

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD
LENEXA, KANSAS 66219

2019 DEC 13 AM 11:57

In the Matter of:

Able Manufacturing & Assembly, LLC
1000 Schifferdecker Avenue
Joplin, Missouri 64801

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) **Docket Nos.:** CAA-07-2019-0272
) EPCRA-07-2019-0273
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CONSENT AGREEMENT AND FINAL ORDER

I. PRELIMINARY STATEMENT

The United States Environmental Protection Agency (EPA), Region 7 (Complainant) and Able Manufacturing & Assembly, LLC (Able or Respondent) have agreed to a settlement of this action before the filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (Consolidated Rules of Practice), 40 Code of Federal Regulations (C.F.R.) §§ 22.13(b) and 22.18(b)(2). This Consent Agreement is a complete and final settlement of all civil and administrative claims and causes of action for the alleged violations set forth in this Consent Agreement subject to Paragraph 126.

II. JURISDICTION

1. This administrative action for the assessment of civil penalties is instituted pursuant to Section 113(d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(d); Section 325(c) of the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. § 11045(c); and in accordance with the Consolidated Rules of Practice.

2. Section 113(d) of the CAA, states that the Administrator may issue an administrative order against any person assessing a civil administrative penalty of up to \$25,000 per day of violation, whenever, on the basis of any available information, the Administrator finds that such person has violated or is violating any requirement or prohibition of the CAA referenced therein, including Section 112 of the CAA, 42 U.S.C. § 7412. Section 113(d)(2)(B) of the CAA, 42 U.S.C. § 7413(d)(2)(B), provides that the EPA Administrator may compromise, modify, or remit, with or without conditions, any administrative penalty which may be imposed under Section 113(d) of the CAA. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, and its implementing regulations at 40 C.F.R. Part 19, increased these statutory maximum penalties to no more than \$37,500 per day for each violation occurring after

January 12, 2009 and before November 2, 2015; and no more than \$47,357 per day for each violation that occurred after November 2, 2015 and assessed after February 6, 2019.

3. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), authorizes the Administrator to assess a civil administrative penalty of up to \$25,000 for each violation of the requirements of Section 313, 42 U.S.C. § 11023. The EPA has adjusted this figure upward for inflation pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by the Federal Civil Penalties Inflation Adjustment Act of 2015, 28 U.S.C. § 2461, and the implementing regulations found at 40 C.F.R. Part 19, so that EPA is now authorized to assess civil administrative penalties of up to \$37,500 for each violation occurring after January 12, 2009 and before November 2, 2015; and up to \$57,317 for each violation that occurred after November 2, 2015 and assessed after February 6, 2019.

4. This Consent Agreement and Final Order (CAFO) serves as notice that EPA has reason to believe that Respondent has violated the National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Reinforced Plastic Composites Production, 40 C.F.R. Part 63, Subpart WWWW, promulgated pursuant to Section 112 of the CAA, 42 U.S.C. § 7412; and the reporting requirements of Section 313 of EPCRA, 42 U.S.C. § 11023, and the regulations promulgated thereunder.

5. The EPA Administrator and the United States Attorney General, through their delegated representatives, have jointly determined that this administrative penalty action is appropriate for a larger penalty amount or longer period of violation than the time and penalty limitations set forth in Section 113(d) of the CAA.

III. PARTIES

6. The Complainant, by delegation from the Administrator of the EPA, and the Regional Administrator of the EPA, Region 7, is the Director of the Enforcement and Compliance Assurance Division, EPA Region 7.

7. The Respondent is Able Manufacturing & Assembly, LLC, a company incorporated under the laws of the state of Indiana and authorized to do business in Missouri.

8. The Respondent is entering into this Consent Agreement with Complainant in this proceeding only and reserves all rights with respect to those not a party to this Agreement, or with respect to any proceedings except a proceeding to enforce this Agreement.

IV. STATUTORY AND REGULATORY FRAMEWORK

National Emissions Standards for Hazardous Air Pollutants

9. Section 112 of the CAA, 42 U.S.C. § 7412, authorizes the Administrator of EPA to regulate hazardous air pollutants (HAPs) which may have an adverse effect on health or the environment.

10. The Administrator established emission standards, codified at 40 C.F.R. Part 63, Subpart WWWW: National Emissions Standards for Hazardous Air Pollutants for Reinforced Plastic Composites Production, for owners or operators of a reinforced plastic composites production facility that is located at a major source of HAP emissions. 40 C.F.R. § 63.5785(a).

11. Pursuant to 40 C.F.R. § 63.5785(a) the provisions of the Reinforced Plastic Composites Production NESHAP apply to operations in which reinforced and/or nonreinforced plastic composites or plastic molding compounds are manufactured using thermoset resins and/or gel coats that contain styrene to produce plastic composites. The resins and gel coats may also contain materials designed to enhance the chemical, physical, and/or thermal properties of the product. Reinforced plastic composites production also includes cleaning, mixing, HAP-containing materials storage, and repair operations associated with the production of plastic composites.

12. Pursuant to 40 C.F.R. § 63.5790(a), the provisions of the Reinforced Plastic Composites Production NESHAP apply to new and existing affected sources at reinforced plastic composites production facilities constructed on or before August 2, 2001, that are major sources of HAPs.

13. Pursuant to 40 C.F.R. § 63.5790(b), the provisions of the Reinforced Plastic Composites Production NESHAP apply to the following affected sources which consist of all parts of the facility engaged in the following operations: open molding, closed molding, centrifugal casting, continuous lamination, continuous casting, polymer casting, pultrusion, sheet molding compound (SMC) manufacturing, bulk molding compound (BMC) manufacturing, mixing, cleaning of equipment used in reinforced plastic composites manufacture, HAP-containing materials storage, and repair operations on parts the facility also manufactures.

14. Pursuant to 40 C.F.R. § 63.5800, subject sources must comply with the standards in this subpart by the dates specified in Table 2 to this subpart.

15. Pursuant to 40 C.F.R. § 63.5810, subject sources must demonstrate compliance with the organic HAP emissions standard by using different compliance options for the different operations listed in Table 3 or 5 to this subpart. The necessary calculations must be completed within 30 days after the end of each month.

16. Pursuant to 40 C.F.R. § 63.5915, subject sources must keep and maintain certain records to demonstrate compliance with this subpart. 40 C.F.R. § 63.5915(c) states you must keep all data, assumptions, and calculations used to determine organic HAP emissions factors or average organic HAP contents for operations listed in tables 3, 5, and 7 to this subpart. 40 C.F.R. § 63.5915(c).

17. Pursuant to 40 C.F.R. § 63.5910, subject sources must submit certain reports, such as semiannual reports, by the required dates set forth in this subpart. Semiannual reports must

contain specified information along with statement by a responsible official certifying the truth, accuracy, and completeness of the content of the report(s).

18. Pursuant to 40 C.F.R. § 63.5835, subject sources must comply at all times with the work practice standards in Table 4 to this subpart, as well as the organic HAP emissions limits in Tables 3, or 5, or the organic HAP content limits in Table 7 to this subpart, as applicable, that the source is meeting without the use of add-on controls.

19. Pursuant to 40 C.F.R. § 63.5805, subject sources must meet the applicable work practice standards set forth in Table 4 to this subpart. Table 4 requires an existing source to “keep containers that store HAP-containing materials closed or covered except during the addition or removal of materials.” 40 C.F.R. Part 63, Subpart WWWW, Table 4.

20. The effective date of the Reinforced Plastic Composites NESHAP was April 21, 2003. 68 Fed. Reg. 19375 (Apr. 21, 2003).

Toxic Chemical Release Reporting
Emergency Planning and Community Right to Know Act

21. Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. §§ 372.22 and 372.30 require the owner or operator of a facility that (a) has ten or more full-time employees; (b) is an establishment with a primary SIC major group or industry code listed in 40 C.F.R. § 372.23(a) or a primary NAICS subsector or industry code listed in 40 C.F.R. §§ 372.23(b) or (c); and (c) “manufactured, processed, or otherwise used” a toxic chemical listed under Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and 40 C.F.R. § 372.65, in excess of the threshold quantity established under Section 313 (f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. §§ 372.25, 372.27 or 372.28 during the calendar year, to complete and submit a toxic chemical release inventory Form R to the Administrator of EPA and to the State in which the subject facility is located by July 1, for the preceding calendar year, for each toxic chemical known by the owner or operator to be “manufactured, processed, or otherwise used” in quantities exceeding the established threshold quantity during that preceding calendar year.

22. According to Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25, the threshold amount for reporting under Section 313(b) of EPCRA, 42 U.S.C. § 11023(b), and 40 C.F.R. § 372.30 is 25,000 pounds for any toxic chemical “manufactured or processed” and 10,000 pounds for any toxic chemical “otherwise used” for the applicable calendar year. Alternative reporting thresholds for certain other chemicals are set forth in 40 C.F.R. §§ 372.27 and 372.28.

V. DEFINITIONS

Clean Air Act

23. Pursuant to 40 C.F.R. § 63.2, “owner or operator” is defined as “any person who owns, leases, operates, controls, or supervises a stationary source.”

24. Section 112(a) of the CAA, 42 U.S.C. § 7412(a), defines “major source” as any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, considering controls, in the aggregate, ten (10) tons per year or more of any single HAP or twenty-five (25) tons per year or more of any combination of HAPs.

25. Section 112(a)(3) of the CAA, 42 U.S.C. § 7412(a)(3), and 40 C.F.R. § 63.2 defines a “stationary source” as “the collection of equipment, activities, or both within a single contiguous area and under common control that is included in a Section 112(c) source category or subcategory for which a Section 112(d) standard or other relevant standard is established pursuant to Section 112 of the Act.”

26. Pursuant to 40 C.F.R. § 63.2, “affected source” is defined as “the stationary source, the group of stationary sources, or the portion of a stationary source that is regulated by a relevant standard or other requirement established pursuant to section 112 of the Act.”

Emergency Planning and Community Right-to-Know Act

27. The regulations at 40 C.F.R. § 372.3 define “facility” as “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). A facility may contain more than one establishment.”

28. The regulations at 40 C.F.R. § 372.3 define “full-time employees” as “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.”

29. The regulations at 40 C.F.R. § 372.3 define “toxic chemical” as a “chemical or chemical category listed in 40 C.F.R. § 372.65.”

30. The regulations at 40 C.F.R. § 372.3 define “manufacture” as “to produce, prepare, import or compound a toxic chemical. Manufacture also applies to a toxic chemical that is produced coincidentally during the manufacture, processing, use or disposal of another chemical or mixture of chemicals, including a toxic chemical that is separated from that other chemical or mixture of chemicals as a byproduct, and a toxic chemical that remains in that other chemical mixture of chemicals as an impurity.”

31. “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. 40 C.F.R. § 372.3.

32. “Otherwise use” means any use of a toxic chemical, including a toxic chemical contained in a mixture or other trade name product or waste, that is not covered by the terms “manufacture” or “process.” Otherwise use of a toxic chemical does not include disposal, stabilization (without subsequent distribution in commerce), or treatment for destruction unless: (1) the toxic chemical that was disposed, stabilized, or treated for destruction was received from off-site for the purposes of further waste management; or (2) the toxic chemical that was disposed, stabilized, or treated for destruction was manufactured as a result of waste management activities on materials received from off-site for the purposes of further waste management activities. Relabeling or redistributing of the toxic chemical where no repackaging of the toxic chemical occurs does not constitute otherwise use or processing of the toxic chemical. 40 C.F.R. § 372.3.

VI. FACTUAL ALLEGATIONS

Clean Air Act

33. At all times pertinent to this action, Respondent was the “owner” and “operator” of a reinforced plastic composites production facility at 1000 Schifferdecker Avenue, Joplin, Missouri (Facility) within the meaning of Section 112(a) of the CAA, 42 U.S.C. §7412(a).

34. At all times pertinent to this action, Respondent’s Facility was a “stationary source” as that term is defined in Section 112(a)(3) of the CAA, 42 U.S.C. § 7412(a)(3).

35. At all times pertinent to this action, Respondent’s Facility was a “major source” of Volatile Organic Compounds (VOCs) and HAPs and is required to demonstrate initial and continuous compliance with the standards of 40 C.F.R. Part 63, Subpart WWWW.

36. Respondent manufactures reinforced plastic composites using thermoset resins and/or gel coats that contain styrene. Respondent manufactures several products using the open mold, lay-up process, and the closed mold process, which are regulated under the CAA as articulated in 40 C.F.R. § 63.5790.

37. Respondent emits or has the potential to emit, in the aggregate, ten (10) tons per year or more of a hazardous air pollutant or twenty-five (25) tons per year or more of any combination of hazardous air pollutants

38. Respondent emits hazardous air pollutants including styrene and methyl methacrylate (MMA) as a result of its manufacturing operation. Styrene and MMA are listed Hazardous Air Pollutants. 42 U.S.C. § 7412(b)(1).

39. Respondent is subject to the Title V permitting program. 42 U.S.C. § 7661a. The Missouri Department of Natural Resources (MDNR) issued a Title V operating permit to Respondent’s Facility on October 6, 2010. The permit states that Respondent’s Facility is subject to, among other regulations, the requirements of Subpart WWWW. Able is currently working

with MDNR on a permit issuance and is authorized to operate under the 2010 permit requirements until the new permit is issued.

40. On February 3, 2015, a duly authorized representative from EPA Region 7 conducted a CAA Inspection at Respondent's Facility located at 1000 Schifferdecker Avenue, Joplin, Missouri. At the time of this inspection, Respondent was unable to provide the inspector with 2014 records to demonstrate compliance with 40 C.F.R. Part 63, Subpart WWWW because the records were offsite.

41. On July 9 and 10, 2018, a duly authorized representative from EPA Region 7 conducted a CAA Full Compliance Inspection at Respondent's Facility located at 1000 Schifferdecker Avenue, Joplin, Missouri. This CAA inspection evaluated Respondent's compliance with CAA requirements, including but not limited to, 40 C.F.R. Part 63, Subparts MMMM, PPPP, and WWWW. In August 2018, EPA provided Respondent an Air Compliance Inspection Report regarding this inspection, identifying certain findings.

42. On September 19, 2018, the EPA sent an information request pursuant to Section 114(a) of the CAA, 42 U.S.C. § 7414(a), which required Respondent to provide EPA specific data to assess Respondent's compliance status with 40 C.F.R. Part 63, Subpart WWWW.

43. On October 19, 2018, Respondent submitted a response to the Section 114(a) Request. Respondent also submitted various iterations of records to the EPA from the date of the July 2018 inspection up to November 6, 2018.

Emergency Planning and Community Right-to-Know Act

44. Respondent is, and at all times referred to herein was, a "person" as defined by Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

45. Respondent's Facility, located at 1000 Schifferdecker Avenue, Joplin, Missouri 64801, is a "facility" as that term is defined by Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and by 40 C.F.R. § 372.3.

46. Respondent's Facility has ten or more "full-time employees" pursuant to Section 313(b)(1)(A) of EPCRA, 42 U.S.C. § 11023(b)(1)(A), and as defined by 40 C.F.R. § 372.3.

47. Respondent's Facility is classified as an establishment primarily engaged in the manufacture of custom mold composites.

48. Respondent's Facility is classified as NAICS Code 326199 – all other plastics product manufacturing.

49. Styrene is a "toxic chemical" within the meaning of 40 C.F.R. §§ 372.3 and 372.65.

50. During reporting years 2015, 2016, and 2017 the toxic chemical identified in Paragraph 49 was “manufactured, processed, or otherwise used” as those terms are defined by 40 C.F.R. § 372.3 at Respondent’s Facility.

51. On July 9 and 10, 2018, a duly authorized representative from EPA Region 7 conducted an EPCRA Section 313 Toxic Release Inventory (TRI) inspection at Respondent’s Facility located at 1000 Schifferdecker Avenue, Joplin, Missouri. In August 2018, EPA provided Respondent a report regarding this inspection, identifying certain findings.

VII. ALLEGED VIOLATIONS OF LAW

Count 1

Failure to comply with 40 C.F.R. Part 63, Subpart WWWW for 2015

52. Paragraphs 1 through 51 are incorporated by reference as if fully set forth herein.

53. Pursuant to the provisions of the Reinforced Plastic Composites Production NESHAP, Respondent shall keep and maintain certain records, including but not limited to, all data, assumptions, and calculations used to determine organic HAP emissions factors or average organic HAP contents for operations listed in Tables 3, 5, and 7 to 40 C.F.R. Part 63, Subpart WWWW. 40 C.F.R. § 63.5915.

54. Pursuant to the provisions of the Reinforced Plastic Composites Production NESHAP, Respondent shall submit certain reports, such as semiannual reports, by the required dates set forth in 40 C.F.R. § 63.5910. Semiannual reports must contain specified information along with a statement by a responsible official certifying the truth, accuracy, and completeness of the content of the report(s). 40 C.F.R. § 63.5910(c).

55. During and after the EPA inspection referenced in Paragraph 40 above, Respondent provided incomplete and inaccurate records to demonstrate compliance with 40 C.F.R. Part 63, Subpart WWWW for 2015. Specifically, Respondent’s 2015 records significantly under reported the material usage, the styrene and other organic HAP emissions, and did not match the purchase records. 40 C.F.R. § 63.5915.

56. Respondent submitted incomplete and inaccurate semiannual reports to EPA for 2015. Specifically, the 2015 semiannual reports significantly underreported the Respondent’s material usage and emissions of styrene and other organic HAPs. 40 C.F.R. § 63.5910(c).

57. Respondent failed to keep and maintain all data, assumptions, and calculations used to determine organic HAP emissions factors or average organic HAP contents for operations listed in Tables 3, 5, and 7 to 40 C.F.R. Part 63, Subpart WWWW for 2015. 40 C.F.R. § 63.5915(c).

58. Respondent failed to submit to EPA complete and accurate semiannual reports for styrene and other organic HAP emissions in accordance with 40 C.F.R. Part 63, Subpart WWWW for 2015. 40 C.F.R. § 63.5910(c).

59. Respondent's failure to keep and maintain complete and accurate records for styrene and other organic HAP emissions; and to submit complete and accurate semiannual reports for 2015 is a violation of the CAA and its implementing regulations. 42 U.S.C. § 7412, 40 C.F.R. Part 63, Subpart WWWW.

Count 2

Failure to comply with 40 C.F.R. Part 63, Subpart WWWW for 2016

60. Paragraphs 1 through 51 are incorporated by reference as if fully set forth herein.

61. Paragraphs 53 and 54 are incorporated by reference as if fully set forth herein.

62. During and after the EPA inspection referenced in Paragraph 40 above, Respondent provided incomplete and inaccurate records to demonstrate compliance with 40 C.F.R. Part 63, Subpart WWWW for 2016. Specifically, Respondent's 2016 records significantly under reported the material usage, the styrene and other organic HAP emissions, and did not match the purchase records. 40 C.F.R. § 63.5915.

63. Respondent submitted incomplete and inaccurate semiannual reports to EPA for 2016. Specifically, the 2016 semiannual reports significantly underreported the Respondent's material usage and emissions of styrene and other organic HAPs. 40 C.F.R. § 63.5910(c).

64. Respondent failed to keep and maintain all data, assumptions, and calculations used to determine organic HAP emissions factors or average organic HAP contents for operations listed in Tables 3, 5, and 7 to 40 C.F.R. Part 63, Subpart WWWW for 2016. 40 C.F.R. § 63.5915(c).

65. Respondent failed to submit to EPA complete and accurate semiannual reports for styrene and other organic HAP emissions in accordance with 40 C.F.R. Part 63, Subpart WWWW for 2016. 40 C.F.R. § 63.5910(c).

66. Respondent's failure to keep and maintain complete and accurate records for styrene and other organic HAP emissions, and to submit complete and accurate semiannual reports for 2016 is a violation of the CAA and its implementing regulations. 42 U.S.C. § 7412, 40 C.F.R. Part 63, Subpart WWWW.

Count 3

Failure to comply with 40 C.F.R. Part 63, Subpart WWWW for 2017

67. Paragraphs 1 through 51 are incorporated by reference as if fully set forth herein.
68. Paragraphs 53 and 54 are incorporated by reference as if fully set forth herein.
69. After EPA review of Respondent's response to the Section 114(a) Request as referenced in Paragraph 43 above, EPA found that Respondent's records were incomplete and inaccurate for purposes of demonstrating compliance with 40 C.F.R Part 63, Subpart WWWW for 2017. Specifically, Respondent's 2017 records significantly under reported the material usage, the styrene and other organic HAP emissions, and did not match the purchase records. 40 C.F.R. § 63.5915.
70. Respondent submitted incomplete and inaccurate semiannual reports to EPA for 2017. Specifically, the 2017 semiannual reports significantly underreported the Respondent's material usage and emissions of styrene and other organic HAPs. 40 C.F.R. § 63.5910(c).
71. Respondent failed to keep and maintain all data, assumptions, and calculations used to determine organic HAP emissions factors or average organic HAP contents for operations listed in Tables 3, 5, and 7 to 40 C.F.R. Part 63, Subpart WWWW for 2017. 40 C.F.R. § 63.5915(c).
72. Respondent failed to submit to EPA complete and accurate semiannual reports for styrene and other organic HAP emissions in accordance with 40 C.F.R. Part 63, Subpart WWWW for 2017. 40 C.F.R. § 63.5910(c).
73. Respondent's failure to keep and maintain complete and accurate records for styrene and other organic HAP emissions, and to submit complete and accurate semiannual reports for 2017 is a violation of the CAA and its implementing regulations. 42 U.S.C. § 7412, 40 C.F.R. Part 63, Subpart WWWW.

Count 4

Failure to comply with workplace standards under 40 C.F.R. Subpart WWWW

74. Paragraphs 1 through 51 are incorporated by reference as if fully set forth herein.
75. Pursuant to the provisions of the Reinforced Plastic Composites Production NESHAP, Respondent shall meet the applicable work practice standards set forth in Table 4 to 40 C.F.R. Part 63, Subpart WWWW. 40 C.F.R. § 63.5805.
76. At the time of the EPA inspection referenced in Paragraph 41 above, Respondent failed to "keep containers that store HAP-containing materials closed or covered except during

the addition or removal of materials.” Specifically, the inspector found multiple 55-gallon drums of HAP-containing materials open during the inspection. The inspector also found numerous 5-gallon buckets of HAP-containing materials open and not in active-mixing or active-process stages. 40 C.F.R. Part 63, Subpart WWWW, Table 4.

77. Respondent’s failure to comply with workplace standards at the time of the 2018 inspection is a violation of the CAA and its implementing regulations. 42 U.S.C. § 7412, 40 C.F.R. Part 63, Subpart WWWW.

Count 5

78. Paragraphs 1 through 51 are incorporated by reference as if fully set forth herein.

79. Pursuant to 40 C.F.R. § 372.25, the threshold reporting quantity for manufacturing or processing Styrene is 25,000 pounds, and the threshold reporting quantity for otherwise using Styrene is 10,000 pounds.

80. The toxic chemical Styrene was manufactured, processed, and/or otherwise used at Respondent’s Facility in excess of the applicable threshold quantity during reporting year 2015.

81. Respondent failed to file a Form R report for Styrene with the Administrator of EPA and the State of Missouri for 2015 by the July 1, 2016 deadline. Respondent filed the Form R report on or about August 4, 2016.

82. Respondent’s failure to timely submit a Form R report for Styrene is a violation of Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30.

Count 6

83. Paragraphs 1 through 51 are incorporated by reference as if fully set forth herein.

84. Pursuant to 40 C.F.R. § 372.25, the threshold reporting quantity for manufacturing or processing Styrene is 25,000 pounds, and the threshold reporting quantity for otherwise using Styrene is 10,000 pounds.

85. The toxic chemical Styrene was manufactured, processed, and/or otherwise used at Respondent’s Facility in excess of the applicable threshold quantity during reporting year 2015.

86. During the EPA inspection referenced in Paragraph 51 above, the inspector noted that Respondent was not maintaining complete records as required by 40 C.F.R. § 372.10. Specifically, Respondent failed to maintain records supporting the calculations or providing reasonable estimates of releases or off-site transfers of Styrene for reporting year 2015. 40 C.F.R. § 372.10(a).

87. Respondent's failure to maintain complete records at its facility for reporting year 2015, is a violation of Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.10.

Count 7

88. Paragraphs 1 through 51 are incorporated by reference as if fully set forth herein.

89. Pursuant to 40 C.F.R. § 372.25, the threshold reporting quantity for manufacturing or processing Styrene is 25,000 pounds, and the threshold reporting quantity for otherwise using Styrene is 10,000 pounds.

90. The toxic chemical Styrene was manufactured, processed, and/or otherwise used at Respondent's Facility in excess of the applicable threshold quantity during reporting year 2016.

91. During the EPA inspection referenced in Paragraph 51 above, the inspector noted that Respondent was not maintaining complete records as required by 40 C.F.R. § 372.10. Specifically, Respondent failed to maintain records supporting the calculations or providing reasonable estimates of releases or off-site transfers of Styrene for reporting year 2016. 40 C.F.R. § 372.10(a).

92. Respondent's failure to maintain complete records at its facility for reporting year 2016, is a violation of Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.10.

Count 8

93. Paragraphs 1 through 51 are incorporated by reference as if fully set forth herein.

94. Pursuant to 40 C.F.R. § 372.25, the threshold reporting quantity for manufacturing or processing Styrene is 25,000 pounds, and the threshold reporting quantity for otherwise using Styrene is 10,000 pounds.

95. The toxic chemical Styrene was manufactured, processed, and/or otherwise used at Respondent's Facility in excess of the applicable threshold quantity during reporting year 2017.

96. During the EPA inspection referenced in Paragraph 51 above, the inspector noted that Respondent was not maintaining complete records as required by 40 C.F.R. § 372.10. Specifically, Respondent failed to maintain records supporting the calculations or providing reasonable estimates of releases or off-site transfers of Styrene for reporting year 2017. 40 C.F.R. § 372.10(a).

97. Respondent's failure to maintain complete records at its facility for reporting year 2017, is a violation of Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.10.

Count 9

98. Paragraphs 1 through 51 are incorporated by reference as if fully set forth herein.

99. Pursuant to 40 C.F.R. § 372.25, the threshold reporting quantity for manufacturing or processing Styrene is 25,000 pounds, and the threshold reporting quantity for otherwise using Styrene is 10,000 pounds.

100. The toxic chemical Styrene was manufactured, processed, and/or otherwise used at Respondent's Facility in excess of the applicable threshold quantity during reporting year 2017.

101. Respondent filed a Form R report for Styrene with the Administrator of EPA and the State of Missouri for reporting year 2017 with significant data quality errors. Respondent's filed Form R under reported the amount of Styrene released from its facility resulting in a significant data quality error.

102. Respondent's submission of a Form R report for Styrene with significant data quality errors is a violation of Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30.

VIII. CONSENT AGREEMENT

103. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:

- (a) Admits that the EPA has jurisdiction over the subject matter alleged in this Consent Agreement;
- (b) Neither admits nor denies the specific factual allegations stated above;
- (c) Consents to the assessment of a civil penalty as stated below;
- (d) Consents to the issuance of any specified compliance or corrective action order;
- (e) Consents to the conditions specified in this Consent Agreement;
- (f) Consents to any stated Permit Action;
- (g) Waives any right to contest the alleged violations of law set forth in Section VII of this Consent Agreement; and
- (h) Waives its rights to appeal the Final Order portion of this Consent Agreement.

104. For the purpose of this proceeding, Respondent:
- (a) Agrees that this Consent Agreement states a claim upon which relief may be granted against Respondent;
 - (b) Acknowledges that this Consent Agreement constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement actions;
 - (c) Waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this Consent Agreement, including any right of judicial review under Section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1);
 - (d) Consents to personal jurisdiction in any action to enforce this Consent Agreement or Order, or both, in the United States District Court for the Western District of Missouri; and
 - (e) Waives any rights it may possess at law or in equity to challenge the authority of the EPA to bring a civil action in a United States District Court to compel compliance with the Consent Agreement or Order, or both, and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action.

A. Penalty Payment

105. Respondent agrees that, in settlement of the claims alleged in this Consent Agreement, Respondent shall pay a compromised civil penalty of \$40,000.00. EPA has considered the appropriateness of the penalty pursuant to the Clean Air Act Stationary Source Penalty Policy, and has determined that based on substantiated financial information, the penalty of \$40,000.00 may be paid in installments. Respondent agrees that, in settlement of the claims alleged herein, Respondent shall pay the compromised civil penalty of Forty Thousand Dollars (\$40,000.00), plus interest of Two Hundred Fifty Dollars and Thirty Two Cents (\$250.32) over a period of one (1) year for a total payment of Forty Thousand Two Hundred Fifty Dollars and Thirty Two Cents (\$40,250.32). The total payment shall be paid in quarterly payments of Ten Thousand Sixty-Two Dollars and Fifty-Eight Cents (\$10,062.58). The first payment must be received in accordance with paragraph 106 below on or before February 25, 2020. Each subsequent payment shall be paid in quarterly installments after the previous payment.

106. Payment of the penalty may be submitted on-line at www.pay.gov by entering "SFO 1.1" in the "Search Public Forms" field. Open the on-line form and complete required fields to complete payment. Respondent shall print a copy of each payment receipt and mail a copy of each receipt to EPA's representative identified in this paragraph:

Regional Hearing Clerk
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219, and to

Sean Bergin
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219, and to

Keith Johnson
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 7
11201 Renner Blvd.
Lenexa, Kansas 66219.

Payments may also be made by cashier or certified check made payable to
“Treasurer of the United States” and remitted to:

U.S. Environmental Protection Agency
Fines and Penalties - CFC
P.O. Box 979077
St. Louis, Missouri 63197-9000.

The Respondent shall reference the EPA Docket Number on the check. A copy of
the check shall be provided to EPA’s representatives identified in this paragraph.

107. If Respondent fails to timely pay any portion of the EPA Penalty assessed under
this Consent Agreement, including any stipulated penalty assessed pursuant to this Consent
Agreement, the EPA may:

- (a) Request the Attorney General to bring a civil action in an appropriate
district court to recover: the amount assessed; interest at rates established
pursuant to 26 U.S.C. § 6621(a)(2); the United States’ enforcement
expenses; and a 10 percent quarterly nonpayment penalty, 42 U.S.C.
§ 7413(d)(5);
- (b) Refer the debt to a credit reporting agency or a collection agency,
42 U.S.C. § 7413(d)(5); 40 C.F.R. §§ 13.13, 13.14, and 13.33;
- (c) Collect the debt by administrative offset (i.e. the withholding of money
payable by the United States to, or held by the United States for, a person

to satisfy the debt the person owes the Government), which includes but is not limited to, referral to the Internal Revenue Service for offset against tax refunds, 40 C.F.R. Part 13, Subparts C and H; and

- (d) Suspend or revoke Respondent's licenses or other privileges, or (ii) suspend or disqualify Respondent from doing business with the EPA or engaging in programs the EPA sponsors or funds, 40 C.F.R. § 13.17.

B. Conditions

108. As a condition of settlement and in compromise of the civil penalty that EPA could otherwise impose herein, Respondent agrees to perform the following at Respondent's Facility:

109. Documentation of Violation Correction and Continued Compliance. Respondent shall provide the following documentation for a period of 12 months following the effective date of this Consent Agreement and Final Order to demonstrate correction of the above violations and continued compliance with the requirements of 40 C.F.R. Part 63, Subpart WWWW.

- (a) Quarterly reports. Each quarterly report shall be submitted to EPA within 30 days of the end of every 3 months of the quarter. The quarterly reports shall contain, at a minimum, the following:
 - i. Updated 12-month rolling average of HAP emissions.
 - ii. The part number, quantity, material type, application method, and percentage of HAP of each material used during the month on tracking spreadsheet per the requirements of 40 C.F.R. Part 63 Subpart WWWW.
 - iii. Attach a copy of the Safety Data Sheet for each product material part number used during the quarter. The Safety Data Sheet shall display the product part number and HAP percentages. The product part number on the Safety Data Sheet shall clearly match the part number on the tracking spreadsheet. The Safety Data Sheets may be provided in paper or digital PDF format.
 - iv. Attach a copy of purchase records for all VOC and HAP containing materials purchased during the quarter. The purchase records shall clearly show the part number and quantity of materials purchased. The part number and quantity shall match the tracking spreadsheet. Purchase records may be provided in paper or digital PDF format.

- v. Respondent shall conduct weekly inspections of the entire facility to ensure compliance with 40 C.F.R. Part 63, Subpart WWWW workplace standards. All potential violations of workplace standards, including open containers of HAP containing materials, must be documented with actions taken to comply. The documented weekly inspections shall be submitted to EPA in the quarterly reports.
- (b) Standard Operating Procedures. Respondent shall develop Standard Operating Procedures and Training Materials to ensure appropriate personnel are trained to comply with 40 C.F.R. Part 63, Subpart WWWW. These written Standard Operating Procedures and Training Materials shall be submitted to EPA within 5 months following the effective date of this Consent Agreement and Final Order. See Review and Approval Procedures in Paragraph 109(d) below.
- i. Respondent shall develop a written training plan for Respondent's purchasing/accounting department to report all purchased materials to Respondent's Environmental, Health, and Safety (EHS) Manager in a timely matter.
 - ii. Respondent shall develop a written, site-specific, training plan for complying with recordkeeping requirements of 40 C.F.R. Part 63, Subpart WWWW, in case of personnel changes.
 - iii. Respondent shall train a secondary (back-up) staff member (with signed training documentation) on the recordkeeping requirements of 40 C.F.R. Part 63, Subpart WWWW, in case the EHS Manager is on leave or unavailable.
 - iv. Respondent shall develop Standard Operating Procedures to ensure compliance with workplace standards required under 40 C.F.R. Part 63, Subpart WWWW, including open container requirements.
 - v. Respondent shall train all personnel using HAP-containing materials (with signed documentation maintained on-site) on 40 C.F.R. Part 63, Subpart WWWW workplace standards. Training materials shall visually demonstrate proper closed container requirements.
 - vi. Respondent shall submit documentation of training, including training materials (e.g. slides, handouts, manuals, etc.) and signed certificates of training completion to EPA within 90 days of completion of the training.

- (c) Certification. All documents required to be submitted to EPA by this Order shall contain the following certification, signed by an officer of Respondent:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

- (d) Review and Approval procedures. EPA will review any document that is specifically required to be submitted by Respondent pursuant to paragraphs 109 and 113 of this Consent Agreement according to the procedures outlined in this paragraph. EPA will review such document and may approve, approve with comments, or disapprove and provide comments to Respondent, indicating the requirements of this Consent Agreement with which Respondent did not comply. If the document is approved with comments, Respondent may proceed with any actions required by the document but must incorporate EPA's comments and resubmit the document within twenty (20) days of receipt of comments. If the document is disapproved with comments, Respondent shall address EPA's comments and resubmit the document within twenty (20) days of receipt of comments. The EPA shall review the revised document and shall approve, approve with comments, or disapprove the document.
- (e) Submittals. The submissions required by the above paragraphs, subparagraphs and paragraph 113 shall be made in electronic native format (original Excel file that was used to make calculations) to:

Keith Johnson
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 7
11201 Renner Blvd.
Lenexa, Kansas 66219
Email: Johnson.Keith@epa.gov

- (f) To the extent this Agreement requires Respondent to submit any information to the EPA, Respondent may assert a business confidentiality claim covering part or all of that information, but only to the extent and only in the manner described in 40 C.F.R. Part 2, Subpart B. The EPA will disclose information submitted under a confidentiality claim only as provided in 40 C.F.R. Part 2, Subpart B. If Respondent does not assert a

confidentiality claim, the EPA may make the submitted information available to the public without further notice to Respondent.

110. Respondent agrees that the time period from the Effective Date of this Consent Agreement until all of the conditions specified in Paragraph 109 are completed (the “Tolling Period”) shall not be included in computing the running of any statute of limitations potentially applicable to any action brought by Complainant on any claims (the “Tolled Claims”) set forth in Section VII of this Consent Agreement. Respondent shall not assert, plead, or raise in any fashion, whether by answer, motion or otherwise, any defense of laches, estoppel, or waiver, or other similar equitable defense based on the running of any statute of limitations or the passage of time during the Tolling Period in any action brought on the Tolled Claims.

C. Supplemental Environmental Project

111. In settlement of the violations alleged in Section VII of this Consent Agreement, Respondent shall complete the SEP described in this Consent Agreement, which the parties agree is intended to secure significant environmental or public health protection and improvement.

112. Respondent shall complete the following SEP: Convert certain projects from an Open Molding process to a Light Resin Transfer Molding process by purchasing/developing tooling and/or molds, thereby enabling Respondent to reduce HAP and VOC emissions, minimize employee and community exposure, and reduce Respondent’s environmental impact per job. Respondent shall spend no less than Eighty Thousand Dollars (\$80,000) over two years to purchase/develop tooling and/or molds for its facility (\$40,000 no later than one year following entry of the Consent Agreement and Final Order; and \$40,000 no later than two years following entry of the Consent Agreement and Final Order). Respondent anticipates the purchase/development of between two and five Light Resin Transfer molds per year. This SEP shall be performed in accordance with the requirements of this Consent Agreement.

113. SEP Completion Report: Within 30 days of completion of the SEP, Respondent shall submit a SEP Completion Report to the EPA contact identified in Paragraph 109(e). The SEP Completion Report shall be subject to EPA review and approval as provided in Paragraph 109(d). The SEP Completion Report shall conform to the requirements of this Consent Agreement. The SEP Completion Report shall contain the following information:

- (a) Detailed description of the SEP as implemented. The description shall include details on the type and number of light resin molds purchased and used at the facility, including invoices documenting the cost for light resin molds purchased;
- (b) Description of any problems encountered in implementation of the projects and the solution thereto;
- (c) Description of the specific environmental and/or public health benefits resulting from implementation of the SEP. To the extent feasible,

Respondent shall quantify the benefits associated with the project and provide a report setting forth how the benefits were measured or estimated; and

- (d) Certification that the SEP has been fully implemented pursuant to the provisions of this Consent Agreement;
- (e) In itemizing its costs in the SEP Completion Report, Respondent shall clearly identify and provide acceptable documentation for all SEP costs. SEP costs shall not include Respondent's internal expenses such as overhead; internal employee time, salary or overtime; administrative expenses; legal fees; and contractor oversight related to performance of the SEP. For purposes of this Paragraph, "acceptable documentation" includes invoices, purchase orders, or other documentation that specifically identifies and itemizes the individual costs of the goods and/or services for which payment is being made. Cancelled drafts do not constitute acceptable documentation unless such drafts specifically identify and itemize the individual costs of the goods and/or services for which payment is being made.
- (f) The SEP Completion Report shall include the statement of Respondent, through an officer, signed and certifying under penalty of law the following:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

114. With regard to the SEP, Respondent certifies the truth and accuracy of each of the following:

- a) That all cost information provided to the EPA in connection with the EPA's approval of the SEP is complete and accurate and that Respondent in good faith estimates that the cost to implement the SEP is \$ 80,000;
- b) That, as of the date of executing this Consent Agreement and Final Order, Respondent is not required to perform or develop the SEP by any federal, state, or local law or regulation and is not required to perform or develop the SEP by agreement, grant, or as injunctive relief awarded in any other action in any forum;

- c) That the SEP is not a project that Respondent was planning or intending to construct, perform, or implement other than in settlement of the claims resolved in this Consent Agreement and Final Order;
- d) That Respondent has not received and will not receive credit for the SEP in any other enforcement action;
- e) That Respondent will not receive reimbursement for any portion of the SEP from another person or entity;
- f) That for federal income tax purposes, Respondent agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP; and
- g) That Respondent is not a party to any open federal financial assistance transaction that is funding or could fund the same activity as the SEP described in paragraph 112.

115. Any public statement, oral or written, in print, film, internet, or other media, made by Respondent making reference to the SEP shall include the following language:

This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency for alleged violations of the Clean Air Act. 42 U.S.C. § 7401 *et. seq.*

D. Stipulated Penalties

116. Respondent shall be liable for stipulated penalties to the United States in the amounts set forth below for failure to comply with the requirements of Paragraph 109 of this Consent Agreement. The following stipulated penalties shall accrue per violation per day:

- (a) For failure to submit quarterly reports to EPA as required by Paragraph 109(a):

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

- (b) For failure to submit Standard Operating Procedures and Training Materials to EPA as required by Paragraph 109(b):

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

117. Stipulated penalties for failure to complete SEP/Failure to spend agreed-on amount.

- (a) In the event Respondent fails to comply with any of the terms or provisions of this Agreement relating to the performance of the SEP described in this Consent Agreement, Respondent shall be liable for stipulated penalties according to the provisions set forth below:
 - i. If a SEP has not been completed satisfactorily and timely pursuant to this Consent Agreement, Respondent shall pay a stipulated penalty to the United States in the amount of \$84,000, minus any documented expenditures determined by EPA to be acceptable for the SEP.
 - ii. For failure to submit the SEP Completion Report, Respondent shall pay a stipulated penalty in the amount of \$250 for each day after the report was originally due until the report is submitted.
- (b) The determinations of whether the SEP has been satisfactorily completed and whether the Respondent has made a good faith, timely effort to implement the SEP shall be in the sole discretion of EPA.
- (c) The United States may, in the unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due under this Consent Agreement.

118. All penalties shall begin to accrue on the day after the complete performance is due or the day a violation occurs and shall continue to accrue through the final day of the correction of the noncompliance or completion of the activity. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Consent Agreement.

119. The payment of stipulated penalties under this Consent Agreement shall not alter in any way Respondent's obligations to comply with the provisions of this Consent Agreement.

120. Respondent shall pay stipulated penalties not more than fifteen (15) days after receipt of written demand by EPA for such penalties. Method of payment shall be in accordance with the provisions set forth in Paragraph 106 of this Consent Agreement.

121. The stipulated penalties provided for in this Consent Agreement shall be in addition to any other rights, remedies, or sanctions available to the EPA for Respondent's violation of this Consent Agreement or applicable law. Where a violation of this Consent Agreement is also a violation of statutory or regulatory requirements, Respondent shall be allowed a credit, for any stipulated penalties paid, against any statutory penalties imposed for such violation.

E. Additional Conditions

122. The provisions of this Agreement shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns. From the Effective Date of this Agreement until Termination of this Consent Agreement, Respondent must give written notice and a copy of this Agreement to any successors in interest or transferees (collectively, Transferees) prior to any transfer of ownership or control of any portion of or interest in the facility. Simultaneously with such notice, Respondent shall provide written notice of such transfer, assignment, or delegation to the EPA. In the event of any such transfer, assignment, or delegation, Respondent shall not be released from the obligations or liabilities of this Agreement unless the EPA has provided written approval of the release of said obligations or liabilities.

123. Respondent shall take reasonable measures to ensure that all contractors, employees, consultants, firms or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this Consent Agreement. By signing this Agreement, Respondent acknowledges that this Consent Agreement will be available to the public and agrees that this Consent Agreement does not contain any confidential business information or personally identifiable information,

124. By signing this Consent Agreement, the undersigned representative of Complainant and the undersigned representative of Respondent each certify that he or she is fully authorized to execute and enter into the terms and conditions of this Consent Agreement and has the legal capacity to bind the party he or she represents to it.

125. By signing this Consent Agreement, Respondent certifies that the information it has supplied concerning this matter was at the time of submission true, accurate, and complete for each such submission, response, and statement. Respondent acknowledges that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.

126. Except as qualified by Paragraph 107, each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.

F. Effect of Consent Agreement

127. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this Consent Agreement resolves only Respondent's liability for federal civil penalties for the violations and facts specifically alleged above.

128. Penalties paid pursuant to this Consent Agreement shall not be deductible for purposes of federal taxes.

129. This Consent Agreement constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to the subject matter hereof.

130. The terms, conditions, and compliance requirements of this Consent Agreement may not be modified or amended except upon the written agreement of both parties, and approval of the Regional Judicial Officer.

131. Any violation of this Consent Agreement may result in a civil judicial action for an injunction or civil penalties of up to \$99,681 per day per violation, or both, as provided in Section 113(b)(2) of the CAA, 42 U.S.C. § 7413(b)(2), as well as criminal sanctions as provided in Section 113(c) of the CAA, 42 U.S.C. § 7413(c). The EPA may use any information submitted under this Consent Agreement in an administrative, civil judicial, or criminal action.

132. Nothing in this Consent Agreement shall relieve Respondent of the duty to comply with all applicable provisions of the CAA, EPCRA, and other federal, state, or local laws or statutes, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.

133. Nothing herein shall be construed to limit the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

134. This Consent Agreement shall automatically terminate upon the latest date of the following events: (a) payment by Respondent of the EPA Penalty described in Paragraph 105; (b) completion by Respondent of the Conditions described in Paragraph 109; (c) payment by Respondent of all stipulated penalties in accordance with Paragraphs 116 and 117; and (d) completion by Respondent of the SEP described in Paragraph 112 and EPA approval of the SEP Completion Report as set forth in Paragraph 113. Upon termination EPA shall provide written notice to Respondent acknowledging that the Consent Agreement has terminated.

135. Respondent shall comply with all terms of the Consent Agreement. The terms of this Consent Agreement shall apply to and be binding upon Complainant and Respondent, and Respondent's agents, successors and/or assigns. Respondent shall take steps to ensure that all contractors, employees, consultants, firms or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this Consent Agreement.

G. Effective Date

136. Respondent and Complainant agree to issuance of the attached Final Order. Upon filing, the EPA will transmit a copy of the filed Consent Agreement to the Respondent. This Consent Agreement and attached Final Order shall become effective after execution of the Final Order by the Regional Judicial Officer, on the date of filing with the Hearing Clerk.

FOR COMPLAINANT:

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 12-11-19

By: Wendy Lubbe
David Cozad
Director
Enforcement and Compliance Assurance Division

Date: 12-11-19

By: Julie Murray
Julie Murray
Assistant Regional Counsel

FOR RESPONDENT:

ABLE MANUFACTURING & ASSEMBLY, LLC

Date: 12-2-19

By:  _____

Printed Name: Richard Grise

Title: President

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD
LENEXA, KANSAS 66219

In the Matter of:)
)
Able Manufacturing & Assembly, LLC) CONSENT AGREEMENT AND FINAL
1000 Schifferdecker Avenue) ORDER
Joplin, Missouri 64801)
) Docket Nos: CAA-07-2019-0272
) EPCRA-07-2019-0273
)
_____)

Pursuant to 40 C.F.R. § 22.18(b) of the EPA's Consolidated Rules of Practice; Section 113(d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(d), and Section 325(c) of the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. § 11045(c), the attached Consent Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified.

The Respondent is ORDERED to comply with all terms of the Consent Agreement, effective immediately.

IT IS SO ORDERED.

Dec. 12, 2019
Date

Karina Borromeo
Karina Borromeo
Regional Judicial Officer

*In the matter of Able Manufacturing & Assembly, LLC
Consent Agreement and Final Order
CAA-07-2019-0272
EPCRA-2019-0273*

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Consent Agreement and Final Order in the matter of Able Manufacturing & Assembly, LLC; Docket Nos. CAA-07-2019-0272 and EPCRA-2019-0273, was sent this day in the following manner to the addressees:

Copy via Email to Complainant:

Julie Murray
murray.julie@epa.gov

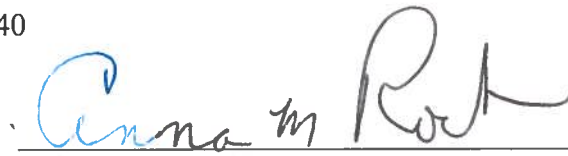
AND

Copy via Certified Mail, Return Receipt Requested to the Attorney for the Respondent:

Mr. James T. Price
Attorney at Law
Spencer Fane Britt & Browne LLP
1000 Walnut Street, Suite 1400
Kansas City, MO 64106-2140

Dated: _____

12/13/2019



Anna Rock
Acting Hearing Clerk, Region 7