



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590  
**APR 24 2015**

REPLY TO THE ATTENTION OF:

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Mr. Thomas T. Kivell  
Vice President, Secretary and General Counsel  
Spartan Motors, Inc.  
1541 Reynolds Road  
Charlotte, Michigan 48813

Re: Spartan Motors, Inc., Charlotte, Michigan Consent Agreement and Final Order  
Docket No. EPCRA-05-2015-0016

Dear Mr. Kivell:


Enclosed please find a copy of the fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The U.S. Environmental Protection Agency has filed the original CAFO with the Regional Hearing Clerk on April 24, 2015.

Please pay the Emergency Planning and Community Right-to-Know Act civil penalty in the amount of \$50,000 in the manner prescribed in paragraph 86, and reference your check with the docket number EPCRA-05-2015-0016.

Your payment is due on May 26, 2015.

Please feel free to contact James Entzminger at (312) 886-4062 if you have any questions regarding the enclosed documents. Please direct any legal questions to Mark Koller, Associate Regional Counsel, at (312) 353-2591. Thank you for your assistance in resolving this matter.

Sincerely,

  
Michael E. Hans, Chief  
Chemical Emergency Preparedness  
and Prevention Section

Enclosure

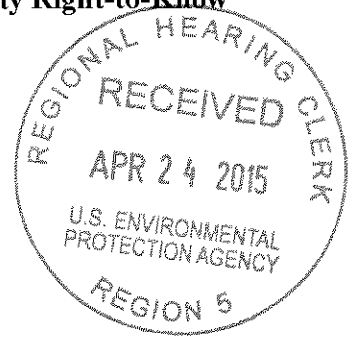
cc: Captain Christopher A. Kelenske, Chairperson (w/ enclosure)  
Citizen-Community Emergency Response  
Coordinating Counsel  
EMHSD/Michigan Department of State Police  
4000 Collins Road  
Lansing, Michigan 48910

Michael Young (w/ enclosure)  
State Emergency Response Commission  
Michigan Department of Environmental Quality  
Post Office Box 30457  
Lansing, Michigan 48909

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

<b>In the Matter of:</b>	)	<b>Docket No. EPCRA-05-2015-0016</b>
	)	
<b>Spartan Motors Chassis, Inc.</b>	)	<b>Proceeding to Assess a Civil Penalty Under</b>
<b>Charlotte, Michigan,</b>	)	<b>Section 325(c)(1) and (c)(2) of the Emergency</b>
	)	<b>Planning and Community Right-to-Know</b>
<b>Respondent.</b>	)	<b>Act of 1986</b>
	)	
	)	
	)	
	)	
	)	

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**Consent Agreement and Final Order**  
**Preliminary Statement**

1. This is an administrative action commenced and concluded under Section 325(c)(1) and (c)(2) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 U.S.C. § 11045(c)(1) and (c)(2), 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, by lawful delegation, the Chief of the Enforcement and Compliance Assurance Branch, Superfund Division, United States Environmental Protection Agency (U.S. EPA), Region 5.
3. Respondent is Spartan Motors Chassis, Inc., a corporation doing business in the State of Michigan.
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 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. Section 311 of EPCRA, 42 U.S.C. § 11021, and its implementing regulations at 40 C.F.R. Part 370, require the owner or operator of a facility, which is required by the Occupational Safety and Health Act (OSHA) to prepare or have available a material safety data sheet (MSDS) for a hazardous chemical, to submit to the state emergency response commission (SERC), community emergency coordinator for the local emergency planning committee (LEPC) and the fire department with jurisdiction over the facility an MSDS for each such hazardous chemical present at the facility at any one time in an amount equal to or greater than 10,000 pounds, and for each extremely hazardous chemical present at the facility in an amount equal to or greater than 500 pounds, or the threshold planning quantity (TPQ), whichever is lower, or to submit a list of such chemicals. The owner or operator must submit the required MSDS or list within three months after the owner or operator is first required to have the MSDS available or after the hazardous chemical requiring an MSDS first becomes present at the facility in an amount exceeding the threshold level.

10. Section 312(a) of EPCRA, 42 U.S.C. § 11022(a), and its implementing regulations at 40 C.F.R. Part 370, require the owner or operator of a facility, which is required by the OSHA to prepare or have available an MSDS for a hazardous chemical, to submit to the SERC, community coordinator for the LEPC and fire department with jurisdiction over the facility by March 1, 1988, and annually thereafter, an emergency and hazardous chemical inventory form (Tier I or Tier II as described in 40 C.F.R. Part 370). The form must contain the information required by Section 312(d) of EPCRA, covering all hazardous chemicals present at the facility at any one time during the preceding year in amounts equal to or exceeding 10,000 pounds and all extremely hazardous chemicals present at the facility at any one time in amounts equal to or greater than 500 pounds or the threshold planning quantity designated by U.S. EPA at 40 C.F.R. Part 355, Appendices A and B, whichever is lower.

11. Sections 311 and 312(a) of EPCRA, 42 U.S.C. §§ 11021 and 11022(a), assist state and local committees in planning for emergencies and make information on chemical presence and hazards available to the public. A delay in reporting could result in harm to human health and the environment.

12. Under 29 C.F.R. § 1910.1200(b)(1), all employers are required to provide information to their employees about the hazardous chemicals to which they are exposed including, but not limited to, an MSDS.

13. Section 325(c)(1) of EPCRA, 42 U.S.C. § 11045(c)(1), authorizes U.S. EPA to assess a civil penalty of up to \$25,000 per day of violation of EPCRA Section 312. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 note, and its implementing regulations at 40 C.F.R. Part 19 increased these statutory maximum penalties to \$37,500 per day of violation for violations that occurred after January 12, 2009.

14. Section 325(c)(2) of EPCRA, 42 U.S.C. § 11045(c)(2), authorizes U.S. EPA to assess a civil penalty of up to \$10,000 for each EPCRA Section 311 violation. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 note, and its implementing regulations at 40 C.F.R. Part 19 increased the statutory maximum penalty to \$16,000 per day of violation for violations that occurred after January 12, 2009.

**Factual Allegations and Alleged Violations**

15. Respondent is a “person” as that term is defined under Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

16. At all times relevant to this CAFO, Respondent was an owner or operator of plants located at 1055 Mikesell Street, 1065 Mikesell Street, 1111 Mikesell Street, 1549 Mikesell Street, 1580 Mikesell Street, 1541 Reynolds Road, 1597 Reynolds Road and 1663 Reynolds Road in Charlotte, Michigan (facility).

17. At all times relevant to this CAFO, Respondent was an employer at the facility.

18. 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.

19. Respondent’s facility is a “facility” as that term is defined under Section 329(4) of EPCRA, 42 U.S.C. § 11049(4).

20. On February 10, 2014, U.S. EPA conducted an inspection at Respondent’s facility.

21. Lead is classified as a health hazard.

22. Lead (CAS #7439-92-1) is a “hazardous chemical” within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).

23. Lead (CAS #7439-92-1) has a minimum threshold level of 10,000 pounds, as

provided in 40 C.F.R. Part 370.

24. Sulfuric acid is classified as a physical or health hazard.

25. Sulfuric acid (CAS #7664-93-9) is a “hazardous chemical” within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).

26. Sulfuric acid (CAS #7664-93-9) is an “extremely hazardous substance” according to Section 302(a)(2) of EPCRA, 42 U.S.C. § 11002(a)(2).

27. Sulfuric acid (CAS #7664-93-9) has a minimum threshold level of 500 pounds, as provided in 40 C.F.R. Part 370.

28. Diesel fuel is classified as a physical or health hazard.

29. Diesel fuel (CAS #8008-20-6) is a “hazardous chemical” within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).

30. Diesel fuel (CAS #8008-20-6) has a minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. Part 370.

31. Antifreeze contains ethylene glycol

32. Ethylene glycol is classified as a health hazard.

33. Ethylene glycol (CAS #107-21-1) is a “hazardous chemical” within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).

34. Ethylene glycol (CAS #107-21-1) has a minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. Part 370.

35. Gasoline is classified as a health hazard and a physical hazard.

36. Gasoline (CAS #8006-61-9) is a “hazardous chemical” within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).

37. Gasoline (CAS #8006-61-9) has a minimum threshold level of 10,000 pounds, as

provided in 40 C.F.R. Part 370.

38. As of December 31, 2010, lead was present at the facility at any one time in an amount equal to or greater than the minimum threshold level.

39. As of December 31, 2010, sulfuric acid was present at the facility at any one time in an amount equal to or greater than the minimum threshold level.

40. As of December 31, 2010, diesel fuel was present at the facility at any one time in an amount equal to or greater than the minimum threshold level.

41. As of December 31, 2010, ethylene glycol was present at the facility at any one time in an amount equal to or greater than the minimum threshold level.

42. As of December 31, 2010, gasoline was present at the facility at any one time in an amount equal to or greater than the minimum threshold level.

43. During at least one period of time in calendar year 2010, lead was present at the facility in an amount equal to or greater than the minimum threshold level.

44. During at least one period of time in calendar year 2010, sulfuric acid was present at the facility in an amount equal to or greater than the minimum threshold level.

45. During at least one period of time in calendar year 2010, diesel fuel was present at the facility in an amount equal to or greater than the minimum threshold level.

46. During at least one period of time in calendar year 2010, ethylene glycol was present at the facility in an amount equal to or greater than the minimum threshold level.

47. During at least one period of time in calendar year 2010, gasoline was present at the facility in an amount equal to or greater than the minimum threshold level.

48. During at least one period of time in calendar year 2011, lead was present at the facility in an amount equal to or greater than the minimum threshold level.



49. During at least one period of time in calendar year 2011, sulfuric acid was present at the facility in an amount equal to or greater than the minimum threshold level.

50. During at least one period of time in calendar year 2011, diesel fuel was present at the facility in an amount equal to or greater than the minimum threshold level.

51. During at least one period of time in calendar year 2011, ethylene glycol was present at the facility in an amount equal to or greater than the minimum threshold level.

52. During at least one period of time in calendar year 2011, gasoline was present at the facility in an amount equal to or greater than the minimum threshold level.

53. During at least one period of time in calendar year 2012, lead was present at the facility in an amount equal to or greater than the minimum threshold level.

54. During at least one period of time in calendar year 2012, sulfuric acid was present at the facility in an amount equal to or greater than the minimum threshold level.

55. During at least one period of time in calendar year 2012, diesel fuel was present at the facility in an amount equal to or greater than the minimum threshold level.

56. During at least one period of time in calendar year 2012, ethylene glycol was present at the facility in an amount equal to or greater than the minimum threshold level.

57. During at least one period of time in calendar year 2012, gasoline was present at the facility in an amount equal to or greater than the minimum threshold level.

58. OSHA requires Respondent to prepare, or have available, an MSDS for lead.

59. OSHA requires Respondent to prepare, or have available, an MSDS for sulfuric acid.

60. OSHA requires Respondent to prepare, or have available, an MSDS for diesel fuel.

61. OSHA requires Respondent to prepare, or have available, an MSDS for ethylene glycol.
62. OSHA requires Respondent to prepare, or have available, an MSDS for gasoline.
63. Section 311 of EPCRA required Respondent to submit to the SERC, LEPC, and fire department with jurisdiction over the facility on or before March 31, 2011, an MSDS for lead or a list including lead.
64. Section 311 of EPCRA required Respondent to submit to the SERC, LEPC, and fire department with jurisdiction over the facility on or before March 31, 2011, an MSDS for sulfuric acid or a list including sulfuric acid.
65. Section 311 of EPCRA required Respondent to submit to the SERC, LEPC, and fire department with jurisdiction over the facility on or before March 31, 2011, an MSDS for diesel fuel or a list including diesel fuel.
66. Section 311 of EPCRA required Respondent to submit to the SERC, LEPC, and fire department with jurisdiction over the facility on or before March 31, 2011, an MSDS for ethylene glycol or a list including ethylene glycol.
67. Section 311 of EPCRA required Respondent to submit to the SERC, LEPC, and fire department with jurisdiction over the facility on or before March 31, 2011, an MSDS for gasoline or a list including gasoline.
68. Section 312 of EPCRA required Respondent to submit to the SERC, LEPC and fire department with jurisdiction over the facility, a completed emergency and hazardous chemical inventory form including lead, sulfuric acid, diesel fuel, ethylene glycol, and gasoline on or before March 1, 2011, for calendar year 2010.

69. Section 312 of EPCRA required Respondent to submit to the SERC, LEPC and fire department with jurisdiction over the facility, a completed emergency and hazardous chemical inventory form including lead, sulfuric acid, diesel fuel, ethylene glycol, and gasoline on or before March 1, 2012, for calendar year 2011.

70. Section 312 of EPCRA required Respondent to submit to the SERC, LEPC and fire department with jurisdiction over the facility, a completed emergency and hazardous chemical inventory form including lead, sulfuric acid, diesel fuel, ethylene glycol, and gasoline on or before March 1, 2013, for calendar year 2012.

71. At all times relevant to this Complaint, the Citizen-Community Emergency Response Coordinating Council was the SERC for Michigan under Section 301(a) of EPCRA, 42 U.S.C. § 11001(a).

72. Prior to January 1, 2014 the Eaton County LEPC was the LEPC for Eaton County, Michigan under Section 301(c) of EPCRA, 42 U.S.C. § 11001(c).

73. Since January 1, 2014 the Delta Township Fire Department has been the LEPC for Eaton County, Michigan under Section 301(c) of EPCRA, 42 U.S.C. § 11001(c).

74. At all times relevant to this Complaint, the Charlotte Fire Department was the fire department with jurisdiction over the facility.

75. As of February 10, 2014, Respondent had not submitted to the SERC, LEPC and Charlotte Fire Department MSDSs for lead, sulfuric acid, diesel fuel, ethylene glycol, and gasoline or a list showing lead, sulfuric acid, diesel fuel, ethylene glycol and gasoline.

76. Each day Respondent failed to submit to the SERC MSDSs or a list for lead, sulfuric acid, diesel fuel, ethylene glycol and gasoline by March 31, 2011 constitutes a separate violation of Section 311 of EPCRA, 42 U.S.C. § 11021.

77. Each day Respondent failed to submit to the LEPC MSDSs or a list for lead, sulfuric acid, diesel fuel, ethylene glycol and gasoline by March 31, 2011 constitutes a separate violation of Section 311 of EPCRA, 42 U.S.C. § 11021.

78. Each day Respondent failed to submit to the Charlotte Fire Department MSDSs or a list for lead, sulfuric acid, diesel fuel, ethylene glycol and gasoline by March 31, 2011 constitutes a separate violation of Section 311 of EPCRA, 42 U.S.C. § 11021.

79. As of February 10, 2014 Respondent had not submitted to the SERC, the LEPC, and the local fire department with jurisdiction over the facility, a completed Emergency and Hazardous Chemical Inventory Form including lead, sulfuric acid, diesel fuel, ethylene glycol, and gasoline for calendar year 2010, 2011 and 2012.

80. Each day Respondent failed to submit to the SERC, LEPC and the Charlotte Fire Department a completed Emergency and Hazardous Chemical Inventory Form including lead, sulfuric acid, diesel fuel, ethylene glycol, and gasoline by March 1, 2011, for calendar year 2010 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

81. Each day Respondent failed to submit to the SERC, LEPC and the Charlotte Fire Department a completed emergency and hazardous chemical inventory form including lead, sulfuric acid, diesel fuel, ethylene glycol, and gasoline by March 1, 2012, for calendar year 2011 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

82. Each day Respondent failed to submit to the SERC a completed emergency and hazardous chemical inventory form including lead, sulfuric acid, diesel fuel, ethylene glycol, and gasoline by March 1, 2013, for calendar year 2012 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

83. Each day Respondent failed to submit to the LEPC a completed Emergency and

Hazardous Chemical Inventory Form including lead, sulfuric acid, diesel fuel, ethylene glycol, and gasoline by March 1, 2013, for calendar year 2012 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

84. Each day Respondent failed to submit to the Charlotte Fire Department a completed Emergency and Hazardous Chemical Inventory Form including lead, sulfuric acid, diesel fuel, ethylene glycol, and gasoline by March 1, 2013, for calendar year 2012 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

#### **Civil Penalty**

85. Complainant has determined that an appropriate civil penalty to settle this action is \$50,000 for the EPCRA violations. In determining the penalty amount, Complainant considered the nature, circumstances, extent and gravity of the violations, Respondent's agreement to perform a supplemental environmental project, 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 Sections 304, 311 and 312 of the Emergency Planning and Community Right-to-Know Act and Section 103 of the Comprehensive Environmental Response Compensation and Liability Act, dated September 30, 1999 (EPCRA/CERCLA Enforcement Response Policy).

86. Within 30 days after the effective date of this CAFO, Respondent must pay a \$50,000 civil penalty for the EPCRA violations. Respondent must pay the penalty by: ACH electronic funds transfer, payable to "Treasurer, United States of America," and sent to:

US Treasury REX/Cashlink ACH Receiver  
ABA: 051036706  
Account Number: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22-checking

In the comment area of the electronic funds transfer, state the following: the case name and the docket number of this CAFO.

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

88. If Respondent does not timely pay the civil penalty or any stipulated penalties due under paragraph 102, below, 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.

89. 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, U.S. EPA will assess a 6 percent per year penalty on any principal amount 90 days past due.

#### **Supplemental Environmental Project**

90. Respondent must complete a supplemental environmental project (SEP) designed to protect the environment and public health by developing and implementing an Environmental Management System (EMS).

91. At its Charlotte location, Respondent must complete the SEP as follows:

- a. create an EMS manual (including an implementation schedule) consistent

with U.S. EPA's "Compliance-Focused Environmental Management System-Enforcement Agreement Guidance" within 60 days of the effective date of this CAFO, with a copy to U.S. EPA for review and approval;

- b. upon receipt of U.S. EPA approval of the EMS manual, perform eight quarterly comprehensive assessment audits;
- c. conduct a training event for personnel covering all aspects of the EMS within 180 days of the effective date of this CAFO;
- d. create and submit to U.S. EPA a draft EMS audit plan within 270 days of the effective date of this CAFO;
- e. within 30 days of receipt of U.S. EPA comments, create and submit to U.S. EPA a final audit plan;
- f. within 60 days of submittal of the final audit plan, perform the first annual EMS audit; and
- g. perform a second annual EMS audit by the second anniversary of the effective date of this CAFO.

92. Respondent must spend at least \$92,910 on the EMS. Respondent has chosen August Mack Environmental, Inc. to develop and implement the EMS on its behalf.

93. Respondent certifies as follows:

I certify that Spartan Motors Chassis, Inc. is not required to perform or develop the SEP by any law, regulation, order, or agreement or as injunctive relief as of the date that I am signing this CAFO. I further certify that Spartan Motors Chassis, Inc. has not received, and is not negotiating to receive, credit for the SEP in any other enforcement action.

I certify that Spartan Motors Chassis, Inc. is not a party to any open federal financial assistance transaction that is funding or could be used to fund the same activity as the SEP. I further certify that, to the best of my knowledge and belief after reasonable inquiry, there is no such open federal financial transaction that is funding or could be used to fund the same activity as the SEP, nor has the same activity been described in an unsuccessful federal financial assistance transaction proposal submitted to U.S. EPA within two years of the date that I am signing this CAFO (unless the project was barred from funding as statutorily ineligible). For purposes of this certification, the term "open federal financial assistance transaction" refers to a grant, cooperative agreement, loan, federally-guaranteed loan guarantee or other mechanism for providing federal financial assistance whose performance period has not expired.

94. U.S. EPA may inspect the Charlotte location at any time to monitor Respondent's

compliance with this CAFO's SEP requirements.

95. Respondent must maintain copies of the underlying research and data for all reports submitted to U.S. EPA according to this CAFO. Respondent must provide the documentation of any underlying research and data to U.S. EPA within seven days of U.S. EPA's request for the information.

96. Respondent must submit a SEP progress report to U.S. EPA within 60 days of the performance of the first annual EMS audit.

97. Respondent must submit a SEP completion report to U.S. EPA by July 1, 2017.

This report must contain the following information:

- a. Detailed description of the SEP as completed;
- b. Description of any operating problems and the actions taken to correct the problems;
- c. Itemized costs of goods and services used to complete the SEP documented by copies of invoices, purchase orders or canceled checks that specifically identify and itemize the individual costs of the goods and services;
- d. Certification that Respondent has completed the SEP in compliance with this CAFO; and
- e. Description of the environmental and public health benefits resulting from the SEP (quantify the benefits and pollution reductions, if feasible).

98. Respondent must submit all notices and reports required by this CAFO by first class mail to:

James Entzminger (SC-5J)  
Chemical Emergency Preparedness and Prevention Section  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

99. In each report that Respondent submits as provided by this CAFO, it must certify



that the report is true and complete by including the following statement signed by one of its officers:

I certify that I am familiar with the information in this document and that, based on my inquiry of those individuals responsible for obtaining the information, it is true and complete to the best of my knowledge. I know that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

100. Following receipt of the SEP completion report described in paragraph 97, above, U.S. EPA must notify Respondent in writing that:

- a. It has satisfactorily completed the SEP and the SEP completion report;
- b. There are deficiencies in the SEP as completed or in the SEP completion report and U.S. EPA will give Respondent 30 days to correct the deficiencies; or
- c. It has not satisfactorily completed the SEP or the SEP completion report and U.S. EPA will seek stipulated penalties under paragraph 102.

101. If U.S. EPA exercises option b, above, Respondent may object in writing to the deficiency notice within 10 days of receiving the notice. The parties will have 30 days from U.S. EPA's receipt of Respondent's objection to reach an agreement. If the parties cannot reach an agreement, U.S. EPA will give Respondent a written decision on its objection. Respondent will comply with any requirements that U.S. EPA imposes in its decision. If Respondent does not complete the SEP as required by U.S. EPA's decision, Respondent will pay stipulated penalties to the United States under paragraph 102, below.

102. If Respondent violates any requirement of this CAFO relating to the SEP, Respondent must pay stipulated penalties to the United States as follows:

- a. Except as provided in subparagraph b, below, if Respondent did not complete the SEP satisfactorily according to the requirements of this CAFO, including the schedule in paragraph 91, Respondent must pay a penalty of \$56,000.
- b. If Respondent did not complete the SEP satisfactorily, but U.S. EPA determines

that Respondent made good faith and timely efforts to complete the SEP and certified, with supporting documents, that it spent at least 90 percent of the amount set forth in paragraph 92, Respondent will not be liable for any stipulated penalty under subparagraph a, above.

- c. If Respondent completed the SEP satisfactorily, but spent less than 90 percent of the amount set forth in paragraph 92, Respondent must pay a penalty of \$19,000.
- d. If Respondent did not submit timely the SEP progress report or the SEP completion report, Respondent must pay penalties in the following amounts for each day after the report was due until it submits the report:

<u>Penalty Per Violation Per Day</u>	<u>Period of Violation</u>
\$250	1st through 14th day
\$500	15th through 30th day
\$750	31st day and beyond

103. U.S. EPA’s determinations of whether Respondent completed the SEP satisfactorily and whether Respondent made good faith and timely efforts to complete the SEP will bind Respondent.

104. Respondent must pay any stipulated penalties within 15 days of receiving U.S. EPA’s written demand for the penalties. Respondent will use the method of payment specified in paragraphs 86, above, and will pay interest, handling charges and nonpayment penalties on any overdue amounts.

105. Any public statement that Respondent makes referring to the SEP must include the following language, “Respondent undertook this project under the settlement of the United States Environmental Protection Agency’s enforcement action against Respondent for violations of Sections 311 and 312 of the Emergency Planning and Community Right-to-Know Act.”

106. For federal income tax purposes, Respondent will neither capitalize into inventory or basis, nor deduct any costs or expenditures incurred in performing the SEP.

### **General Provisions**

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

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

109. Respondent certifies that it is complying with EPCRA, 42 U.S.C. §§ 11021 and 11022(a).

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

111. This CAFO is a "final order" for purposes of U.S. EPA's EPCRA/CERCLA Enforcement Response Policy.

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


113. Each person signing this consent 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.

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

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

**Spartan Motors Chassis, Inc., Respondent**

15 APRIL '15  
Date

  
\_\_\_\_\_  
Thomas T. Kivell  
Secretary  
Spartan Motors Chassis, Inc.

**U.S. Environmental Protection Agency, Complainant**

04/20/2015

Date

M. Cecilia Moore

M. Cecilia Moore, Chief  
Enforcement and Compliance Assurance Branch  
U.S. Environmental Protection Agency  
Region 5

4-21-15

Date

Richard C. Karl


Richard C. Karl, Director  
Superfund Division  
U.S. Environmental Protection Agency  
Region 5

**In the Matter of: Spartan Motors Chassis, Inc.**  
**Docket No. [ ] EPCRA-05-2015-0016**

**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.

22 April 2015  
Date

  
\_\_\_\_\_  
Susan Hedman  
Regional Administrator  
U.S. Environmental Protection Agency  
Region 5

In the Matter of: Spartan Motors, Inc., Charlotte, Michigan  
Docket No. EPCRA-05-2015-0016

Certificate of Service

I certify that I sent a true and correct copy of the foregoing Consent Agreement and Final Order, which was filed on April 24, 2015 in the following manner to the addressees:

Copy by Certified Mail

Return Receipt Requested: Thomas T. Kivell  
Vice President, Secretary and General Counsel  
Spartan Motors, Inc.  
1541 Reynolds Road  
Charlotte, Michigan 48813

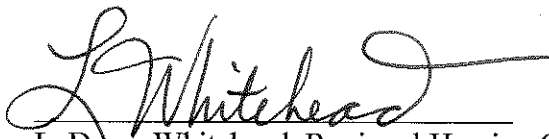
Copy by E-mail to

Attorney for Complainant: Mark Koller  
koller.mark@epa.gov

Copy by E-mail to

Regional Judicial Officer: Ann Coyle  
coyle.ann@epa.gov

Dated: April 24, 2015



LaDawn Whitehead, Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604  
(312) 886-3713

CERTIFIED MAIL RECEIPT NUMBER(S): 7011 1150 0000 2640 7421