



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

**JUN 25 2009**

REPLY TO THE ATTENTION OF:

**L-8J**

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**  
**7001 0320 0006 0189 4847**

Mr. Scott D. Hubbard  
Attorney for paragon firstronic of NA Corp.  
Warner Norcross & Judd LLP  
900 Fifth Third Center  
111 Lyon Street, N.W.  
Grand Rapids, Michigan 49503

Re: In the Matter of paragon firstronic of NA Corp., Grand Rapids, Michigan  
Docket No: **EPCRA-05-2008-0022**

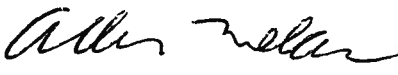
Dear Mr. Hubbard:

I have enclosed the Amended Complaint filed by the U.S. Environmental Protection Agency, Region 5, against paragon firstronic of NA Corp., under Section 325(c) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 U.S.C. § 11045(c). The Amended Complaint alleges violations of Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30.

As provided in the Amended Complaint, if you wish to request a hearing, you must do so in your answer to the Amended Complaint. Please note that if you do not file an answer with the Regional Hearing Clerk within 30 days of your receipt of this Amended Complaint, the Presiding Officer may issue a default order and the proposed civil penalty will become due 30 days later. Mail your answer to Harriet Croke, Assistant Regional Counsel (C-14J), U.S.EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

In addition, whether or not you request a hearing, you may request an informal settlement conference by contacting Harriet Croke, Assistant Regional Counsel at (312) 353-4789.

Sincerely,

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

Enclosures (3) Amended Administrative Complaint  
Enforcement Response Policy  
Civil Administrative Rules of Practice

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

In the Matter of: )     **Docket No. EPCRA-05-2008-0022**  
)  
**paragon firstronic of NA Corp.** )     **Proceeding to Assess a Civil Penalty**  
**Grand Rapids, Michigan** )     **Under Section 325(c) of the**  
)     **Emergency Planning and Community**  
)     **Right-to-Know**  
Respondent. )     **Act of 1986, 42 U.S.C. § 11045(c)**

**RECEIVED**  
JUN 30 2009

**Amended Complaint**

**REGIONAL HEARING CLERK**  
**U.S. ENVIRONMENTAL**  
**PROTECTION AGENCY**

1. This is an administrative action to assess 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. Complainant is, by lawful delegation, the Director of the Land and Chemicals Division, United States Environmental Protection Agency (EPA), Region 5.
3. paragon firstronic of NA Corp. (Respondent), is a corporation doing business in the State of Michigan.
4. This action amends EPA's Complaint filed on August 6, 2008 (August Complaint), against paragon firstronic of NA Corp., which alleges that in 2004 Respondent processed lead in quantities exceeding the threshold for reporting and that Respondent violated Section 313 of EPCRA and failed to submit a Toxic Chemical Release Inventory Reporting Form (Form R) for lead by July 1, 2005, for calendar year 2004.

**Statutory and Regulatory Background**

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

6. 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, a Standard Industrial Classification (SIC) 3679 and that manufactures, imports, processes, or otherwise uses a toxic chemical identified at Section 313(c) and listed at 40 C.F.R. § 372.65 in an amount that exceeds the threshold for reporting, as set forth in Section 313(f) and in 40 C.F.R. §§ 372.25, 372.27 and 372.28.
7. 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 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) for each toxic chemical listed under Section 313(c) 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).
8. The EPA published the Toxic Chemical Release Inventory Reporting Form, 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).
9. 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).
10. The Administrator of EPA may prescribe regulations as may be necessary to carry out EPCRA. 42 U.S.C. § 11048.
11. Section 325(c)(1) and (3) of EPCRA, 42 U.S.C. § 11045(c)(1) and (3), 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, 42 U.S.C. § 11023. 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 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 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.

#### **General Allegations**

12. Respondent is a "person" as defined by Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).
13. Respondent is a corporation "incorporated" or "doing business" in the State of Michigan.
14. Respondent owned or operated a facility located at 1655 Michigan Street NE, Grand Rapids, Michigan during calendar years 2004 through 2008.
15. 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.
16. During calendar years 2004 through 2007, 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.

17. Respondent's facility is covered by SIC Code 3679.
18. During calendar years 2004, 2005, 2006, and 2007 Respondent "processed," as defined by 40 C.F.R. § 372.3, toxic chemicals identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 372.65, in quantities exceeding the thresholds for reporting set forth at Section 313(f) and at 40 C.F.R. § (372.25, 372.27 or 372.28).
19. On April 6, 2006, a representative of the EPA inspected Respondent's facility.
20. On September 4, 2008, in response to the August Complaint, Respondent sent a cashier's check payable to the Treasurer United States of America in the amount of \$32,500 to EPA, Fines and Penalties, Cincinnati Finance Center.
21. On or about October 11, 2008, Respondent filed Form R's with the Administrator of EPA for years 2004, 2005, 2006 and 2007, showing that Respondent had processed lead in quantities exceeding the threshold for reporting under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f) in each of those years.

### **Count I**

22. Complainant incorporates paragraphs 1 through 21 of this Amended Complaint as if set forth in this paragraph.
23. The reporting threshold for lead that is manufactured (including imported), processed, or otherwise used during the 2004 calendar year is 100 pounds. 42 U.S.C. § 11023(f) and 40 C.F.R. 372.28.
24. During the 2004 calendar year, Respondent's facility processed 1,110 pounds of lead, CAS No. 7439-92-1.

25. Lead is a chemical identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 371.65.
26. Section 313 of EPCRA, 42 U.S.C. § 11023, required Respondent to submit to the Administrator of EPA and to Michigan a Form R for lead for the 2004 calendar year on or before July 1, 2005.
27. Respondent failed to submit to the Administrator of EPA and to Michigan a Form R for lead for the 2004 calendar year on or before July 1, 2005.
28. At the time of the inspection, Respondent had not submitted to the Administrator of EPA a Form R for lead for the 2004 calendar year.
29. Respondent submitted a Form R for lead for the 2004 calendar year to the Administrator of EPA on or about October 11, 2008.
30. Respondent's failure to submit timely to the Administrator of EPA and to Michigan 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.

### **Count 2**

31. Complainant incorporates paragraphs 1 through 21 of this Amended Complaint as if set forth in this paragraph.
32. The reporting threshold for lead that is manufactured (including imported), processed, or otherwise used during the 2005 calendar year is 100 pounds. 42 U.S.C. § 11023(f) and 40 C.F.R. 372.28.
33. During the 2005 calendar year, Respondent's facility processed 1,554 pounds of lead, CAS No. 7439-92-1.

34. Lead is a chemical identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 371.65.

35. Section 313 of EPCRA, 42 U.S.C. § 11023, required Respondent to submit to the Administrator of EPA and to Michigan a Form R for lead for the 2005 calendar year on or before July 1, 2006.

36. Respondent failed to submit to the Administrator of EPA and to Michigan a Form R for lead for the 2005 calendar year on or before July 1, 2006.

37. Respondent submitted a Form R for lead for the 2005 calendar year to the Administrator of EPA on or about October 11, 2008.

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

### **Count 3**

39. Complainant incorporates paragraphs 1 through 21 of this Amended Complaint as if set forth in this paragraph.

40. The reporting threshold for lead that is manufactured (including imported), processed, or otherwise used during the 2006 calendar year is 100 pounds. 42 U.S.C. § 11023(f) and 40 C.F.R. 372.28.

41. During the 2006 calendar year, Respondent's facility processed 2,709 pounds of lead, CAS No. 7439-92-1.

42. Lead is a chemical identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 371.65.



43. Section 313 of EPCRA, 42 U.S.C. § 11023, required Respondent to submit to the Administrator of EPA and to Michigan a Form R for lead for the 2006 calendar year on or before July 1, 2007.

44. Respondent failed to submit to the Administrator of EPA and to Michigan a Form R for lead for the 2006 calendar year on or before July 1, 2007.

45. Respondent submitted a Form R for lead for the 2006 calendar year to the Administrator of EPA on or about October 11, 2008.

46. Respondent's failure to submit timely to the Administrator of EPA and to Michigan a Form R for lead for the 2006 calendar year violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

#### **Count 4**

47. Complainant incorporates paragraphs 1 through 21 of this Amended Complaint as if set forth in this paragraph.

48. The reporting threshold for lead that is manufactured (including imported), processed, or otherwise used during the 2007 calendar year is 100 pounds. 42 U.S.C. § 11023(f) and 40 C.F.R. 372.28.

49. During the 2007 calendar year, Respondent's facility processed 1,563 pounds of lead, CAS No. 7439-92-1.

50. Lead is a chemical identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 371.65.

51. Section 313 of EPCRA, 42 U.S.C. § 11023, required Respondent to submit to the Administrator of EPA and to Michigan a Form R for lead for the 2007 calendar year on or before July 1, 2008.

52. Respondent failed to submit to the Administrator of EPA and to Michigan a Form R for lead for the 2007 calendar year on or before July 1, 2008.

53. Respondent submitted a Form R for lead for the 2007 calendar year to the Administrator of EPA on or about October 11, 2008.

54. Respondent's failure to submit timely to the Administrator of EPA and to Michigan a Form R for lead for the 2007 calendar year violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

#### **Proposed Penalty**

55. Complainant proposes that the Administrator assess a civil penalty against Respondent for the EPCRA violations alleged in this Amended Complaint as follows:

#### **Count I**

Failure to timely submit a Toxic Chemical Release Inventory Reporting Form for lead for calendar year 2004:

CAS No. 7439-92-1 .....\$32,500.00

#### **Count II**

Failure to timely submit a Toxic Chemical Release Inventory Reporting Form for lead for calendar year 2005:

CAS No. 7439-92-1 .....\$32,500.00

**Count III**

Failure to timely submit a Toxic Chemical Release Inventory Reporting Form for lead for  
calendar year 2006:

CAS No. 7439-92-1 .....\$32,500.00

**Count IV**

Failure to timely submit a Toxic Chemical Release Inventory Reporting Form for lead for  
calendar year 2007:

CAS No. 7439-92-1 .....\$18,266.00

**Initial Total Proposed Civil Penalty .....\$115,766.00**

**First Amended Proposed Penalty**

In recognition of Respondent's filing for years 2004, 2005, 2006, and 2007 on or about  
October 11, 2008, and in accordance with the Voluntary Disclosure section of 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)* and other appropriate factors the penalty is reduced to:

**Amended Proposed Civil Penalty .....\$78,823.00**

Complainant has determined the proposed civil penalty according to Section 325(c) of  
EPCRA, 42 U.S.C. § 11045(c). In determining the proposed penalty amount, Complainant  
considered the nature, circumstances, extent and gravity of the violations, and with respect to the  
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)*, a copy of which is enclosed with this Amended Complaint.

**Rules Governing this Proceeding**

The *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (the Consolidated Rules), 40 C.F.R. Part 22, govern this proceeding to assess a civil penalty. Enclosed with this Amended Complaint served on Respondent is a copy of the Consolidated Rules.

**Filing and Service of Documents**

Respondent must file with the EPA Regional Hearing Clerk the original and one copy of each document Respondent intends as part of the record in this proceeding. The Regional Hearing Clerk's address is:

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

Respondent must serve a copy of each document filed in this proceeding on each party pursuant to Section 22.5 of the Consolidated Rules. Complainant has authorized Harriet Croke, Assistant Regional Counsel, to receive any answer and subsequent legal documents that Respondent serves in this proceeding. You may telephone Ms. Croke at (312) 353-4789. Her address is:

Harriet Croke (C-14J)  
Office of Regional Counsel  
U.S. EPA, Region 5  
77 W. Jackson Blvd.  
Chicago, Illinois 60604

### **Terms of Payment**

Respondent may resolve this proceeding at any time by paying the proposed penalty by sending a certified or cashier's check in the amount of \$46,323.00 (\$78,823.00 minus the \$32,500.00 Respondent already paid) payable to the "Treasurer, United States of America," to:

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

Respondent must include the case name, docket number and the billing document number on the check and in the letter transmitting the check. Respondent must simultaneously send copies of the check and transmittal letter to the Regional Hearing Clerk and Ms. Croke at the addresses given above, and to:

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

### **Answer and Opportunity to Request a Hearing**

If Respondent contests any material fact upon which the Amended Complaint is based or the appropriateness of any penalty amount, or contends that it is entitled to judgment as a matter of law, Respondent may request a hearing before an Administrative Law Judge. To request a hearing, Respondent must file a written Answer within 30 days of receiving this Amended Complaint and must include in that written Answer a request for a hearing. Any hearing will be conducted in accordance with the Consolidated Rules.

In counting the 30-day period, the date of receipt is not counted, but Saturdays, Sundays, and federal legal holidays are counted. If the 30-day time period expires on a Saturday, Sunday, or federal legal holiday, the time period extends to the next business day.

To file an Answer, Respondent must file the original written Answer and one copy with the Regional Hearing Clerk at the address specified above.

Respondent's written Answer must clearly and directly admit, deny, or explain each of the factual allegations in the Amended Complaint; or must state clearly that Respondent has no knowledge of a particular factual allegation. Where Respondent states that it has no knowledge of a particular factual allegation, the allegation is deemed denied. Respondent's failure to admit, deny, or explain any material factual allegation in the Amended Complaint constitutes an admission of the allegation.

Respondent's answer must also state:

- a. The circumstances or arguments which Respondent alleges constitute grounds of defense;
- b. The facts that Respondent disputes;
- c. The basis for opposing the proposed penalty; and
- d. Whether Respondent requests a hearing.

If Respondent does not file a written Answer within 30 calendar days after receiving this Amended Complaint, the Presiding Officer may issue a default order, after motion, under Section 22.17 of the Consolidated Rules. Default by Respondent constitutes an admission of all factual allegations in the Amended Complaint and a waiver of the right to contest the factual allegations. Respondent must pay any penalty assessed in a default order, without further

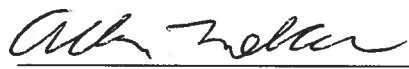
proceedings, 30 days after the order becomes the final order of the Administrator of EPA under Section 22.27(c) of the Consolidated Rules.

**Settlement Conference**

Whether or not Respondent requests a hearing, Respondent may request an informal conference to discuss the facts alleged in the Amended Complaint and to discuss settlement. To request an informal settlement conference, Respondent may contact Ms. Croke at (312) 353-4789.

Respondent's request for an informal settlement conference will not extend the 30-day period for filing a written Answer to this Amended Complaint. Respondent may simultaneously pursue both an informal settlement conference and the adjudicatory hearing process. Complainant encourages all parties against whom it proposes to assess a civil penalty to pursue settlement through an informal conference. Complainant, however, will not reduce the penalty simply because the parties hold an informal settlement conference.

6/25/09  
Date

  
for Margaret M. Guerriero  
Director  
Land and Chemicals Division

RECEIVED  
JUN 30 2009

REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY

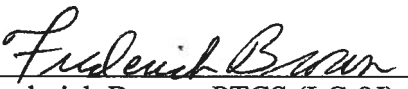
**CERTIFICATE OF SERVICE**

This is to certify that the original and one copy of this Complaint involving Warner Norcross & Judd LLP, was filed on June 30, 2009, with the Regional Hearing Clerk (E-19J), U. S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, and that a true correct copy was sent by Certified Mail, Receipt No. 7001 0320 0006 0189 4847, along with a copy each of the "Consolidated Rules of Practice, 40 C.F.R. Part 22," and "Enforcement Response Policy for Section 313 of The Emergency Planning Community Right-To-Know Act" (1986) to:

Mr. Scott D. Hubbard  
Attorney for paragon firstronic of NA Corp.  
Warner Norcross & Judd LLP  
900 Fifth Third Center  
111 Lyon Street, N.W.  
Grand Rapids, Michigan 49503

with intra-Agency copies to:

Marcy Toney, Regional Judicial Officer, ORC/C-14J  
Harriet Croke, 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 -05-2008-0022**

**RECEIVED**  
JUN 30 2009

**REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY**