



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

DEC 29 2009

REPLY TO THE ATTENTION OF:

LC-8J

CERTIFIED MAIL

Receipt No.7001 0320 0006 0189 9934

Mr. Stephen A Finkbeiner
Vice President Operations
Versa Die Cast, Inc.
3943 Quebec Avenue North
Minneapolis, MN 55427

Consent Agreement and Final Order, Docket No. EPCRA-05-2010-0007

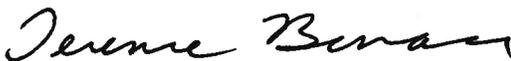
Dear Mr. Finkbeiner:

Enclosed is a copy of a fully executed Consent Agreement and Final Order in resolution of the above case. This document was filed on December 29, 2009, with the Regional Hearing Clerk.

The civil penalty in the amount of \$13,630 is to be paid in the manner described in paragraphs 28 and 29. In the comment or description field of the electronic funds transfer, please state: Versa Die Cast, Inc., the docket number of this CAFO (above), and the following billing document number BD 2751044E010. Payment is due by January 28, 2010 (within 30 calendar days of the filing date).

Thank you for your cooperation in resolving this matter.

Sincerely,

for 
Robert Allen
Pesticides and Toxics Compliance Section

Enclosures

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No. EPCRA-05-2010-0007
)	
Versa Die Cast, Inc.)	Proceeding to Assess a Civil Penalty
New Hope, Minnesota,)	Under Section 325(c) of the Emergency
)	Planning and Community Right-to-Know
and)	Act of 1986, 42 U.S.C. § 11045(c)
)	
Versa Electronics Corporation,)	
New Hope, MN,)	
)	
Respondents.)	

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REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

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. Part 22.
2. The Complainant is the Director of the Land and Chemicals Division, United States Environmental Protection Agency (EPA), Region 5.
3. Respondents are Versa Die Cast, Inc., and Versa Electronics Corporation, which are, and at all times relevant to this CAFO were, corporations incorporated in the State of Minnesota. At all times relevant to this complaint, each of the Respondents conducted business in the State of 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).

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. Respondents consent 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. Respondents admit the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondents each waive the 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 Versa Electronics Company certifies that it is complying with Section 313 of EPCRA, 42 U.S.C. § 11023. Respondent Versa Die Cast certifies that it is no longer conducting business operations of any kind.

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 CFR § 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 may be assessed pursuant to each agency's statutes. EPA 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 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. At all times relevant to this CAFO, Respondents Versa Die Cast, Inc., and Versa Electronics Corporation were "persons" 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, Respondents were wholly owned subsidiaries of Versa Companies, Inc., and were under "common control," as that term is used in the definition of "facility" in 40 CFR §372.3.

15. During calendar year 2005, Versa Die Cast, Inc., and Versa Electronics Corporation each conducted operations within the same building located at 3943 Quebec Avenue, New Hope,

Minnesota 55427 (“Facility”).

16. At all times relevant to this CAFO, Respondents were both “operators,” as that term is used in 40 C.F.R. Part 373, of the Facility located at 3943 Quebec Avenue, New Hope, Minnesota 55427.

17. At all times relevant to this CAFO, Respondents’ Facility consisted of buildings, equipment, structures, and other stationary items which were located on a single site or on contiguous or adjacent sites, and which were operated by persons under common control.

18. At all times relevant to this CAFO, Respondents’ Facility was a “facility” as that term is defined at Section 329(4) of EPCRA, 42 U.S.C. § 11049(4).

19. At all times relevant to this CAFO, the operations conducted by Versa Die Casting at the Facility had a SIC code of 3363, which is a covered SIC code as defined at Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.22.

20. At all times relevant to this CAFO, operations conducted by Versa Electronics Corporation had a SIC code of 3679, which is a covered SIC code as defined at Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.22.

21. During calendar year 2005, Respondents together employed at the facility 10 or more “full-time employees,” as defined at 40 CFR § 372.3.

Count 1

22. During calendar year 2005, Respondents’ 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 730 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.

23. Respondents were required to submit to the Administrator of EPA and to the State

of Minnesota a Form R for lead for calendar year 2005 by July 1, 2006.

24. Respondents did not submit to the Administrator of EPA and to the State of Minnesota a Form R for lead for calendar year 2005 by July 1, 2006.

25. Respondents submitted Form R for lead to the Administrator of EPA and to the State of Minnesota on May 1, 2007, for calendar year 2005.

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

Civil Penalty

27. Pursuant to Section 325 of EPCRA, 42 U.S.C. § 11045, Complainant determined that an appropriate civil penalty to settle this action is \$ 13,630. 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 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).

28. Within 30 days after the effective date of this CAFO, Respondents must pay a \$ 13,630 civil penalty for the EPCRA violation. Respondents must pay the penalty by sending a cashier's or certified check for that amount, payable to the "Treasurer, United States of America," by regular U.S. Postal Service mail to the following address:

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

The check must note the case title, In the Matter of: Versa Die Cast, Inc., and Versa Electronics Company, the docket number of this CAFO and the billing document number.

29. A transmittal letter, stating Respondents' names, the case title, Respondents' complete address, the case docket number and the billing document number must accompany the payment. Respondents must send a copy of the check and transmittal letter to:

Regional Hearing Clerk (E-19J)
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

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

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

31. 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.

32. Pursuant to 31 C.F.R. § 901.9, Respondents 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. Respondents must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondents must pay a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

33. This CAFO resolves only Respondents' liability for federal civil penalties for the violations and facts alleged in the CAFO.

34. 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 violations of law.

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

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 Respondents, their successors, and assigns.

38. 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.

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.

Versa Die Cast, Inc., Respondent

10-26-09
Date


[Signature]

STEPHEN FINKBEINER
[Type Name]

V. P. OPERATIONS
[Title]

Versa Electronics Corporation, Respondent

10/26/09
Date

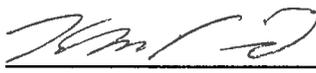

[Signature]

KEVIN J. ANDERSON
[Type Name]

Corporate Executive Officer
[Title]

United States Environmental Protection Agency, Complainant

12-23-2009
Date


for Margaret M. Guerriero
Director
Land and Chemicals Division

**In the Matter of:
Versa Die Cast, Inc., and Versa Electronics Company
Docket No. EPCRA-05-2010-0007**

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.

12-28-09
Date


Bharat Mathur
Acting Regional Administrator
United States Environmental Protection Agency
Region 5

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OCT 29 2009
OFFICE OF REGIONAL
COUNSEL

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 Versa Die Cast, Inc., was filed on December 29, 2009, with the Regional Hearing Clerk (E-19J), 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 0189 9934, a copy of the original to the Respondents:

Mr. Stephen A Finkbeiner
Vice President Operations
Versa Die Cast, Inc.
3943 Quebec Avenue North
Minneapolis, MN 55427

and forwarded intra-Agency copies to:

Marcy Toney, Regional Judicial Officer, ORC/C-14J
Terry Branigan, Counsel for Complainant ORC/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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