



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

JAN 18 2007

REPLY TO THE ATTENTION OF:

DT-8J

CERTIFIED MAIL

RECEIPT NO. 7001 0320 0006 0198 4425

Charles B. Schlotzhauer, President  
Jet Technologies, Inc.  
2120 South Calhoun Road  
New Berlin, Wisconsin 53151

In the Matter of: Jet Technologies, Inc., Docket No.

EPCRA-05-2007-0007

Dear Mr. Schlotzhauer:

I have enclosed the file-stamped Consent Agreement and Final Order (CAFO) which resolves the above case. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on January 18, 2007.

Under paragraph #65 of the CAFO, you must pay the first installment of the civil penalty is due by February 20, 2007 within 30 days of the date this CAFO was filed. Your second installment is due by April 20, 2007 within 120 days of this CAFO was filed. Your check must display the case docket number, above, and the billing document number BD 2750764E001

Please direct any questions regarding this case to Richard Clarizio, ORC Attorney, (312) 886-0559.

Sincerely,

Thomas Crosetto  
Pesticides and Toxics Enforcement Section

Enclosures

cc: Marcy Toney, Regional Judicial Officer/C-14J  
Regional Hearing Clerk/E-13J

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

IN THE MATTER OF: )  
 )  
Jet Technologies, Inc. ) Proceeding to Assess a Civil Administrative  
2120 South Calhoun Road ) Penalty Under Section 325(c) of EPCRA,  
New Berlin, Wisconsin 53151 ) 42 U.S.C. § 11045(c)  
 )  
Respondent. ) Docket No. EPCRA-05-2007-0007  
 )  
 )

2007 MAY 18 PM 3:14  
REGIONAL OFFICE  
NEW BERLIN

CONSENT AGREEMENT AND FINAL ORDER

1. This administrative action for the assessment of a civil penalty is being simultaneously commenced and concluded by the filing of this Consent Agreement and Final Order (CAFO) pursuant to Section 325(c) of the *Emergency Planning and Community Right-to-Know Act* of 1986 (EPCRA or Act), 42 U.S.C. § 11045(c), and Sections 22.13(b) and 22.18(b) of 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.

2. Complainant is, by lawful delegation, the Chief of the Pesticides and Toxics Branch, Waste, Pesticides and Toxics Division, Region 5, United States Environmental Protection Agency (U.S. EPA or Agency).

3. Respondent is Jet Technologies, Inc., a corporation doing business in Wisconsin.

4. Respondent owns or operates a facility located at 2120 South Calhoun Road, New Berlin, Wisconsin 53151.

Statutory and Regulatory Background for Violations Alleged

5. Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), states that the owner or operator of a facility subject to the requirements of Section 313 of EPCRA, 42 U.S.C. § 11023, shall complete a toxic chemical release form as published under Section 313(g) of EPCRA, 42 U.S.C. § 11023(g), for each toxic chemical listed under Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), that was manufactured, processed, or otherwise used in quantities exceeding the toxic chemical threshold quantity established by Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), during the preceding calendar year at such facility. Such form shall be submitted to the U.S. EPA Administrator and an official or officials of the State designated by the Governor on or before July 1, 1988 and annually thereafter on July 1 and shall contain data reflecting releases during the preceding calendar year.

6. Section 313(b)(1)(A) of EPCRA, 42 U.S.C. § 11023(b)(1)(A), states, among other things, that the requirements of Section 313 of EPCRA, 42 U.S.C. § 11023, shall apply to owners

and operators of facilities that have 10 or more full-time employees and that are in Standard Industrial Classification Codes 20 through 39 (as in effect on July 1, 1985) and that manufactured (including imported), processed, or otherwise used a toxic chemical identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), in excess of the quantity of that toxic chemical established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), during the calendar year for which a release form is required under Section 313 of EPCRA, 42 U.S.C. § 11023.

7. Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), states, among other things, that the toxic chemicals subject to the requirements of Section 313 of EPCRA, 42 U.S.C. § 11023, are those chemicals on the list in Committee Print Number 99-169 of the Senate Committee on Environment and Public Works, titled *Toxic Chemicals Subject to Section 313 of the Emergency Planning and Community Right-to-Know Act of 1986*, 42 U.S.C. § 11023 (including any revised version of the list as may be made pursuant to Sections 313(d) or (e) of EPCRA, 42 U.S.C. §§ 11023(d) or (e)).

8. Section 313(f)(1)(B) of EPCRA, 42 U.S.C. § 11023(f)(1)(B), states, among other things, that the threshold amounts for purposes of reporting toxic chemicals under Section 313 of EPCRA, 42 U.S.C. § 11023, with respect to a toxic chemical manufactured or processed at a facility, for the toxic chemical release form required to be submitted under Section 313 of EPCRA, 42 U.S.C. § 11023, on or before July 1, 1990, and for each form thereafter, is 25,000 pounds of the toxic chemical per year.

9. Section 313(f)(2) of EPCRA, 42 U.S.C. § 11023(f)(2), states that the U.S. EPA Administrator may establish a threshold amount for a toxic chemical different from the amount established by Section 313(f)(1) of EPCRA, 42 U.S.C. § 11023(f)(1).

10. Section 313(g) of EPCRA, 42 U.S.C. § 11023(g), states, among other things, that not later than June 1, 1987, the U.S. EPA Administrator shall publish a uniform toxic chemical release form for facilities covered by Section 313 of EPCRA, 42 U.S.C. § 11023, and that the form shall collect certain information about the facility, the toxic chemical, and waste streams generated by the facility containing the toxic chemical, and shall contain a certification signed by an appropriate senior official regarding the accuracy and completeness of the report.

11. Section 325(c)(1) of EPCRA, 42 U.S.C. § 11045(c)(1), states that any person (other than a government entity) who violates any requirement of Section 313 shall be liable to the United States for a civil penalty in an amount not to exceed \$25,000 for each such violation.

12. Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), states, among other things, that, for purposes of Title III of SARA, 42 U.S.C. §§ 11001 to 11050, inclusive, the term *facility* means all 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 (or by any person which controls, is controlled by, or under common control with, such person). 40 C.F.R. § 372.3.

13. Section 329(7) of EPCRA, 42 U.S.C. § 11049(7), states, among other things, that, for purposes of Title III of SARA, 42 U.S.C. §§ 11001 to 11050, inclusive, the term *person* means any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or interstate body.

14. Section 329(9) of EPCRA, 42 U.S.C. § 11049(9), states, among other things, that, for purposes of Title III of SARA, 42 U.S.C. §§ 11001 to 11050, inclusive, the term *State* means any State of the United States.

15. Section 329(10) of EPCRA, 42 U.S.C. § 11049(10), states, among other things, that, for purposes of Title III of SARA, 42 U.S.C. §§ 11001 to 11050, inclusive, the term *toxic chemical* means a substance on the list described in Section 313(c) of EPCRA, 42 U.S.C. § 11023(c).

16. Section 4 of the *Federal Civil Penalties Inflation Adjustment Act of 1990* (FCPIAA), 28 U.S.C. § 2461 note (1990), as amended by the *Debt Collection Improvement Act of 1996* (DCIA), 31 U.S.C. § 3701 note (1996), states, among other things, that each Federal agency must issue regulations adjusting for inflation the maximum civil monetary penalties that can be imposed pursuant to such agency's statutes.

17. Under authority of Sections 313 and 328 of EPCRA, 42 U.S.C. §§ 11023 and 11048, U.S. EPA promulgated the *Toxic Chemical Release Reporting; Community Right-to-Know* final rule (TRI Reporting Rule) on February 16, 1988 (53 *Fed. Reg.* 4525). The TRI Reporting Rule, as amended, is codified at 40 C.F.R. Part 372.

18. The effective date of the TRI Reporting Rule was March 17, 1988.

19. 40 C.F.R. § 372.3 states that the term *full-time employee* means 2,000 hours per year of full-time equivalent employment. A facility would calculate the number of full-time employees by totaling the hours worked during the calendar year by all employees, including contract employees, and dividing that total by 2,000 hours.

20. 40 C.F.R. § 372.3 states that the term *process* means the preparation of a toxic chemical, after its manufacture, for distribution in commerce: (1) in the same form or physical state as, or in a different form or physical state from, that in which it was received by the person so preparing such substance, or (2) as part of an article containing the toxic chemical. *Process* also applies to the processing of a toxic chemical contained in a mixture or trade name product.

21. 40 C.F.R. § 372.5 states that owners and operators of facilities described in 40 C.F.R. §§ 372.22 and 45 are subject to the requirements of 40 C.F.R. Part 372.

22. Under authority of Sections 313(f)(2) and 328 of EPCRA, 42 U.S.C. §§ 11023(f)(2) and 11048, U.S. EPA published the *Persistent Bioaccumulative Toxic (PBT) Chemicals; Lowering of Reporting Thresholds for Certain PBT Chemicals; Addition of Certain PBT Chemicals; Community Right-to-Know Toxic Chemical Reporting* final rule on October 29,

1999 (64 *Fed. Reg.* 58750). This Rule amended 40 C.F.R. Part 372 by adding a new Section 28, entitled *Lower Thresholds for Chemicals of Special Concern*.

23. 40 C.F.R. § 372.28(a) states that notwithstanding 40 C.F.R. §§ 372.25 or 372.27, for the toxic chemicals set forth in 40 C.F.R. § 372.28, the threshold amounts for manufacturing (including importing), processing and otherwise using such toxic chemicals are as set forth in 40 C.F.R. § 372.28.

24. 40 C.F.R. § 372.28(b) states that the threshold determination provisions under 40 C.F.R. § 372.25(c) through (h) and the exemptions under 40 C.F.R. § 372.38(b) through (h) are applicable to the toxic chemicals listed in 40 C.F.R. § 372.28(a).

25. Under authority of Section 313(f)(2) of EPCRA, 42 U.S.C. § 11023(f)(2), U.S. EPA published the *Lead and Lead Compounds; Lowering of Reporting Thresholds; Community Right-to-Know Toxic Chemical Release Reporting* final rule on January 17, 2001 (66 *Fed. Reg.* 4527). This rule amended 40 C.F.R. § 372.28(a)(1) by adding lead (Chemical Abstracts Service Registry Number [CASRN] 7439-92-1) to 40 C.F.R. § 372.28(a)(1) and lowered the threshold for all forms of lead (CASRN 7439-92-1) to 100 pounds for manufacturing, processing, or otherwise use, except lead contained in a stainless steel, brass or bronze alloy.

26. 40 C.F.R. § 372.30(a) states that for each toxic chemical known by the owner or operator to be manufactured (including imported), processed, or otherwise used in excess of an applicable threshold quantity in 40 C.F.R. §§ 372.25, 27, or 28 at its covered facility described in 40 C.F.R. § 372.22 for a calendar year, the owner or operator must submit to U.S. EPA and to the State in which the facility is located a completed EPA Form R (EPA Form 9350-1) in accordance with the instructions referred to in subpart E of this part.

27. 40 C.F.R. § 372.65 states that the requirements of 40 C.F.R. Part 372 apply to the chemicals and chemical categories listed in 40 C.F.R. §§ 372.65(a), (b), and (c). The listing for each chemical and chemical category identifies the effective date for reporting under 40 C.F.R. § 372.30.

28. Under authority of FCPIAA and DCIA, U.S. EPA promulgated the *Civil Monetary Penalty Inflation Adjustment Rule* on December 31, 1996 (69 *Fed. Reg.* 69359). This rule, as amended, is codified at 40 C.F.R. Part 19. In this rule, U.S. EPA increased the statutory maximum penalty described by Section 325(c)(1) of EPCRA, 42 U.S.C. § 11045(c)(1), to \$27,500 per violation for violations of Section 313 of EPCRA, 42 U.S.C. § 11023, that occur on or after January 31, 1997 through March 15, 2004. EPA may increase the statutory penalty to \$32,500 per day for each Section 313 violation that occurred after March 15, 2004 pursuant to section 325(c)(1) of EPCRA, 42 U.S.C. § 11045(c)(1), and 40 C.F.R. Part 19 (2005).

#### Allegations

29. Respondent has the ability to pay the civil penalty proposed in this CAFO without going out of business.

30. On June 9, 2005, representatives of U.S. EPA inspected Respondent's facility located at 2120 South Calhoun Road, New Berlin, Wisconsin 53151 (New Berlin Facility).

31. Respondent is a corporation incorporated under the laws of the State of Wisconsin.

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

33. Respondent's New Berlin 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 and/or operated by the same person, entity, or corporation.

34. Respondent's New Berlin Facility is a *facility* within the meaning of the term as defined at Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and 40 C.F.R. § 372.3.

35. Respondent owned or operated the New Berlin Facility during the entirety of calendar years *2001, 2002 and* 2003.

36. During calendar years 2001, 2002, and 2003, Respondent employed at its New Berlin Facility the equivalent of at least 10 full-time employees with total paid work hours equal to or more than 20,000 hours.

37. Respondent's business at its New Berlin Facility falls within the activities described by the SIC Code for printed circuit board manufacturers, which is 3672.

38. Lead (CASRN 7439-92-1) is a toxic chemical on the list in Committee Print Number 99-169 of the Senate Committee on Environment and Public Works, titled *Toxic Chemicals Subject to Section 313 of the Emergency Planning and Community Right-to-Know Act of 1986*, 42 U.S.C. § 11023, and listed at 40 C.F.R. § 372.65(c).

39. Lead (CASRN 7439-92-1) is a toxic chemical listed in 40 C.F.R. § 372.28.

40. 40 C.F.R. § 372.28 states that the threshold amount for manufacturing (including importing), processing and otherwise using the toxic chemical lead (CASRN 7439-92-1) is 100 pounds, except that this lower threshold amount does not apply to lead when contained in a stainless steel, brass or bronze alloy.

41. During calendar year 2001, Respondent *processed*, as defined by 40 C.F.R. § 372.3, 100 pounds or more of lead (CASRN 7439-92-1) at its New Berlin Facility.

42. During calendar year 2002, Respondent *processed*, as defined by 40 C.F.R. § 372.3, 100 pounds or more of lead (CASRN 7439-92-1) at its New Berlin Facility.

43. During calendar year 2003, Respondent *processed*, as defined by 40 C.F.R. § 372.3, 100 pounds or more of lead (CASRN 7439-92-1) at its New Berlin Facility.

44. Section 313 of EPCRA, 42 U.S.C. § 11023, required Respondent to submit to the U.S. EPA Administrator and to the State of Wisconsin a Form R on or before July 1, 2002 for its processing of lead (CASRN 7439-92-1) at its New Berlin Facility during calendar year 2001.

45. Section 313 of EPCRA, 42 U.S.C. § 11023, required Respondent to submit to the U.S. EPA Administrator and to the State of Wisconsin a Form R on or before July 1, 2003 for its processing of lead (CASRN 7439-92-1) at its New Berlin Facility during calendar year 2002.

46. Section 313 of EPCRA, 42 U.S.C. § 11023, required Respondent to submit to the U.S. EPA Administrator and to the State of Wisconsin a Form R on or before July 1, 2004 for its processing of lead (CASRN 7439-92-1) at its New Berlin Facility during calendar year 2003.

47. On or after June 28, 2006, Respondent submitted to the U.S. EPA Administrator and the State of Wisconsin a Form R for lead (CASRN 7439-92-1) for calendar year 2001.

48. On or after June 28, 2006, Respondent submitted to the U.S. EPA Administrator and the State of Wisconsin a Form R for lead (CASRN 7439-92-1) for calendar year 2002.

49. On or after June 29, 2005, Respondent submitted to the U.S. EPA Administrator and the State of Wisconsin a Form R for lead (CASRN 7439-92-1) for calendar year 2003.

50. Respondent failed to submit to the U.S. EPA Administrator and to the State of Wisconsin a Form R for lead (CASRN 7439-92-1) for calendar year 2001 on or before July 1, 2002.

51. Respondent failed to submit to the U.S. EPA Administrator and to the State of Wisconsin a Form R for lead (CASRN 7439-92-1) for calendar year 2002 on or before July 1, 2003.

52. Respondent failed to submit to the U.S. EPA Administrator and to the State of Wisconsin a Form R for lead (CASRN 7439-92-1) for calendar year 2003 on or before July 1, 2004.

53. Respondent's failure to timely submit to the U.S. EPA Administrator and to the State of Wisconsin a Form R for lead (CASRN 7439-92-1) for calendar years 2001, 2002, and 2003 are violations of Section 313 of EPCRA, 42 U.S.C. § 11023 and 40 C.F.R. § 372.30.

#### Civil Penalty

54. Complainant determined that, pursuant to the statutory penalty criteria set forth at Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), and U.S. EPA's "Enforcement Response Policy for Section 313 of the Emergency Planning and Community Right-to-Know Act and Section 6607 of the Pollution Prevention Act (dated August 10, 1992)" (EPCRA ERP) a penalty of Six Thousand Four Hundred Five Dollars and No Cents (\$6,405) was appropriate for these above-listed alleged violations of the Act.

55. Based upon Respondents' cooperation, representations of current compliance, voluntary disclosure of the 2001 and 2002 violations, and in accordance with the terms of this CAFO, U.S. EPA has agreed to assess a penalty of Five Thousand Dollars and No Cents (\$5,000). Furthermore, U.S. EPA has determined that Respondent gained an insignificant economic benefit from the alleged violations, thus will not attempt to collect it.

56. Complainant and Respondent discussed settlement of this matter on several occasions.

57. Complainant and Respondent have agreed to settle this matter through entry of this CAFO.

58. This proceeding is being initiated and concluded through the filing of this CAFO.

#### Terms of Settlement

59. Respondent consents to the terms and conditions of this CAFO.

60. Without trial or litigation of any issue of fact or law, Respondent hereby admits the jurisdictional allegations set forth in the CAFO and agrees not to contest this jurisdiction in any proceedings to enforce the terms and conditions of this CAFO. 40 C.F.R. § 22.18(b)(2).

61. Respondent neither admits nor denies the other factual allegations and/or conclusions of law set forth in this CAFO. 40 C.F.R. § 22.18(b)(2).

62. Respondent waives its rights to a hearing, as provided in 40 C.F.R. § 22.15 (c), and waives its right to appeal pursuant to Section 325(f) of EPCRA, 42 U.S.C. § 11045(f).

63. Respondent certifies that, to its knowledge, it has now completed and submitted all TRI Reporting Forms required by Section 313 of EPCRA for its facilities and that these TRI Reporting Forms are in compliance with the requirements of Section 313 of EPCRA and 40 C.F.R. Part 372.

64. Respondent consents to the assessment of this civil penalty, including interest on any unpaid portion thereof, and agrees to pay such civil penalty to the United States in the manner set forth below. 40 C.F.R. § 22.18(b)(2).

65. Respondent shall make the payment of the civil penalty due under this CAFO in two installments. The first installment of one thousand dollars (\$1,000) is due within thirty (30) days of the date this CAFO is filed with the Regional Hearing Clerk. The second installment of four thousand dollars (\$4,000) is due within 120 days of the date this CAFO is filed with the Regional Hearing Clerk. Respondent shall make the installments by cashier's or certified check, made payable to the order of the "Treasurer, United States of America," to the following address: U.S. EPA, Region 5, P.O. Box 70753, Chicago, Illinois 60673.



66. A transmittal letter identifying the docket number and billing document (BD) number must accompany the check. The BD number is provided in the cover letter to this CAFO.

67. With Respondent's payment of the civil penalty, Respondent shall also separately and simultaneously send a copy of the check and transmittal letter to the following people: Sonja Brooks-Woodard, Regional Hearing Clerk (mail code E-13J), Richard J. Clarizio, Associate Regional Counsel (mail code C-14J) and Thomas Crosetto (mail code DT-8J). The mailing address of each of these people is: U.S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590.

68. Interest and late charges shall be paid as specified in paragraph 70 below.

69. If Respondent fails to timely remit the civil penalty payment, as agreed to herein, U.S. EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue, pursuant to 31 U.S.C. § 3717, on the civil penalty if it is not paid within thirty (30) calendar days of Respondent's receipt of U.S. EPA's notification letter of default. Interest will be assessed at the rate of the United States Treasury tax and loan rate, currently two percent (2%), 47 FR 65187, in accordance with 31 C.F.R. § 901.9(b). A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorneys' fees. In addition, a non-payment penalty charge of six percent (6%) per year compounded annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. Any such penalty charge on the debt will accrue from the date the penalty payment becomes due and is not paid. 31 C.F.R. 901.9(d).

70. Failure to pay the civil penalty pursuant to this CAFO in a timely manner may result in the forwarding of this action to the United States Department of Justice for collection of the civil penalty, interest, and a charge to cover the cost of processing and handling a delinquent claim. This provision does not limit U.S. EPA from using any or all other remedies available at law and in equity to enforce this CAFO.

71. The civil penalty payment, or any other penalties and interest payments that might accrue hereunder, shall not be deducted by Respondent for the purpose of Federal taxes.

72. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of Federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any Federal, state or local permit.

73. If any event occurs which causes or may cause a delay in the completion of any condition of this CAFO, Respondent shall notify U.S. EPA in writing not more than ten (10) days after the delay or Respondent's knowledge of the anticipated delay, whichever is earlier. The notice shall describe in detail the anticipated length of the delay, the precise cause or causes of the delay, the measures taken and to be taken by Respondent to prevent or minimize the delay, and the timetable by which those measures will be implemented. The Respondent shall adopt all

reasonable measures to avoid or minimize any such delay. Failure by Respondent to comply with the notice requirements of this paragraph shall render this paragraph void and of no effect as to the particular incident involved and constitute a waiver of the Respondent's right to request an extension of its obligation under this CAFO based on such incident.

74. If the parties agree that the delay or anticipated delay in compliance with this CAFO has been or will be caused by circumstances beyond the control of Respondent, the time for performance hereunder may be extended for a period no longer than the delay resulting from such circumstances. In such event, the parties shall stipulate to such extension of time.

75. In the event that Complainant does not agree that a delay in achieving compliance with the requirements of this CAFO has been or will be caused by circumstances beyond the control of the Respondent, U.S. EPA will notify Respondent in writing of its decision and any delays in the completion of such requirements shall not be excused.

76. The burden of proving that any delay is caused by circumstances beyond the control of the Respondent shall rest with the Respondent. Increased costs or expenses associated with the implementation of actions called for by this CAFO shall not, under any circumstances or in any event, be a basis for changes in this CAFO or extensions of time under this CAFO. Delay in achievement of one interim step shall not necessarily justify or excuse delay in achievement of subsequent steps.

77. The terms and conditions of this CAFO constitute a full and final settlement by U.S. EPA of all claims for civil administrative penalties, pursuant to Section 325(c) of the Act, 42 U.S.C. § 11045(c), for those violations alleged in the CAFO. 40 C.F.R. § 22.31(a).

78. Nothing in this CAFO is intended to nor shall be construed to operate in any way to resolve any criminal liability of the Respondent. It is the sole responsibility of Respondent to comply with all applicable legal requirements.

79. The information required to be maintained or submitted pursuant to this CAFO is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 et seq.

80. Notwithstanding any other provision of this CAFO, U.S. EPA expressly reserves any and all rights to bring an enforcement action for any violations other than those alleged in the CAFO; to take any action authorized under EPCRA or any applicable regulations promulgated under the Act; and to enforce compliance with this CAFO.

81. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this CAFO and to execute and legally bind that party to it. The terms and conditions of this CAFO shall be binding on both parties to this action, including their officers, directors, employees, agents, successors and assigns.

82. Respondent shall give notice and a copy of this CAFO to any successor in interest prior to transfer of ownership of the subject facility and shall notify Complainant in writing, prior

to such transfer, that it has done so. Respondent shall also provide the Agency, via the contacts listed in paragraph 64, in writing the name, address and phone number of any new owner of the facility within fifteen (15) days of such transfer.

83. Each party shall bear its own costs and attorney fees in connection with the above-captioned action as resolved by this CAFO.

84. Respondent agrees to the issuance of the attached Final Order.

85. This CAFO shall be deemed to be in full effect upon the entry of the following Final Order by the Regional Administrator ratifying the CAFO, as required by the Consolidated Rules, 40 C.F.R. § 22.18(b)(3), and the filing of the CAFO with the Regional Hearing Clerk.

In the Matter of Jet Technologies, Inc.

New Berlin, Wisconsin

Docket Number: EPCRA-05-2007-0007 *JSW*

For Respondent:

Jet Technologies, Inc.

*Charles B. Schlotzhauer*  
\_\_\_\_\_  
Charles B. Schlotzhauer  
President

Date: December 27, 2006

For Complainant:

U.S. EPA, Region 5

*for David Klevs*  
\_\_\_\_\_  
Mardi Klevs, Chief  
Pesticides and Toxics Branch  
Waste, Pesticides and Toxics Division

Date: 01/05/2007

*Margaret M. Guerriero, for*  
\_\_\_\_\_  
Margaret M. Guerriero, Director  
Waste, Pesticides and Toxics Division

Date: 1/11/07

2007 JAN 18 PM 3:14  
REGIONAL CLERK  
U.S. ENVIRONMENTAL PROTECTION AGENCY  
REGIONAL OFFICE  
NEW YORK, NY

In the Matter of Jet Technologies, Inc.

New Berlin, Wisconsin

Docket Number: EPCRA-05-2007-0007 *BAW*

FINAL ORDER

The foregoing Consent Agreement is hereby ratified and incorporated by reference into this Final Order pursuant to 40 C.F.R. §22.18(b)(3). This Final Order disposes of this proceeding in accordance with 40 C.F.R. §§ 22.13(b), 18 and 31. Accordingly, this Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief for any violations of law other than those violations resolved by this Consent Agreement or for criminal sanctions. Respondent is hereby ordered to comply with the terms of the above Consent Agreement effective immediately upon the filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. The Respondent is hereby assessed a civil penalty of \$5,000, as provided in the Consent Agreement. IT IS SO ORDERED.

*ja* *BAW*  
\_\_\_\_\_  
Mary A. Gade  
Regional Administrator

Date 1-17-07

2007 JAN 18 PM 3:14  
REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, DC 20460

In the Matter of:  
Jet Technologies, Inc.

Docket No. EPCRA-05-2007-0007 *Law*

Certificate of Service

I certify that I filed the original and one copy of the Consent Agreement and Final Order in this matter with the Regional Hearing Clerk (E-13J), United States Environmental Agency, Region 5, 77 West Jackson Boulevard, Chicago Illinois 60604, and that I mailed by Certified Mail, Receipt No. 7001 0320 0006 0198 4425, the second original to Respondent, addressed as follows:

Charles B. Schlotzhauer, President  
Jet Technologies, Inc.  
2120 South Calhoun Road  
New Berlin, Wisconsin 53151

and that I delivered a correct copy by intra-office mail, addressed as follows:

Marcy Toney, Regional Judicial Officer (C-14J)  
United States Environmental Protection Agency  
Region 5  
77 West Jackson Boulevard  
Chicago, IL 60604

on this 18 day of January 2007.

*Elizabeth Lytle*

Elizabeth Lytle (DT-8J)  
Pesticides and Toxics Enforcement Section  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, IL 60604

2007 JAN 18 PM 3:14  
RECEIVED  
REGIONAL HEARING CLERK