

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 7

901 NORTH FIFTH STREET  
KANSAS CITY, KANSAS 66101

10 JAN 19 PM 2:01

ENVIRONMENTAL PROTECTION  
AGENCY-REGION VII  
REGIONAL HEARING CLERK

BEFORE THE ADMINISTRATOR

IN THE MATTER OF ) Docket No. CAA-07-2009-0021  
)  
CHARGER, INC. AND ALL FAMILY )  
CRAFT, INC. )  
)  
RICHLAND, MISSOURI ) CONSENT AGREEMENT AND  
) FINAL ORDER  
)  
)  
)  
)  
Respondents. )  
)

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**I. PRELIMINARY STATEMENT**

The proceeding was initiated on or about August 14, 2009, when the United States Environmental Protection Agency, Region 7 (Complainant or EPA) issued a Complaint, Notice of Proposed Penalty, and Notice of Opportunity for Hearing (Complaint) to Charger, Inc. and All Family Craft, Inc. Pursuant to Sections 113(d)(2)(A) and 113(d)(2)(B) of the Clean Air Act (CAA), 42 U.S.C. §§ 7413(d)(2)(A), 7413(d)(2)(B) the Complainant sought civil penalties for alleged violations of 40 C.F.R. Part 63, Subpart VVVV, promulgated pursuant to Section 112 of the CAA, 42 U.S.C. § 7412.

The Complainant and Respondents subsequently entered into negotiations in an attempt to settle the allegations contained in the Complaint. This Consent Agreement and Final Order (CAFO) is the result of such negotiations and resolves all issues relating to the administrative claims arising from the Complaint.

**II. CONSENT AGREEMENT**

1. Respondents and EPA agree to the terms of this CAFO and Respondents agree to comply with the terms of the Final Order portion of this CAFO. The terms of this CAFO shall not be modified except by a subsequent written agreement between the parties.

2. For purposes of this proceeding, Respondents admit the jurisdictional allegations set forth above, and agree not to contest EPA's jurisdiction in this proceeding or any subsequent proceeding to enforce the terms of the Final Order portion of this

CAFO.

3. Respondents neither admit nor deny the factual allegations set forth in the Complaint.

4. Respondents waive their right to further contest the factual allegations and legal conclusions set forth in the Complaint in this or subsequent proceedings to enforce the terms of this CAFO, and agree not to appeal the Final Order set forth below.

5. Respondents explicitly waive their right to a hearing on any issue of fact or law set forth in EPA's Complaint.

6. Respondents and EPA agree to bear their respective costs and attorney's fees incurred as a result of this action.

7. This CAFO addresses all civil and administrative claims for the CAA violations identified in the Complaint, existing through the effective date of this CAFO. Complainant reserves the right to take enforcement action with respect to any other violations of the CAA or other applicable law.

8. Respondents certify by signing of this CAFO that to the best of their knowledge, Respondents' facility is in compliance with all requirements of 40 C.F.R. Part 63, Subpart VVVV, promulgated pursuant to Section 112 of the Act, 42 U.S.C. § 7412.

9. The effect of settlement described in Paragraph 7 is conditional upon the accuracy of the Respondents' representations to EPA, as memorialized in Paragraph 8, above, of this CAFO.

10. The undersigned representatives of each Respondent certify that he or she is fully authorized to enter the terms and conditions of this CAFO and to execute and legally bind each Respondent to it.

11. Nothing contained in the Final Order portion of this CAFO shall alter or otherwise effect each Respondent's obligation to comply with all applicable federal, state, and local environmental statutes and regulations and applicable permits.

12. Respondents agree that, in settlement of the claims alleged in the Complaint, Respondents shall pay a penalty of Seven Thousand Six Hundred and Eighty Dollars and No Cents (\$7,680.00) as set forth in Paragraph 1 of the Final Order.

13. Respondents understand that failure to pay any portion of the civil penalty on the date the same is due may result in the commencement of a civil action in Federal District Court to collect said penalty, along with interest thereon at the applicable statutory rate.

14. Respondents agree that, in settlement of the claims alleged in the Complaint, Respondents agree to comply with the conditions of mitigation of penalty set forth below.

### III. FINAL ORDER

Pursuant to the provisions of the CAA, 42 U.S.C. § 7401 *et. seq.*, and based upon the information set forth in this Consent Agreement, IT IS HEREBY ORDERED THAT:

1. Respondents shall pay a civil penalty of Seven Thousand Six Hundred and Eighty Dollars and NoCents (\$7,680.00), plus interest of One Hundred and Twelve Dollars and Thirty-Two Cents (\$112.32), over a period of three years for a total payment of \$7,792.32. The total civil penalty shall be paid in twelve (12) installments. The first payment of \$649.36 shall be paid no later than thirty (30) days of the effective date of this CAFO. The subsequent eleven payments shall be made on the following schedule:

Payment Amount	Date
\$649.36	No later than April 15, 2010
\$649.36	No later than July 15, 2010
\$649.36	No later than October 15, 2010
\$649.36	No later than January 15, 2011
\$649.36	No later than April 15, 2011
\$649.36	No later than July 15, 2011
\$649.36	No later than October 15, 2011
\$649.36	No later than January 15, 2012
\$649.36	No later than April 15, 2012
\$649.36	No later than July 15, 2012
\$649.36	No later than October 15, 2012

2. Respondents shall submit either a SIP approved intermediate or Part 70, as appropriate, operating permit application to MDNR pursuant to 10 CSR 10-6.065 within thirty (30) days of the effective date of this CAFO. A copy of the permit application shall be sent to the following:

Sara Hertz Wu  
Assistant Regional Counsel  
U.S. Environmental Protection Agency – Region 7  
901 North 5th Street  
Kansas City, Kansas 66101

and

Gary Bertram  
Air Permitting and Compliance Branch  
U.S. Environmental Protection Agency-Region 7  
901 North 5<sup>th</sup> Street  
Kansas City, Kansas 66101.

3. Pursuant to 40 C.F.R. § 13.18, failure to make any payment according to the above schedule will automatically accelerate the debt which will become due and owing in full, immediately. Interest on any late payment will be assessed at the annual rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717. The interest will be assessed on any overdue amount from the due date through the date of payment. Failure to pay the civil penalty when due may result in the commencement of a civil action in Federal District Court to collect said penalty, together with costs and interest.

4. If Respondents fail to submit the permit application, withdraw the permit application or fail to timely respond to any comments from MDNR regarding the permit application before permit issuance, Respondents shall pay a stipulated penalty of Twelve Hundred Dollars and No Cents (\$1,200.00) within twenty (20) days of such failure, pursuant to Section 113(d)(2)(B) of the CAA, 42 U.S.C. § 7413(d)(2)(B).

5. Payment of the penalty shall be by cashier or certified check made payable to the "United States Treasury" and remitted to:

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

This payment shall reference docket number CAA-07-2010-0021.

Copies of the check shall be mailed to:

Sara Hertz Wu  
Assistant Regional Counsel  
U.S. Environmental Protection Agency – Region 7  
901 North 5th Street  
Kansas City, Kansas 66101

and to

Kathy Robinson  
Regional Hearing Clerk  
U.S. Environmental Protection Agency - Region 7  
901 North 5th Street

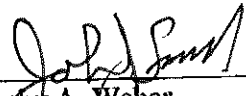
Kansas City, Kansas 66101.

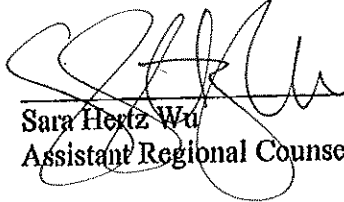
6. No portion of the civil penalty or interest paid by Respondents pursuant to the requirements of this CAFO shall be claimed by Respondents as a deduction for federal, state, or local income tax purposes.

7. This Final Order portion of this CAFO shall apply to and be binding upon Respondents and Respondents' agents, successors and/or assigns.

COMPLAINANT: UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

2/12/18  
Date

*for*   
Becky A. Weber  
Director  
Air and Waste Management Division

  
Sara Hertz Wu  
Assistant Regional Counsel

RESPONDENT: CHARGER, INC.

12/22/09  
Date

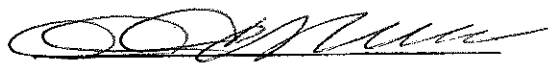
  
Signature

Jim D. DORRIS  
Printed Name

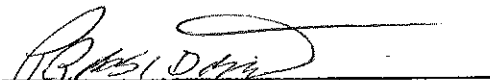
President  
Title

RESPONDENT: ALL FAMILY CRAFT, INC.

12/22/09  
Date

  
Signature

Tim D. Dorcas  
Printed Name

  
Title



**IT IS SO ORDERED.** This Order shall become effective immediately.

Jan. 19, 2010  
Date

Karina Borromeo  
KARINA BORROMEO  
Regional Judicial Officer  
U.S. EPA Region 7

IN THE MATTER OF Charger Inc. And All Family Craft, Inc., Respondents  
Docket No. CAA-07-2009-0021

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy hand delivered to  
Attorney for Complainant:

Sara Hertz  
Assistant Regional Counsel  
Region VII  
United States Environmental Protection Agency  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Bob Lambrechts  
Lathrop & Gage  
2345 Grand Blvd. Suite 2200  
Kansas City, Missouri 64108

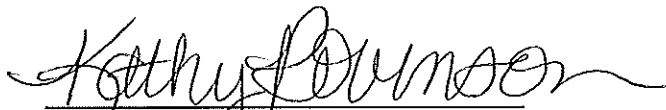
Copy by Facsimile and  
First Class Pouch Mail to:

The Honorable Susan L. Biro  
Chief Administrative Law Judge  
U. S. Environmental Protection Agency  
Office of Administrative Law Judges  
1200 Pennsylvania Avenue, NW  
Mail Code 1900L  
Washington, D. C. 20005

and

The Honorable Barbara A. Gunning  
Administrative Law Judge  
U. S. Environmental Protection Agency  
Office of Administrative Law Judges  
1200 Pennsylvania Avenue, NW  
Mail Code 1900L  
Washington, D. C. 20005

Dated: 1/19/10



Kathy Robinson  
Hearing Clerk, Region 7