

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

UNITED STATES
ENVIRONMENTAL PROTECTION
AGENCY-REGION 7
2019 SEP 20 PM 3: 26

IN THE MATTER OF:

CertainTeed Corporation
103 Funston Road
Kansas City, Kansas

CONSENT AGREEMENT AND
FINAL ORDER

Docket No. CAA-07-2019-0261

CONSENT AGREEMENT

I. PRELIMINARY STATEMENT

1. The United States Environmental Protection Agency (EPA), Region 7 (Complainant) and CertainTeed Corporation (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 violations set forth in this Consent Agreement subject to paragraphs 63 and 64.

II. JURISDICTION

2. 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), and in accordance with the Consolidated Rules of Practice.

3. 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 Sections 111 and 112(d) of the CAA, 42 U.S.C. §§ 7411, 7412(d). 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 between January 12, 2009 to November 2, 2015; and no more than \$47,357 per day for each violation occurring after November 2, 2015 and assessed after February 6, 2019.

4. 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

5. 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.

6. Respondent is incorporated under the laws of the state of Delaware and is authorized to do business in Kansas.

IV. STATUTORY AND REGULATORY FRAMEWORK

7. The Clean Air Act establishes a regulatory framework designed to protect and enhance the quality of the nation's air so as to promote the public health and welfare and the productive capacity of its population. 42 U.S.C. § 7401.

General

8. Section 110(a) of the CAA, 42 U.S.C. § 7410(a), requires each state to adopt and submit to EPA for approval a plan that provides for the attainment and maintenance of the NAAQS in each air quality control region within each state. This plan is known as a State Implementation Plan ("SIP").

9. Pursuant to Section 110 of the CAA, 42 U.S.C. § 7410, after SIPs are approved by EPA, they are enforceable both by the respective states in which they are adopted and, pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), by the United States.

10. The Kansas SIP regulations governing air quality and air pollution control are codified under Agency 28 of the Kansas Administrative Regulations ("KAR"), Article 19. KAR 28-19-500 requires that a stationary source obtain a class I operating permit if it is a major source.

11. The regulations at KAR 28-19-500 were all incorporated into and part of the Kansas SIP at the time of the violations alleged in this Consent Agreement. KAR 28-19-500 was approved by the EPA as part of the Kansas SIP on January 30, 1996 (61 Fed. Reg. 2938).

National Emission Standards for Hazardous Air Pollutants

12. Section 112(d) of the CAA, 42 U.S.C. § 7412(d), requires EPA to establish emission standards for each category of major sources of hazardous air pollutants (HAPs). These emissions standards must require the maximum degree of reduction in emissions of HAPs that

the Administrator, taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impacts and energy requirements, determines is achievable for the new or existing sources in the category to which the emission standard applies. Section 112(b) of the Act, 42 U.S.C. § 7412(b), designates chromium compounds as hazardous air pollutants.

13. EPA promulgated the national emissions standards for hazardous air pollutants (NESHAPs) for wool fiberglass manufacturing. These provisions are codified at 40 C.F.R. Part 63, Subpart NNN (Subpart NNN). Subpart NNN establishes specific emission standards, monitoring requirements, performance test requirements, and notification, recordkeeping and reporting requirements for wool fiberglass manufacturing facilities that are major sources or are located at a facility that is a major source. See 40 C.F.R. Part 63, Subpart NNN.

14. The Wyandotte County Public Health Department issued an Air Emission Source Class I Operating Permit to CertainTeed on March 14, 2005. This permit was later renewed on September 29, 2016, with an expiration date of September 28, 2021. The permit states that CertainTeed's facility is subject to, among other regulations, the requirements of Subpart NNN.

15. A glass-melting furnace that commenced construction on or before March 31, 1997 is subject to a compliance date of June 14, 2002 with respect to a particulate matter emissions limit of 0.5 pounds per ton of glass pulled. A glass-melting furnace that commenced construction on or before November 25, 2011 is subject to compliance date of July 31, 2017 with respect to a particulate matter emission limit of 0.33 pounds per ton of glass pulled. 40 C.F.R. § 63.1387(a) and Subpart NNN Table 2.

16. A gas-fired glass-melting furnace that commenced construction on or before November 25, 2011 is subject to a compliance date of July 31, 2017 with respect to its chromium

compound emission limit of 0.00025 pounds per ton of glass pulled. 40 C.F.R. § 63.1387(a) and Subpart NNN Table 2.

17. The owner or operator of the facility shall conduct a performance test to demonstrate compliance with the applicable emission limits in 40 C.F.R. § 63.1382. During the performance test, the owner or operator of a glass-melting furnace controlled by an electrostatic precipitator (ESP) shall monitor and record the ESP parameter level(s), as specified in the operations, maintenance and monitoring plan, and establish the minimum and/or maximum values that will be used to demonstrate compliance after the initial performance test. 40 C.F.R. 63.1384(a)(5).

18. The owner or operator of the facility must conduct this performance testing within 180 days of the compliance date for such source. 40 C.F.R. § 63.7(a)(2).

19. The owner or operator of the facility must conduct a performance test for each rotary spin manufacturing line subject to Subpart NNN, while producing the building insulation with the highest LOI expected to be produced on that line. 40 C.F.R. § 63.1384(a)(8).

20. On or after the date on which the performance test required to be conducted is completed, the owner or operator must monitor all affected control equipment and processes according to the requirements of 40 C.F.R. § 63.1383. Among those requirements, any owner or operator who uses a control device to control hazardous air pollutant emissions from a glass-melting furnace, rotary spin manufacturing line, or flame attenuation manufacturing line must first install, calibrate, maintain and operate a monitoring device that continuously measures an appropriate parameter for the control device. That parameter must be established during the performance test to demonstrate compliance with the applicable emission limits. 40 C.F.R. § 63.1383(f).

21. On and after the date on which the performance test required to be conducted by 40 C.F.R. § 63.1384 is completed, the owner or operator of the facility must operate the ESP such that the monitored ESP parameter is not outside the limit(s) established during the performance test for more than 10 percent of the total operating time in a 6-month block reporting period. 40 C.F.R. § 63.1382(c)(2)(iii).

22. Furthermore, the owner or operator must initiate corrective action within 1 hour when any 3-hour block average of the monitored ESP parameter is outside the limit(s) established during the performance test as specified in 40 C.F.R. § 63.1384 and complete corrective actions in a timely manner according to the procedures in the operations, maintenance, and monitoring plan. 40 C.F.R. § 63.1382(c)(2)(i). The owner or operator must also implement a Quality Improvement Plan consistent with the compliance assurance monitoring provisions of 40 C.F.R. Part 64 subpart D when the monitored ESP parameter is outside the limit(s) established during the performance test for more than 5 percent of the total operating time in a 6-month block reporting period. Id. § 63.1382(c)(2)(ii).

23. Pursuant to 40 C.F.R. § 63.1386(e), the owner or operator must submit a semiannual report if measured emissions are in excess of the applicable standard or a monitored parameter deviates from the levels established during the performance test. This report must contain the information specified in 40 C.F.R. § 63.10(c) as well as the recordkeeping requirements of § 63.1386(d).

24. Within 60 days after the date of completing each required performance test, the owner or operator must submit the results of the performance tests for data collected using test methods supported by the EPA's Electronic Reporting Tool to the EPA via the Compliance and Emissions Data Reporting Interface. Id. § 63.1386(f)(1).

New Source Performance Standards

25. Section 111 of the CAA, 42 U.S.C. § 7411, authorizes the EPA to develop technology based standards which apply to specific categories of stationary sources. The New Source Performance Standards (NSPS) apply to new, modified and reconstructed affected facilities in specific source categories. The NSPS are developed and implemented by EPA and are delegated to the states. However, even when delegated to the states, EPA retains authority to implement and enforce the NSPS.

26. Pursuant to the authority granted under Section 111 of the CAA, 42 U.S.C. § 7411, the EPA promulgated general regulations applicable to all NSPS source categories in 40 C.F.R. Part 60, Subparts A, B, and C. In addition, the EPA promulgated regulations set forth at 40 C.F.R. Part 60, Subpart PPP, which apply to Wool Fiberglass Manufacturing Plants.

27. Within Part 60, Subpart PPP, EPA promulgated specific regulations that apply to each rotary spin fiberglass insulation manufacturing line that commences construction, modification, or reconstruction after February 7, 1984. 40 C.F.R. § 60.680.

28. Owners or operators subject to the provisions of this subpart who use a wet electrostatic precipitator (ESP) control device to comply with the mass emission standard shall install, calibrate, maintain, and operate monitoring devices that measure the primary and secondary current (amperes) and voltage in each electrical field and the inlet flow rate. In addition, the owner or operator shall determine the total solids content of the water entering the control device once per day. 40 C.F.R. § 60.683(b).

29. At 30-minute intervals during each 2-hour test run of each performance test of a wet ESP control device and at least once every 4 hours thereafter, the owner or operator shall record the measurements required by § 60.683(b), except that the concentration of total residue

in the water shall be recorded once during each performance test and once per day thereafter.

40 C.F.R. § 60.684(b).

30. Each owner or operator shall submit written semiannual reports of exceedances of control device operating parameters specified in § 60.683(b). For the purpose of these reports, exceedances are defined as any monitoring data that are less than 70 percent of the lowest value or greater than 130 percent of the highest value of each operating parameter recorded during the most recent performance test. 40 C.F.R. § 60.684(d).

V. FACTUAL ALLEGATIONS

31. At all times pertinent to this action, CertainTeed was the “owner” and “operator” of a wool fiberglass manufacturing facility at 103 Funston Drive, Kansas City, Kansas (Facility) within the meaning of Sections 111(a)(5) and 112(a) of the Act, 42 U.S.C. §§ 7411(a)(5), 7412(a).

32. At all times pertinent to this action, the CertainTeed Facility was a “stationary source” as that term is defined in Sections 111(a)(3) and 112(a)(3) of the Act, 42 U.S.C. §§ 7411(a)(3), 7412(a)(3).

33. The CertainTeed Facility is a “major source” of “hazardous air pollutants” as those terms are defined by Section 112(a) of the Act, 42 U.S.C. § 7412(a).

34. At all times pertinent to this action, CertainTeed operated a wool fiberglass manufacturing facility, as that term is defined in 40 C.F.R. § 63.1381. This facility commenced construction prior to November 25, 2011.

35. The Wyandotte County Public Health Department issued an Air Emission Source Class I Operating Permit to CertainTeed on March 14, 2005. This permit was later renewed on

September 29, 2016, with an expiration date of September 28, 2021. The permit states that CertainTeed's facility is subject to, among other regulations, the requirements of Subpart NNN.

36. CertainTeed obtained a PSD permit for the K-2 furnace in 2007 issued by the Department of Air Quality (DAQ) of the Wyandotte County/Kansas City, Kansas Health Department pursuant to Sec. 3-13 of the Code of the Unified Government of Wyandotte County/Kansas City, Kansas and on behalf of the Bureau of Air and Radiation of the Kansas Department of Health and Environment (KDHE) pursuant to K.S.A. 65-3008 as amended. The permit established a NO_x limit of 1.21 pounds/ton glass pulled.

37. EPA issued Requests for Information to CertainTeed on January 17, 2018 and August 30, 2018. CertainTeed provided a response to the Request for Information on March 21, 2018 and September 21, 2018.

38. EPA issued a Finding of Violation ("FOV") and related test order to CertainTeed on July 18, 2018 and a Notice of Violation to CertainTeed on April 19, 2019. Following receipt of the FOV, CertainTeed met with EPA on August 30, 2018 to discuss the NOV and test order.

VI. ALLEGED VIOLATIONS OF LAW

39. CertainTeed allegedly failed to meet the chromium emissions standards of 0.00025 pounds per ton of glass pulled. A stack test conducted on May 16, 2018 on the K1 furnace indicated an emission rate of 0.00028 pounds per ton of glass pulled, thereby exceeding the emission limit established at 40 C.F.R. § 63.1382(a) and Subpart NNN, Table 2.

40. As a result of the alleged emissions exceedance, EPA issued CertainTeed a test order on July 18, 2018, requiring that CertainTeed re-test the stack from K1 for chromium emissions within 45 days. CertainTeed and EPA met to discuss the test order on August 30, 2018, and thereafter, on October 2, 2018, CertainTeed re-tested the stack, with a chromium

emission reading of 0.000081 pounds per ton of glass pulled. CertainTeed allegedly violated the terms of the test order based on the date of the re-test.

41. On August 7, 2018 CertainTeed conducted a Stack Test for NO_x performed by Alliance Source Testing LLC. The results of that test demonstrated a NO_x emission rate of 3.5 pounds/ton glass pulled. The maximum permitted limit for NO_x established under the 2007 PSD permit is 1.21 pounds/ton glass pulled.

42. The K-2 furnace continually operated following the August 2018 stack test, resulting in alleged permit exceedances, and this issue was not rectified until December 18, 2018, when CertainTeed conducted another Stack Test. This Stack Test resulted in a NO_x emission rate of 1.0 pounds/ton pulled.

43. These alleged detected releases of NO_x indicate that CertainTeed was not in compliance with the requirements of its operating permit, and therefore is a potential violation of KAR 28-19-500 at its Kansas City facility.

44. In May 2017, CertainTeed conducted a performance test which established an electrostatic precipitator parameter limit (secondary electrical power) to demonstrate compliance with the emission limits of Subpart NNN on the K1 Furnace.

45. Between July 2017 and December 2017, CertainTeed's ESP power has been measured to be below the secondary electrical power limit established during the performance test more than 10 percent of the total operating time.

VII. CONSENT AGREEMENT

46. 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 VI of this Consent Agreement; and
 - h. Waives its rights to appeal the Final Order portion of this Consent Agreement.
47. 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 in the United States District Court; 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, and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action.

A. Penalty Payment

48. Respondent agrees that, in settlement of the claims alleged in this Consent Agreement, Respondent shall pay a civil penalty of \$319,228 (“EPA Penalty”), within thirty days of the Effective Date of the Final Order.

49. 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 Blvd.
Lenexa, Kansas 66219

and to

Joe Terriquez
ECAD - AB
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
PO 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.

50. If Respondent fails to timely pay any portion of the EPA Penalty assessed under 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 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

51. 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 the Kansas City Facility:

- a. for the K1 furnace, conduct quarterly stack tests for a period of one year, beginning 90 days after the effective date of this Consent Agreement, for chromium and particulate matter. In addition, beginning 30 days after the effective date of this Consent Agreement and continuing until one year after the effective date of this Consent Agreement, CertainTeed shall also complete monthly NO_x monitoring with a portable NO_x analyzer and record the average NO_x concentration in parts per million (ppm) and sampling rate over a five (5) minute interval, in accordance with the NO_x monitoring protocol previously approved by EPA and incorporated by reference to this Consent Agreement. The testing will be conducted at one of the existing compliance test ports on the K1 furnace. These monthly testing results shall then be converted to a NO_x pounds/ton measurement using a stack flow rate from the most recent NO_x compliance stack test and used to evaluate NO_x emission trends. CertainTeed shall submit the results of these monthly emissions trend evaluations (including average NO_x concentration, stack flow rate and other parameters) to EPA on a semi-annual basis.
- b. for the K2 furnace, conduct quarterly stack tests for a period of one year, beginning 90 days after the effective date of this Consent Agreement, for NO_x. During this one-year time period, CertainTeed shall also complete weekly NO_x monitoring with a portable NO_x analyzer and record the average NO_x

concentration in parts per million (ppm) and sampling rate over a five (5) minute interval, in accordance with the NOx monitoring protocol previously approved by EPA and incorporated by reference to this Consent Agreement. The testing will be conducted at one of the existing compliance test ports on the K2 furnace. These weekly testing results shall then be converted to a NOx pounds/ton measurement using a stack flow rate from the most recent NOx compliance stack test and used to evaluate NOx emission trends. CertainTeed shall submit the results of these weekly emissions trend evaluations (including average NOx concentration, stack flow rate and other parameters) to EPA on a semi-annual basis.

- c. for the K2 furnace, within 180 days following the completion of the stack testing and monitoring discussed in Paragraph 51.b, conduct one (1) additional stack test for NOx. For a one-year time period following the stack testing and monitoring in Paragraph 51.b, CertainTeed shall also complete monthly NOx monitoring with a portable NOx analyzer and record the average NOx concentration in parts per million (ppm) and sampling rate over a five (5) minute interval, in accordance with the NOx monitoring protocol previously approved by EPA and incorporated by reference to this Consent Agreement. The testing will be conducted at one of the existing compliance test ports on the K2 furnace. These monthly testing results shall then be converted to a NOx pounds/ton measurement using a stack flow rate from the most recent NOx compliance stack test and used to evaluate NOx emission trends. CertainTeed shall submit the results of these monthly emissions trend evaluations (including average NOx concentration, stack flow rate and other parameters) to EPA on a semi-annual basis.

- d. for the K1 and K2 furnaces, beginning 30 days after the effective date of this Consent Agreement until the termination of this Consent Agreement, CertainTeed shall submit the fuel gas usage and oxygen usage, for the time periods when NOx monitoring was conducted pursuant to Paragraphs 51a. through c., to EPA on a semi-annual basis.

52. Respondent agrees that the time period from the Effective Date of this Consent Agreement until all of the conditions specified in Paragraph 51 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 V 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. Stipulated Penalties

53. 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 51 of this Consent Agreement. The following stipulated penalties shall accrue per violation per day:

- a. For failure to comply with any requirement (excluding submittal of any required report to EPA) of paragraph 51:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$2,500	1 st through 15 th day
\$5,000	15 th day and beyond

- b. For failure to submit any report or documentation as required by paragraph 51:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$500	1 st through 30 th day
\$1,000	31 st day and beyond

54. 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.

55. 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.

56. 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 49 of this Consent Agreement.

57. 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.

D. Additional Conditions

58. 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 the end of the Tolling Period, as set out in Paragraph 52, Respondent must give written notice and a copy of this Agreement to any successors in interest 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.

59. Respondents shall ensure that all contractors, employees, consultants, firms or other persons or entities acting for Respondents with respect to matters included herein comply with the terms of this Consent Agreement to the extent applicable to said contractors' employees', consultants', firms' or other persons or entities' activities. 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.

60. 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.

61. 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.

62. Except as qualified by Paragraph 50, each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.

E. Effect of Consent Agreement

63. 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.

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

65. 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.

66. 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.

67. 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 Act, 42 U.S.C. § 7413(b)(2), as well as criminal sanctions as provided in Section 113(c) of the Act, 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.

68. Nothing in this Consent Agreement shall relieve Respondent of the duty to comply with all applicable provisions of the Act 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.

69. 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.

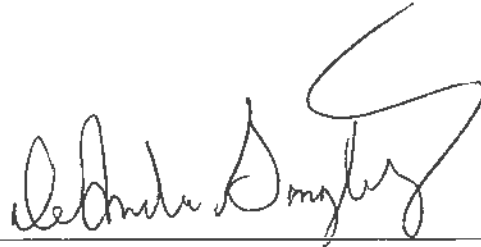
70. This Consent Agreement shall automatically terminate upon the latest date of the following events: (a) payment by Respondent of the EPA Penalty described in Paragraph 49; (b) completion by Respondent of the Conditions described in Paragraph 51; and (c) payment by Respondent of all stipulated penalties in accordance with Paragraphs 53 and 56. Upon termination EPA shall provide written notice to Respondent acknowledging that the Consent Agreement has terminated.

FOR COMPLAINANT:

U.S. ENVIRONMENTAL PROTECTION AGENCY

9-17-2019

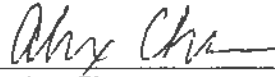
Date



DeAndré Singletary
Acting Director, Enforcement and
Compliance Assurance Division
Region 7

Sept. 16, 2019

Date



Alex Chen
Senior Counsel, Air
U.S. Environmental Protection Agency
Region 7

FOR RESPONDENT:

CERTAINTEED CORPORATION

9/19/19

Date



Signature

Patrick Dwyer

Printed Name

Vice President CertainTeed Insulation

Title

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

IN THE MATTER OF:

CertainTeed Corporation
103 Funston Road
Kansas City, Kansas

CONSENT AGREEMENT AND FINAL
ORDER
CAA Docket No: 07-2019-0261

Pursuant to 40 C.F.R. § 22.18(b) of the EPA's Consolidated Rules of Practice and section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d), 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:

9 - 20 - 19

Date


~~Karina Borromeo~~ Kathleen Clever
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that a copy of Consent Agreement and Final Order, in the matter of CertainTeed Corporation, Docket No. CAA-07-2019-0261, was mailed via United States Postal Service certified mail, return receipt requested, postage paid, to:

For Respondent:

Brett Slensky
Environmental, Health and Safety Counsel
Saint-Gobain Corporation
20 Moores Road
Malvern, PA 19355

For U.S. Environmental Protection Agency (via email):

Alex Chen
Office of Regional Counsel
U.S. Environmental Protection Agency Region 7
11201 Renner Boulevard
Lenexa, KS 66219
Email: chen.alex@epa.gov

9/20/2019
Date


Regional Hearing Clerk, Region 7