



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

JUL - 6 2017

REPLY TO THE ATTENTION OF:

VIA E-MAIL

Stan Muehlenkamp, President
Paragon Metal Fabricators
4317 Kugler Mill Road
Cincinnati, Ohio 45236
Email: stanm@paragonmetalfab.com

Dear Mr. Muehlenkamp:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves Paragon Metal Fabricators, docket no. CAA-05-2017-0031. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on JUL - 6 2017.

Pursuant to paragraph 74 of the CAFO, Paragon Metal Fabricators must pay the civil penalty within 30 days of the filing date. Your check must display the case name and case docket number.

Please direct any questions regarding this case to John Matson, Associate Regional Counsel, (312) 886-2243.

Sincerely,

Shufu Patel for Brian Dickens

Brian Dickens, Chief
Air Enforcement and Compliance Assurance Section (MN/OH)

Enclosure

cc: Ann Coyle, Regional Judicial Officer/C-14J
Regional Hearing Clerk/E-19J
John Matson/C-14J
Bob Hodanbosi, Chief, DAPC, bob.hodanbosi@epa.ohio.gov
Brad Miller, Assistant Director, Bradley.miller@hamilton-co.org

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5



In the Matter of:) Docket No. CAA-05-2017-0031
)
Paragon Metal Fabricators) Proceeding to Assess a Civil Penalty
Cincinnati, Ohio) Under Section 113(d) of the Clean Air Act,
) 42 U.S.C. § 7413(d)
Respondent.)
_____)

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the CAA), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 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. Complainant is the Director of the Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 5.
3. Respondent is Paragon Metal Fabricators (Paragon or Respondent), a corporation doing business in Ohio.
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). *See* 40 C.F.R. § 22.13(b).
5. EPA and Paragon agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.
8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO.

Statutory and Regulatory Background

National Emission Standards for Hazardous Air Pollutants

9. Pursuant to Section 112(b) of the CAA, 42 U.S.C. § 7412(b), EPA designates hazardous air pollutants (HAP) which present or may present a threat of adverse effects to human health or the environment.
10. Section 112(c) and (d) of the CAA, 42 U.S.C. § 7412(c) and (d), requires EPA to publish a list of categories of sources which EPA finds present a threat of adverse effects to human health or the environment due to emissions of HAP, and to promulgate emission standards for each source category. These standards are known as “national emission standards for hazardous air pollutants” (NESHAP). EPA codifies these requirements at 40 C.F.R. Part 63.
11. The NESHAPs are national technology-based performance standards for HAP sources in each category that become effective on a specified date. The purpose of these standards is to ensure that all sources achieve the maximum degree of reduction in emissions of HAP that EPA determines is achievable for each source category.
12. Section 112(d) of the CAA requires EPA to establish NESHAPs for both major and area sources of HAP that are listed for regulation under CAA section 112(c). A “major

source” includes a “stationary source” that emits or has the potential to emit 10 tons per year (tpy) or more of any single HAP or 25 tpy or more of any combination of HAP. An “area source” is a “stationary source” that is not a major source. *See* Section 112(a) of the CAA, 42 U.S.C. § 7412(a).

13. A “stationary source” is any building, structure, facility, or installation that emits or may emit any air pollutant. *See* 42 U.S.C. § 7412(a).
14. The NESHAP General Provisions, 40 C.F.R. §§ 63.1-63.16, apply to affected sources regulated by a relevant NESHAP, provided that the NESHAP explicitly identifies whether each General Provision is included in the NESHAP.
15. The NESHAP General Provisions at 40 C.F.R. § 63.9(b) require the owner or operator of an affected source to submit an initial notification to EPA that the source is subject to the relevant standard.
16. Section 112(i)(3) of the CAA, 42 U.S.C. § 7412(i)(3), and the NESHAP General Provisions at 40 C.F.R. § 63.4, prohibit the owner or operator of an affected source from operating such source in violation of any NESHAP applicable to such source.

40 C.F.R. Part 63, Subpart XXXXXX

17. Pursuant to Section 112(d) of the CAA, EPA promulgated Subpart XXXXXX. *See* 73 Fed. Reg. 43000. Subpart XXXXXX is codified at 40 C.F.R. §§ 63.11514 through 63.11523, and went into effect on July 23, 2008.
18. Subpart XXXXXX applies to the owner or operator of an “area source” that is primarily engaged in the operations in one of nine listed source categories, including “fabricated metal products.” *See* 40 C.F.R. § 63.11514(a)(2).

19. Table 1 of Subpart XXXXXX defines the “fabricated metal products” source category as “[e]stablishments primarily engaged in manufacturing fabricated metal products, such as...metal boxes...and other fabricated metal products not elsewhere classified.”
20. Subpart XXXXXX applies to each new and existing “affected source” listed and defined in 40 C.F.R. § 63.11514(b)(1) through (5) if the owner or operator uses materials that contain or have the potential to emit metal fabrication or finishing metal HAP (MFHAP). *See* 40 C.F.R. § 63.11514(b). “Affected sources” include machining operations, welding operations, spray painting, and dry grinding and dry polishing operations. *See* 40 C.F.R. § 63.11514(b)(1) through (5).
21. Subpart XXXXXX at 40 C.F.R. § 63.11514(b) defines “MFHAP” to include the compounds of chromium, lead, and nickel, in amounts greater than or equal to 0.1 percent by weight of the metal, and materials that contain manganese in amounts greater than or equal to 1.0 percent by weight of the metal.
22. Subpart XXXXXX at 40 C.F.R. § 63.11514(c) provides that an affected source is “existing” if construction or reconstruction of the source commenced on or before April 3, 2008.
23. Subpart XXXXXX at 40 C.F.R. § 63.11515(a) requires the owner or operator of an existing affected source to achieve compliance with the applicable provisions of Subpart XXXXXX no later than July 25, 2011.
24. Subpart XXXXXX at 40 C.F.R. § 63.11516(b) requires the owner or operator of a new or existing machining source to implement management practices listed in (b)(1) and (2).
25. Subpart XXXXXX at 40 C.F.R. § 63.11516(f) requires the owner or operator of a new or existing welding source to comply with the requirements in paragraphs (f)(1) and (2).

26. Subpart XXXXXX at 40 C.F.R. § 63.11517(a) requires that visual determination of fugitive emissions must be performed at facilities subject to Subpart XXXXXX according to the procedures of EPA Method 22, of 40 C.F.R. part 60, Appendix A-7. You must conduct the EPA Method 22 test while the affected source is operating under normal conditions. The duration of each EPA Method 22 test must be at least 15 minutes, and visible emissions will be considered to be present if they are detected for more than six minutes of the fifteen-minute period.
27. Subpart XXXXXX at 40 C.F.R. § 63.11517(b) requires that visual determinations of fugitive emissions must be performed at facilities subject to Subpart XXXXXX in accordance with 40 C.F.R. § 63.11517(a) and according to the schedule in 40 C.F.R. § 63.11517(b)(1) through (4), as follows:
- (1) *Daily Method 22 Testing.* Perform visual determination of fugitive emissions once per day, on each day the process is in operation, during operation of the process;
 - (2) *Weekly Method 22 Testing.* If no visible fugitive emissions are detected in consecutive daily EPA Method 22 tests, performed in accordance with paragraph (b)(1) of this section for 10 days of work day operation of the process, you may decrease the frequency of EPA Method 22 testing to once every five days of operation of the process (one calendar week). If visible fugitive emissions are detected during these tests, you must resume EPA Method 22 testing of that operation once per day during each day that the process is in operation, in accordance with paragraph (b)(1) of this section;
 - (3) *Monthly Method 22 Testing.* If no visible fugitive emissions are detected in four consecutive weekly EPA Method 22 tests performed in accordance with paragraph (b)(2) of this section, you may decrease the frequency of EPA Method 22 testing to once per 21 days of operation of the process (one calendar month). If visible fugitive emissions are detected during these tests, you must resume weekly EPA Method 22 in accordance with paragraph (b)(2) of this section; and
 - (4) *Quarterly Method 22 Testing.* If no visible fugitive emissions are detected in three consecutive monthly EPA Method 22 tests performed in accordance with paragraph (b)(3) of this section, you may decrease the frequency of EPA Method 22 testing to once per 60 days of operation of the process (3 calendar months). If visible fugitive emissions are detected during these tests, you must resume monthly EPA Method 22 in accordance with paragraph (b)(3) of this section.

28. Subpart XXXXXX at 40 C.F.R. § 63.11519(a)(1) requires that an owner or operator of an existing affected source must submit, no later than July 25, 2011, the Initial Notification required by 40 C.F.R. § 63.9(b), providing the information set forth in 40 C.F.R. § 63.11519(a)(1)(i) through (iv).
29. Subpart XXXXXX at 40 C.F.R. § 63.11519(a)(2) requires the owner or operator of an existing affected source to submit a Notification of Compliance Status on or before November 22, 2011, providing the information set forth in 40 C.F.R. § 63.11519(a)(2)(i) through (iv).
30. Subpart XXXXXX at 40 C.F.R. § 63.11519(b) requires the owner or operator of an affected source to prepare an annual compliance certification report, providing the information set forth in 40 C.F.R. § 63.11519(b) (1) through (7).
31. Subpart XXXXXX at 40 C.F.R. § 63.11523 requires the owner or operator of an affected source to comply with the requirements of the NESHAP General Provisions set forth in Table 2 to Subpart XXXXXX.
32. Pursuant to Table 2 to Subpart XXXXXX, the NESHAP General Provision requirements applicable to affected sources under Subpart XXXXXX include 40 C.F.R. §§ 63.4 and 63.9(b)(1)(5).

Ohio SIP

33. On January 22, 2003, EPA approved Ohio Administrative Code (OAC) Rule 3745-31 as part of the federally enforceable SIP for Ohio.
34. Pursuant to OAC Rule 3745-31-02(A), no person shall cause, permit, or allow the installation of a new source of air pollutants without first obtaining a permit-to-install from Ohio EPA.

35. On June 10, 1982, EPA approved OAC Rule 3745-35 as part of the federally enforceable SIP for Ohio.
36. OAC Rule 3745-35-02(A) requires that no person may cause, permit, or allow the operation or other use of any air contaminant source without applying for and obtaining a permit-to-operate from the Ohio EPA.

Enforcement Authority

37. The Administrator of EPA (the Administrator) may assess a civil penalty of up to \$37,500 per day of violation up to a total of \$295,000 for CAA violations that occurred after January 12, 2009 through December 6, 2013, \$37,500 per day of violation up to a total of \$320,000 for CAA violations that occurred after December 6, 2013 through November 2, 2015 and/or \$45,268 per day of violation up to a total of \$362,141 for violations that occurred after November 2, 2015 under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.
38. Section 113(d)(1) limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and the Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.
39. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

Factual Allegations and Alleged Violations

40. Paragon owns and operates a metal fabrication job shop located at 4317 Kugler Mill Road, Cincinnati, Ohio, which primarily fabricates stainless and carbon steel, and is a “stationary source” as that term is defined in 42 U.S.C. § 7412(a).
41. Paragon was and is an “owner” and an “operator” as those terms are defined in Section 112 of the CAA, 42 U.S.C. § 7412, and 40 C.F.R. § 63.2, of a Facility engaged in producing “fabricated metal products,” as that term is defined in Table 1 of Subpart XXXXXX.
42. Paragon’s Facility is an “area source” of HAP emissions.
43. Paragon’s Facility was and is subject to Subpart XXXXXX at all times relevant to this NOV/FOV because it was and is an “area source,” primarily engaged in the production of “fabricated metal products.”
44. Paragon’s Facility fabricates metal products using materials that contain or have the potential to emit MFHAP, as defined in Subpart XXXXXX at 40 C.F.R. § 11514(b), including chromium, nickel, and manganese.
45. Except for the waterjet and new laser cutter emission sources, Paragon’s Facility was constructed or reconstructed on or before April 3, 2008, and is therefore an “existing source,” as that term is defined at Subpart XXXXXX at 40 C.F.R. § 63.11514(c).
46. Subpart XXXXXX thus applies to each “affected source” at Paragon’s Facility listed and defined in 40 C.F.R. § 63.11514(b)(1) through (5), including all equipment and activities necessary to perform machining operations, welding operations, spray painting, and dry grinding, that use materials containing MFHAP.
47. EPA conducted an inspection of Paragon’s Facility on June 6, 2015.

48. During the June 6, 2015 inspection, Paragon was unable to provide any documentation demonstrating Paragon's compliance with Subpart XXXXXX, as follows:
- a. Paragon did not have records showing it submitted to EPA an Initial Notification for its metal fabrication operation on or before July 25, 2011;
 - b. Paragon did not have records showing it submitted to EPA a Notification of Compliance Status for its metal fabrication operation on or before November 22, 2011; and
 - c. Paragon had not prepared annual compliance certification reports at its metal fabrication operation for the calendar years 2010-2014.
49. EPA issued a Notice of Violation and Finding of Violation (NOV/FOV) to the Facility on December 23, 2015. The NOV/FOV alleged the following violations:
- a. Paragon failed to submit an Initial Notification for its metal fabrication operation on or before July 25, 2011, in violation of 40 C.F.R. § 63.11519(a)(1) and Section 112 of the CAA, 42 U.S.C. § 7412;
 - b. Paragon failed to prepare and submit annual compliance certification reports for its metal fabrication operation from 2011 to 2015 in violation of 40 C.F.R. § 63.11519(b) and Section 112 of the CAA, 42 U.S.C. § 7412;
 - c. Paragon failed to submit a Notification of Compliance Status for its metal fabrication operation on or before November 22, 2011, in violation of 40 C.F.R. § 63.11519(a)(2) and Section 112 of the CAA, 42 U.S.C. § 7412;
 - d. Paragon failed to apply for a permit-to-operate for certain sources at the Facility from 2011 through 2015 in violation of OAC Rule 3745-35-02(A) of the Ohio SIP, and Section 110 of the CAA, 42 U.S.C. § 7410;

- e. Paragon failed to apply for permits-to-install the waterjet and new laser cutter in violation of OAC Rule 3745-31-02(A) of the Ohio SIP, and Section 110 of the CAA, 42 U.S.C. § 7410; and
 - f. Paragon failed to perform visible determinations of fugitive emissions at its metal fabrication operation in accordance with the requirements of Subpart XXXXXX in violation of 40 C.F.R. § 63.11517(a)-(b) and Section 112 of the CAA, 42 U.S.C. § 7412.
50. On January 21, 2016, Representatives from Paragon and EPA held a conference to discuss the alleged violations in the NOV/FOV.

Count I

51. Complainant re-alleges and incorporates Paragraphs 9-50 as if sent forth in this paragraph.
52. Pursuant to 40 C.F.R. § 63.11519(a)(1), Paragon was required to submit an Initial Notification for its metal fabrication operation on or before July 25, 2011.
53. EPA received Paragon's an Initial Notification for the Facility under Subpart XXXXXX on March 27, 2016.
54. Paragon's failure to submit an Initial Notification for its metal fabrication operation on or before July 25, 2011 violated 40 C.F.R. § 63.11519(a)(1) and Section 112 of the CAA, 42 U.S.C. § 7412.

Count II

55. Complainant re-alleges and incorporates Paragraphs 9-50 as if sent forth in this paragraph.
56. 40 C.F.R. § 63.11519(b) required Paragon to submit annual compliance certification reports for its metal fabrication operation on or before January 31st of the following year.

57. On March 27, 2016, EPA received Paragon's Annual Compliance Certification Reports for the Facility under Subpart XXXXXX for calendar years 2011, 2012, 2013, 2014 and 2015.
58. Paragon's failure to prepare and submit its 2011, 2012, 2013, 2014, and 2015 annual compliance certification reports for its metal fabrication operation on or before January 31st of the following year violated 40 C.F.R. § 63.11519(b) and Section 112 of the CAA, 42 U.S.C. § 7412.

Count III

59. Complainant re-alleges and incorporates Paragraphs 9-50 as if sent forth in this paragraph.
60. Pursuant to 40 C.F.R. § 63.11519(a)(2), Paragon was required to submit an Initial Notification for its metal fabrication operation on or before July 25, 2011.
61. On March 27, 2016, EPA received Notification of Compliance Status Report for the Facility under Subpart XXXXXX.
62. Paragon's failure to submit an Initial Notification for its metal fabrication operation on or before July 25, 2011 violated 40 C.F.R. § 63.11519(a)(2) and Section 112 of the CAA, 42 U.S.C. § 7412.

Count IV

63. Complainant re-alleges and incorporates Paragraphs 9-50 as if sent forth in this paragraph.
64. OAC Rule 3745-31-02(A) prohibited Paragon from causing, permitting, or allowing the installation of a new source of air pollutants without first obtaining a permit-to-install from Ohio EPA.

65. OAC Rule 3745-35-02(A) of the Ohio SIP prohibited Paragon from operating sources at its facility without applying for and obtaining a permit-to-operate for that equipment from Ohio EPA.
66. Paragon began operating the paint booth at its facility in 1993 and continued to operate it during 2012-2015.
67. Paragon applied for a permit-to-install-and-operate (PTIO) for the paint booth in 2016.
68. By operating the paint booth without applying for and obtaining a PTIO for that equipment from Ohio EPA, Paragon violated OAC Rules OAC Rule 3745-31-02(A) and 3745-35-02(A) of the Ohio SIP, and Section 110 of the CAA, 42 U.S.C. § 7410.

Count V

69. Complainant re-alleges and incorporates Paragraphs 9-50 as if sent forth in this paragraph.
70. 40 C.F.R. § 63.11517(b) required that Paragon perform daily visual determinations of fugitive emissions in accordance with 40 C.F.R. § 63.11517(a).
71. During 2012-2015, Paragon did not perform daily visual determinations of fugitive emissions using Method 22 at its metal fabrication operation.
72. By failing to perform daily visual determinations of fugitive emissions using Method 22 at its metal fabrication operation in 2012-2015, Paragon violated 40 C.F.R. § 63.11517(a)-(b) and the CAA, 42 U.S.C. § 7412.

Civil Penalty

73. Based on analysis of the factors specified in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), the facts of this case, cooperation, prompt return to compliance, and agreement to perform a supplemental environmental project, Complainant has determined that an appropriate civil penalty to settle this action is \$2,250.

74. Within 30 days after the effective date of this CAFO, Respondent must pay a \$2,250 civil penalty by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

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

The check must note Respondent's name and the docket number of this CAFO.

75. Respondent must send a notice of payment that states Respondent's name and the docket number of this CAFO to EPA at the following addresses when it pays the penalty:

Attn: Compliance Tracker (AE-18J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

John Matson (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

Regional Hearing Clerk (E-19J)
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

76. This civil penalty is not deductible for federal tax purposes.
77. If Respondent does not pay timely the civil penalty, EPA may request the Attorney General of the United States to bring an action to collect any unpaid portion of the penalty with interest, nonpayment penalties and the United States enforcement expenses for the collection action under Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5).

The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

78. Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621(a)(2). Respondent must pay the United States enforcement expenses, including but not limited to attorneys fees and costs incurred by the United States for collection proceedings. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue. This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter. 42 U.S.C. § 7413(d)(5).

Supplemental Environment Project

79. Respondent must complete a supplemental environmental project (SEP) designed to protect the environment by reducing volatile organic compounds, HAPs, particulate matter, solid waste and carbon dioxide.
80. Within 60 days of the effective date of this CAFO, Respondent must complete the SEP at its Cincinnati, Ohio Facility as follows:
- a. Replace convention air spray paint system (pressure pot, hoses, gun) with air assisted airless pump rig, hoses gun, accessories;
 - b. Upgrade particulate filters used for collecting overspray on coating line from standard paint arrestor type filters to Paint Pocket or equivalent;
 - c. Convert from Xylene cleanup solvent to Methyl Ethyl Ketone; and
 - d. Replace (94) 40-Watt 4-foot fluorescent lamps in office area with 18-Watt LED lighting.

81. Respondent must spend at least \$13,300 to purchase equipment and operate the equipment for 5 years.
82. Respondent must continuously use or operate the equipment installed as the SEP for 5 year(s) following its installation.
83. Respondent certifies as follows:

I certify that Paragon 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 Paragon has not received, and is not negotiating to receive, credit for the SEP in any other enforcement action.

I certify that Paragon 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 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.

84. EPA may inspect the facility at any time to monitor Respondent's compliance with this CAFO's SEP requirements.
85. Respondent must submit a SEP completion report to EPA within 90 days after the completion of the SEP but no more than 180 days after the effective date of this CAFO.

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 cost of goods and services used to complete the SEP documented by copies of invoices, purchase orders or cancelled checks that specifically identify and itemize the individual cost 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).
86. Respondent must submit all notices and reports required by this CAFO by first-class mail to the Compliance Tracker of the Air Enforcement and Compliance Assurance Branch at the address provided in paragraph 75, above.
87. 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.
88. Following receipt of the SEP completion report described in paragraph 85, above, EPA must notify Respondent in writing that:
- a. It has satisfactorily completed the SEP and the SEP report;
 - b. There are deficiencies in the SEP as completed or in the SEP report and EPA will give Respondent 30 days to correct the deficiencies; or
 - c. It has not satisfactorily completed the SEP or the SEP report and EPA will seek stipulated penalties under paragraph 90.

89. If 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 EPA's receipt of Respondent's objection to reach an agreement. If the parties cannot reach an agreement, EPA will give Respondent a written decision on its objection. Respondent will comply with any requirement that EPA imposes in its decision. If Respondent does not complete the SEP as required by EPA's decision, Respondent will pay stipulated penalties to the United States under paragraph 90, below.
90. 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 80, Respondent must pay a penalty of \$6,750.00.
 - b. If Respondent did not complete the SEP satisfactorily, but 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 81, 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 81, Respondent must pay a penalty of \$ 3,000.
 - d. If Respondent did not submit timely 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>
\$ 500	1 st through 14 th day
\$ 1,000	15 th through 30 th day
\$ 2,000	31 st day and beyond

91. 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.
92. Respondent must pay any stipulated penalties within 15 days of receiving EPA's written demand for the penalties. Respondent will use the method of payment specified in Paragraph 74, above, and will pay interest and nonpayment penalties on any overdue amounts.
93. Any public statement that Respondent makes referring to the SEP must include the following language: "Paragon undertook this project under the settlement of the United States Environmental Protection Agency's enforcement action against Paragon for violations of the NESHAP Subpart XXXXXX and the Ohio SIP."
94. 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

95. Consistent with the Standing Order Authorizing E-Mail Service of Orders and Other Documents Issued by the Regional Administrator or Regional Judicial Officer under the Consolidated Rules, dated March 27, 2015, the parties consent to service of this CAFO by e-mail at the following e-mail addresses: matson.john@epa.gov (for Complainant), and stanm@paragonmetalfab.com (for Respondent). The parties waive their right to service by the methods specified in 40 C.F.R. § 22.6.
96. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in this CAFO.

97. The CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.
98. This CAFO does not affect Respondent's responsibility to comply with the CAA and other applicable federal, state and local laws. Except as provided in paragraph 96 above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.
99. Respondent certifies that it is complying fully with Subpart XXXXXX and the Ohio SIP.
100. This CAFO constitutes an "enforcement response" as that term is used in EPA's Clean Air Act Stationary Civil Penalty Policy to determine Respondent's "full compliance history" under Section 113(e) of the CAA, 42 U.S.C. § 7413(e).
101. The terms of this CAFO bind Respondent, its successors and assigns.
102. 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.
103. Each party agrees to bear its own costs and attorneys fees in this action.
104. This CAFO constitutes the entire agreement between the parties.


Paragon Metal Fabricators, Respondent

6-22-17
Date

Stan Muehlenkamp VP
Stan Muehlenkamp, President
Paragon Metal Fabricators

United States Environmental Protection Agency, Complainant

6/29/17
Date



Edward Nam
Director
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5

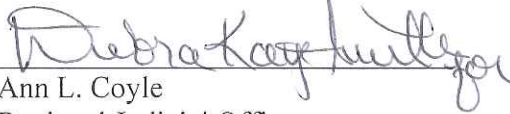
Consent Agreement and Final Order
In the Matter of: Paragon Metal Fabricators
Docket No. CAA-05-2017-0031



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.

6/30/17
Date


Ann L. Coyle
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 5

Consent Agreement and Final Order
In the matter of: Paragon Metal Fabricators
Docket Number: CAA-05-2017-0031



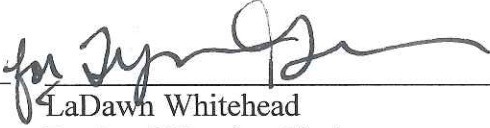
CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number CAA-05-2017-0031, which was filed on JUL - 6 2017, in the following manner to the following addressees:

Copy by E-mail to Respondent: Stan Muehlenkamp
stanm@paragonmetalfab.com

Copy by E-mail to Attorney for Complainant: John Matson
matson.john@epa.gov

Copy by E-mail to Regional Judicial Officer: Ann Coyle
coyle.ann@epa.gov

Dated: July 6, 2017 for 
LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5