

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III**

<b>In the Matter of:</b>	:	
	:	<b>Docket No. EPCRA-03-2012-0153</b>
<b>Mersen USA St. Marys-PA Corp.</b>	:	
<b>14 Eastmans Road</b>	:	
<b>Parsippany, NJ 07054</b>	:	
	:	<b>CONSENT AGREEMENT</b>
<b>Respondent</b>	:	
	:	<b>Proceeding under section 325</b>
<b>Mersen USA St. Marys-PA Corp.</b>	:	<b>of the Emergency Planning and</b>
<b>1032 Trout Run Road</b>	:	<b>Community Right-to-Know</b>
<b>St. Marys, PA 15857</b>	:	<b>42 U.S.C. § 11045(c)</b>
	:	
<b>Facility</b>	:	

REGIONAL HEARING CLERK  
EPA REGION III, PHILA. PA

2012 SEP 28 PM 2: 31

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**CONSENT AGREEMENT**

**Preliminary Statement**

1. This Consent Agreement is entered into by the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency - Region III ("Complainant") and Mersen USA St. Marys-PA Corp. ("Respondent") pursuant to Sections 313 and 325(c) of the Emergency Planning and Community Right-to-Know Act of 1986 ("EPCRA"), 42 U.S.C. §§ 11023 and 11045(c), the regulations implementing EPCRA Section 313, as set forth at 40 C.F.R. Part 372, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. Pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3), this Consent Agreement and the accompanying Final Order (collectively referred to as the "CAFO") simultaneously commence and conclude this proceeding to resolve the violations of EPCRA Section 313, as alleged herein, by Respondent at its facility located at 1032 Trout Run Road in St. Marys, Pennsylvania. Respondent and Complainant, having determined that it is in their best interests to settle all matters in this proceeding, agree that entry of this CAFO without further litigation is the most appropriate means of resolving this matter.

**General Provisions**

2. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
3. Except as provided in paragraph 2, above, Respondent neither admits nor denies the specific factual allegations and legal conclusions set forth in this CAFO.

4. Respondent agrees not to contest the jurisdiction of the U.S. Environmental Protection Agency (“EPA”) with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this CAFO.
5. For purposes of this proceeding only, Respondent hereby expressly waives any right to contest any issue of law or fact set forth in this Consent Agreement and any right to appeal the accompanying Final Order.
6. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.
7. Respondent shall bear its own costs and attorney’s fees.

**Findings of Fact and Conclusions of Law**

8. Complainant has determined that Respondent has violated EPCRA Section 313, and adopts the following findings of fact and conclusions of law in accordance with Sections 22.18(b)(2) and .14(a)(2) and (3) of the Consolidated Rules of Practice.
9. Respondent, which was formerly known as Carbone of America Industries Corporation, does business in Pennsylvania and is a corporation organized under the laws of the State of Michigan.
10. As a Michigan corporation, Respondent is a “person” as defined in Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).
11. Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and 40 C.F.R. § 372.3 define “facility” to mean, in relevant part, all buildings, equipment, structures, and other stationary items that are located on a single site and that are owned or operated by the same person.
12. Respondent owns and operates, and at the time of the violations alleged herein, owned and operated a facility that manufactures carbon and graphite products at 1032 Trout Run Road, St. Marys, Pennsylvania (the “Facility”).
13. Respondent’s Facility is a “facility” as defined in Section 329(4) of EPCRA and 40 C.F.R. § 372.3.
14. Section 313 of EPCRA and 40 C.F.R. Part 372 require, *inter alia*, that the owner or operator of a facility that:
  - 1) has 10 or more employees;
  - 2) has a primary Standard Industrial Classification (“SIC”) Code between 20 [2000] and 39 [3999] (as in effect on July 1, 1985), or, other SIC or industry code as set forth in 40 C.F.R. §§ 372.22(b) and .23; and
  - 3) manufactured, processed or otherwise used a toxic chemical listed in 40 C.F.R. § 372.65, in excess of the threshold quantities established under Section 313(f) of

EPCRA, 42 U.S.C. § 11023(f), during the calendar year for which the form is required,

submit a completed toxic chemical release reporting form (“Form R”) or, if applicable, an alternate threshold certification statement (“Form A”) for each such toxic chemical to EPA and the state in which the facility is located, by July 1 of the following calendar year.

15. During calendar years 2007 through 2009, Respondent employed 10 or more full-time employees at the Facility.
16. During calendar years 2007 through 2009, the Facility had a primary SIC code of 3624. This SIC code falls between the primary SIC codes of 20 (2000) and 39 (3999) (as in effect on July 1, 1985).
17. For each toxic chemical listed in 40 C.F.R. § 372.65 that is manufactured, processed, or otherwise used by Respondent at the Facility in excess of the threshold quantity set forth in 40 C.F.R. § 372.25 or .28 during any calendar year, Respondent has been required by EPCRA Section 313, at all times relevant to this Consent Agreement, to complete and submit to EPA and the Commonwealth of Pennsylvania by July 1 of the following calendar year either a Form R or Form A pursuant to 40 C.F.R. § 372.30 or .27.
18. Section 325(c) of EPCRA provides that any person who violates EPCRA Section 313 shall be liable to the United States for a civil penalty.

#### COUNT I

19. Paragraphs 1 through 18 are incorporated herein as if set forth at length.
20. The chemical substances “lead compounds” are “toxic chemicals” as defined in EPCRA Sections 313(c) and 329(10), 42 U.S.C. §§ 11023(c) and 11049(10), and 40 C.F.R. § 372.3, and are listed in 40 C.F.R. § 372.65.
21. During calendar year 2009, Respondent “processed” more than 100 pounds of lead compounds as that term is defined in EPCRA Section 313(b)(1)(C)(ii), 42 U.S.C. § 11023(b)(1)(C)(ii), and 40 C.F.R. § 372.3. Such amount exceeded the threshold quantity for reporting for lead compounds, as set forth in 40 C.F.R. § 372.28(a)(2).
22. Pursuant to EPCRA Section 313, Respondent was required to submit to EPA and to the Commonwealth of Pennsylvania, by July 1, 2010, a completed Form R for the lead compounds processed at the Facility during calendar year 2009.
23. Facilities that choose to submit a Form R electronically are required to use EPA’s Central Data Exchange (“CDX”) website to certify and submit such Forms, as described in 40 C.F.R. Part 3 and 70 Fed. Reg. 39931, 39932-33 (July 12, 2005).

24. Respondent avers that the individual who became Respondent's new General Manager on January 1, 2010 was required to certify the electronically-submitted Form R on behalf of Respondent.
25. In order to certify the Form R, the new General Manager was required to first enter into an Electronic Signature Agreement with EPA, which he submitted and EPA approved on June 16, 2010.
26. Respondent avers that it attempted to electronically submit to EPA the Form R referred to in paragraph 22, above, on or about June 21, 2010, however, EPA has no record of receiving a Form R electronically from Respondent on that date.
27. Respondent avers that, after it was contacted and informed by the Commonwealth of Pennsylvania that it had received the check for the fees associated with the Form R for lead compounds, but not the Form R, Respondent contacted CDX and found that the Form R had not been electronically certified and filed with CDX.
28. Respondent thereafter submitted the completed Form R to EPA on September 8, 2010 to report the amount of lead compounds released at the Facility during calendar year 2009.
29. Respondent's failure to submit to EPA, by July 1, 2010, a completed Form R to report the amount of lead compounds released at the Facility during calendar year 2009 constitutes a violation of Section 313 of EPCRA, for which Respondent is liable for a civil penalty pursuant to EPCRA Section 325(c).

COUNT II

30. Paragraphs 1 through 29 are incorporated herein as if set forth at length.
31. The chemical substance "copper" is a "toxic chemical" as defined in EPCRA Sections 313(c) and 329(10) and 40 C.F.R. § 372.3, and is listed in 40 C.F.R. § 372.65.
32. During calendar year 2009, Respondent "processed" more than 25,000 pounds of copper as that term is defined in EPCRA Section 313(b)(1)(C)(ii) and 40 C.F.R. § 372.3. Such amount exceeded the threshold quantity for reporting for copper, as set forth in 40 C.F.R. § 372.25(a).
33. Pursuant to EPCRA Section 313, Respondent was required to submit to EPA and the Commonwealth of Pennsylvania, by July 1, 2010, a completed Form R or Form A for the copper processed at the Facility during calendar year 2009.
34. Respondent avers that it attempted to electronically submit to EPA the Form R referred to in paragraph 33, above, on or about June 21, 2010, however, EPA has no record of receiving a Form R electronically from Respondent on that date.
35. Respondent avers that, after it was contacted and informed by the Commonwealth of Pennsylvania that it had received the check for the fees associated with the Form R for

copper, but not the Form R, Respondent contacted CDX and found that the Form R had not been electronically certified and filed with CDX.

36. Respondent thereafter submitted the completed Form R to EPA on September 8, 2010 to report the amount of copper released at the Facility during calendar year 2009.
37. Respondent's failure to submit to EPA, by July 1, 2010, a completed Form R or Form A to report the amount of copper released at the Facility during calendar year 2009 constitutes a violation of Section 313 of EPCRA, for which Respondent is liable for a civil penalty pursuant to EPCRA Section 325(c).

### COUNT III

38. Paragraphs 1 through 37 are incorporated herein as if set forth at length.
39. The chemical substances "polycyclic aromatic compounds" ("PACs") are "toxic chemicals" as defined in EPCRA Sections 313(c) and 329(10) and 40 C.F.R. § 372.3, and are listed in 40 C.F.R. § 372.65.
40. During calendar year 2009, Respondent "processed" more than 100 pounds of PACs as that term is defined in EPCRA Section 313(b)(1)(C)(ii) and 40 C.F.R. § 372.3. Such amount exceeded the threshold quantity for reporting for PACs, as set forth in 40 C.F.R. § 372.28(a)(2).
41. Pursuant to EPCRA Section 313, Respondent was required to submit to EPA and the Commonwealth of Pennsylvania, by July 1, 2010, a completed Form R for the PACs processed at the Facility during calendar year 2009.
42. Respondent avers that it attempted to electronically submit to EPA the Form R referred to in paragraph 41, above, on or about June 21, 2010, however, EPA has no record of receiving a Form R electronically from Respondent on that date.
43. Respondent avers that, after it was contacted and informed by the Commonwealth of Pennsylvania that it had received the check for the fees associated with the Form R for PACs, but not the Form R, Respondent contacted CDX and found that the Form R had not been electronically certified and filed with CDX.
44. Respondent thereafter submitted the completed Form R to EPA on September 8, 2010 to report the amount of PACs released at the Facility during calendar year 2009.
45. Respondent's failure to submit to EPA, by July 1, 2010, a completed Form R to report the amount of PACs released at the Facility during calendar year 2009 constitutes a violation of Section 313 of EPCRA, for which Respondent is liable for a civil penalty pursuant to EPCRA Section 325(c).

### COUNT IV

46. Paragraphs 1 through 45 are incorporated herein as if set forth at length.

47. The chemical substance “benzo(g,h,i)perylene” is a “toxic chemical” as defined in EPCRA Sections 313(c) and 329(10) and 40 C.F.R. § 372.3, and is listed in 40 C.F.R. § 372.65.
48. During calendar year 2007, Respondent “processed” more than 10 pounds of benzo(g,h,i)perylene as that term is defined in EPCRA Section 313(b)(1)(C)(ii) and 40 C.F.R. § 372.3. Such amount exceeded the threshold quantity for reporting for benzo(g,h,i)perylene, as set forth in 40 C.F.R. § 372.28(a)(1).
49. Pursuant to EPCRA Section 313, Respondent was required to submit to EPA and the Commonwealth of Pennsylvania, by July 1, 2008, a completed Form R for the benzo(g,h,i)perylene processed at the Facility during calendar year 2007.
50. Respondent did not submit a completed Form R to EPA until June 29, 2011, to report the amount of benzo(g,h,i)perylene released at the Facility during calendar year 2007.
51. Respondent’s failure to submit to EPA, by July 1, 2008, a completed Form R to report the amount of benzo(g,h,i)perylene released at the Facility during calendar year 2007 constitutes a violation of Section 313 of EPCRA, for which Respondent is liable for a civil penalty pursuant to EPCRA Section 325(c).

COUNT V

52. Paragraphs 1 through 51 are incorporated herein as if set forth at length.
53. During calendar year 2008, Respondent “processed” more than 10 pounds of benzo(g,h,i)perylene as that term is defined in EPCRA Section 313(b)(1)(C)(ii) and 40 C.F.R. § 372.3. Such amount exceeded the threshold quantity for reporting for benzo(g,h,i)perylene, as set forth in 40 C.F.R. § 372.28(a)(1).
54. Pursuant to EPCRA Section 313, Respondent was required to submit to EPA and the Commonwealth of Pennsylvania, by July 1, 2009, a completed Form R for the benzo(g,h,i)perylene processed at the Facility during calendar year 2008.
55. Respondent did not submit a completed Form R to EPA until June 29, 2011, to report the amount of benzo(g,h,i)perylene released at the Facility during calendar year 2008.
56. Respondent’s failure to submit to EPA, by July 1, 2009, a completed Form R to report the amount of benzo(g,h,i)perylene released at the Facility during calendar year 2008 constitutes a violation of Section 313 of EPCRA, for which Respondent is liable for a civil penalty pursuant to EPCRA Section 325(c).

COUNT VI

57. Paragraphs 1 through 56 are incorporated herein as if set forth at length.
58. During calendar year 2009, Respondent “processed” more than 10 pounds of benzo(g,h,i)perylene as that term is defined in EPCRA Section 313(b)(1)(C)(ii) and 40

C.F.R. § 372.3. Such amount exceeded the threshold quantity for reporting for benzo(g,h,i)perylene, as set forth in 40 C.F.R. § 372.28(a)(1).

59. Pursuant to EPCRA Section 313, Respondent was required to submit to EPA and the Commonwealth of Pennsylvania, by July 1, 2010, a completed Form R for the benzo(g,h,i)perylene processed at the Facility during calendar year 2009.
60. Respondent did not submit a completed Form R to EPA until June 29, 2011, to report the amount of benzo(g,h,i)perylene released at the Facility during calendar year 2009.
61. Respondent's failure to submit to EPA, by July 1, 2010, a completed Form R to report the amount of benzo(g,h,i)perylene released at the Facility during calendar year 2009 constitutes a violation of Section 313 of EPCRA, for which Respondent is liable for a civil penalty pursuant to EPCRA Section 325(c).

### Civil Penalty

62. In settlement of EPA's claims for civil monetary penalties assessable for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of **Seventy-Nine Thousand Dollars (\$79,000.00)** which Respondent agrees to pay in accordance with the terms set forth below. Such civil penalty shall become due and payable immediately upon Respondent's receipt of a true and correct copy of this CAFO, fully executed by the parties, signed by the Regional Administrator or the Regional Judicial Officer, and filed with the Regional Hearing Clerk. In order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with such civil penalty as described in this CAFO, Respondent must pay such civil penalty no later than thirty (30) calendar days after the date on which the fully executed CAFO is mailed or hand-delivered to Respondent.
63. The aforesaid settlement amount is based upon EPA's consideration of the facts and circumstances of this case and the penalty criteria set forth in EPA's *Enforcement Response Policy for Section 313 of the Emergency Planning and Community Right-to-Know Act (1986)* (August 10, 1992). EPA has also considered the Adjustment of Civil Penalties for Inflation, 40 C.F.R. Part 19, the June 6, 2006, memorandum by Acting EPA Toxics and Pesticides Enforcement Division Acting Director Stephanie P. Brown entitled *Penalty Policy Supplements Pursuant to the 2004 Civil Monetary Penalty Inflation Adjustment Rule*, and the April 6, 2010, memorandum from EPA Waste and Chemical Division Director Rosemarie A. Kelley entitled *Revision to Adjusted Penalty Policy Matrices Package Issued on November 16, 2009*. The settlement in this proceeding is consistent with the provisions and objectives of Section 313 of EPCRA and 40 C.F.R. Part 372.
64. Respondent shall remit the full penalty assessed by this CAFO, plus any interest, administrative fees and late payment penalties owed, by cashier's check, certified check, or electronic wire transfer, payable to "**United States Treasury**" in accordance with the following instructions:

- a. All payments made by check and sent by U.S Postal Service regular mail shall be addressed to:

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

*The customer service contact for this address is Heather Russell, who may be reached at 513-487-2044.*

- b. All payments made by check and sent by UPS, FedEx, or overnight mail delivery service (except as noted in section d, below) shall be addressed to:

U.S. Bank  
Government Lockbox 979077  
U.S. EPA, Fines & Penalties  
1005 Convention Plaza  
Mail Station SL-MO-C2-GL  
St. Louis, MO 63101

*The U.S. Bank customer service contact for overnight delivery is 314-418-1028.*

- c. All payments made by check in any currency drawn on banks with no branches in the United States shall be addressed for delivery to the following address:

Cincinnati Finance  
US EPA, MS-NWD  
26 W. M.L. King Drive  
Cincinnati, OH 45268-0001

- d. All payments made by electronic funds transfer ("EFT") shall be directed to:

Federal Reserve Bank of New York  
ABA No. 021030004  
Account No. 68010727  
SWIFT address = FRNYUS33 33  
Liberty Street  
New York, NY 10045

Field Tag 4200 of the Fedwire message should read "D 68010727  
Environmental Protection Agency"

*The Federal Reserve customer service contact may be reached at 212-720-5000.*

- e. All electronic payments made through the Automated Clearinghouse ("ACH"), also known as Remittance Express ("REX"), shall be directed to:



US Treasury REX / Cashlink ACH Receiver  
ABA = 051036706  
Account No.: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 - Checking

Physical location of U.S. Treasury facility:  
5700 Rivertech Court  
Riverdale, MD 20737

*Customer service contact: John Schmid, at 202-874-7026, or REX at 1-866-234-5681*

- f. On-line payment option

[WWW.PAY.GOV](http://WWW.PAY.GOV)

Enter "sfo 1.1" in the search field. Open and complete the form.

- g. Additional payment guidance is available at:

[http://www.epa.gov/ocfo/finservices/make\\_a\\_payment.htm](http://www.epa.gov/ocfo/finservices/make_a_payment.htm)

- h. All payments by Respondent shall include Respondent's full name and address and the EPA Docket Number of this Consent Agreement (EPCRA-03-2012-0153).

- i. At the time of payment, Respondent shall send a notice of such payment, including a copy of the check, EFT authorization or ACH authorization, as appropriate to:

Lydia Guy  
Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region III (Mail Code 3RC00)  
1650 Arch Street  
Philadelphia, PA 19103-2029

and

John Ruggero  
Senior Assistant Regional Counsel  
U.S. Environmental Protection Agency  
Region III (Mail Code 3RC30)  
1650 Arch Street  
Philadelphia, PA 19103-2029

65. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described

below. Accordingly, Respondent's failure to make timely payment shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.

66. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a true and correct copy of this CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).
67. The costs of EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
68. A late payment penalty of six percent (6%) per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). The late payment penalty on any portion of the civil penalty that remains delinquent for more than ninety days shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
69. Respondent agrees not to deduct for federal tax purposes the civil monetary penalty assessed in this CAFO.

#### **Certification**

70. The individual who signs this Consent Agreement on behalf of Respondent certifies that the Facility referred to in this Consent Agreement is currently in compliance with all applicable requirements of EPCRA Section 313.

#### **Other Applicable Laws**

71. Nothing in this CAFO shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations.

#### **Reservation of Rights**

72. This Consent Agreement and the accompanying Final Order resolve only EPA's civil claims for the specific violations of EPCRA Section 313 alleged herein. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice. Further, EPA

reserves any rights and remedies available to it under EPCRA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the Regional Hearing Clerk.

**Scope of Settlement**

73. The settlement set forth in this CAFO shall constitute full and final satisfaction of Complainant's civil claims for penalties for the specific violations alleged herein. Compliance with the CAFO shall not be a defense to any action commenced at any time for any other violation of the federal laws and regulations administered by EPA.

**Parties Bound**

74. This Consent Agreement and the accompanying Final Order shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents, and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and the accompanying Final Order.

**Effective Date**

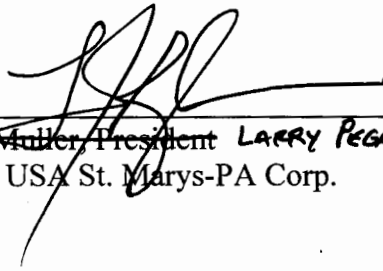
75. The effective date of this Consent Agreement and the accompanying Final Order is the date on which the Final Order, signed by the Regional Administrator of EPA - Region III, or his designee, the Regional Judicial Officer, is filed with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

**Entire Agreement**

76. This Consent Agreement and the accompanying Final Order constitute the entire agreement and understanding of the parties regarding settlement of all claims pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the parties other than those expressed in this CAFO.

**For Respondent:**

Date: SEP 26 2012

By:   
~~Didier Muller, President~~ LARRY PEGHER, VICE PRESIDENT  
Mersen USA St. Marys-PA Corp.

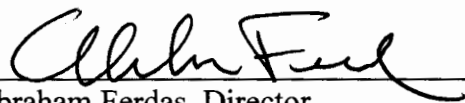
**For Complainant:**

Date: September 27, 2012

By: John Ruggero  
John Ruggero  
Senior Assistant Regional Counsel

Accordingly, I hereby recommend that the Regional Administrator or his designee, the Regional Judicial Officer, issue the attached Final Order.

Date: 9/28/12

By:   
Abraham Ferdas, Director  
Land and Chemicals Division

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III

<b>In the Matter of:</b>	:	
	:	<b>Docket No. EPCRA-03-2012-0153</b>
<b>Mersen USA St. Marys-PA Corp.</b>	:	
<b>14 Eastmans Road</b>	:	
<b>Parsippany, NJ 07054</b>	:	
	:	<b>CONSENT AGREEMENT</b>
<b>Respondent</b>	:	
	:	<b>Proceeding under section 325(c)</b>
<b>Mersen USA St. Marys-PA Corp.</b>	:	<b>of the Emergency Planning and</b>
<b>1032 Trout Run Road</b>	:	<b>Community Right-to-Know Act</b>
<b>St. Marys, PA 15857</b>	:	<b>42 U.S.C. § 11045(c)</b>
	:	
<b>Facility</b>	:	

REGIONAL HEARING CLERK  
EPA REGION III, PHILADELPHIA

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**FINAL ORDER**

Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency - Region III, and Respondent, Mersen USA St. Marys-PA Corp., have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22 (with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth herein.

Based on the representations of the parties in the attached Consent Agreement, the civil penalty agreed to therein is based upon EPA's *Enforcement Response Policy for Section 313 of the Emergency Planning and Community Right-to-Know Act (1986)* (August 10, 1992) and the provisions and objectives of Section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 ("EPCRA"), 42 U.S.C. § 11023. **NOW, THEREFORE, PURSUANT TO Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), and the Consolidated Rules of Practice, IT IS HEREBY ORDERED** that Respondent pay a civil penalty of **Seventy-Nine Thousand Dollars (\$79,000.00)**, and comply with the terms and conditions of the Consent Agreement.

The effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

Date: 9/28/12

By: Renee Sarajian  
Renee Sarajian  
Regional Judicial Officer  
U.S. EPA - Region III

CERTIFICATE OF SERVICE

I hereby certify that on the date entered below I caused the original CONSENT AGREEMENT AND FINAL ORDER (CAFO) *In the Matter of: Mersen USA St. Marys-PA Corp.*, Docket No. EPCRA-03-2012-0153, and a transmittal memo from Ms. Marcia E. Mulkey and Mr. Abraham Ferdas to the Regional Judicial Officer to be hand-delivered to the Regional Hearing Clerk, EPA Region III, and true and correct copies to be sent in the manner specified below to the following individual:

UPS overnight:           Howard J. Wein, Esquire  
                                  Buchanan Ingersoll & Rooney, PC  
                                  One Oxford Centre  
                                  301 Grant Street, 20<sup>th</sup> Floor  
                                  Pittsburgh, PA 15219-1410

Sept. 28, 2012  
Date

John Ruggiero  
John Ruggiero  
Sr. Asst. Regional Counsel  
EPA Region III (3RC30)  
1650 Arch St.  
Philadelphia, PA 19103-2029  
215-814-2142

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