  
ABA No. 021030004  
Account No. 68010727  
SWIFT address=FRNYUS33  
33 Liberty Street  
New York, NY 10045  
Field Tag 4200 of the Fedwire message should read:  
"D 68010727 Environmental Protection Agency"

In the comment or description field of the electronic funds transfer state: Arc-Tronics, Incorporated; the docket number of this CAFO; and the billing document number.

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

27. If Respondent does not pay the civil penalty timely, 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. The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

28. 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**

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

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

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

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

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

34. 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.

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

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

**Arc-Tronics, Incorporated, Respondent**

2/12/2008  
Date

Matthew Goering  
Matthew Goering, Vice President of Manufacturing  
Arc-Tronics, Incorporated

**United States Environmental Protection Agency, Complainant**

2/29/08  
Date

for Allen Meltzer  
Margaret M. Guerriero, Director  
Land and Chemicals Division

EPCRA-05-2008-0007

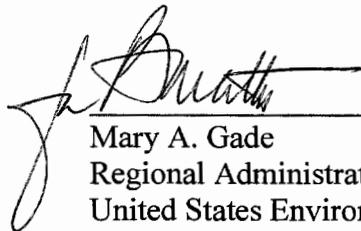
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**In the Matter of:**  
**Arc-Tronics, Incorporated**  
**Docket No. EPCRA-05-2008-0007**

**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.

3/3/08  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Mary A. Gade  
Regional Administrator  
United States Environmental Protection Agency  
Region 5

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**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 Arc-Tronics, Incorporated, was filed on March 5, 2008, with the Regional Hearing Clerk (E-13J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, and that I mailed, by Certified Mail, Receipt No. 7001 0320 0005 8933 0108 a copy of the original to the Respondent:

Matthew Goering  
Vice President of Manufacturing  
Arc-Tronics, Incorporated  
150 Pagni Drive  
Elk Grove Village, Illinois 60007

and forwarded intra-Agency copies to:

Marcy Toney, Regional Judicial Officer, ORC/C-14J  
Leslie Kirby-Miles, 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

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