



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

March 17, 2022

VIA E-MAIL
DELIVERY RECEIPT REQUESTED

Paul Perrel, President
Fabrications Unlimited Inc.
4651 Beaufait St
Detroit, Michigan, 48207

Email: contact@fabsunlimited.com

Dear Mr. Perrell:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves Fabrication Unlimited, Inc., docket no. CAA-05-2022-0009. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on March 17, 2022.

Pursuant to paragraph 48 of the CAFO, Fabrication Unlimited, Inc. must pay the civil penalty within 30 days of the filing date. Your electronic funds transfer must display the case name and case docket number.

Please direct any questions regarding this case to Mark Koller, Associate Regional Council, 312-353-2591.

Sincerely,

SARAH MARSHALL

Digitally signed by SARAH
MARSHALL
Date: 2022.03.03 08:05:37 -06'00'

Sarah Marshall, Chief
Air Enforcement and Compliance Assurance Section (MI/WI)

Enclosure

cc: Ann Coyle, Regional Judicial Officer/via electronic mail
Regional Hearing Clerk/via electronic mail
Mark Koller/via electronic mail
Jenine Camilleri, Enforcement Unit Supervisor, Air Quality Division, EGLE/ via electronic mail
April Wendling, Enforcement Supervisor Detroit, District Air Quality Division, EGLE/via electronic mail

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No. CAA-05-2022-0009
)	
Fabrications Unlimited, Inc.)	Proceeding to Assess a Civil Penalty
Detroit, Michigan,)	Under Section 113(d) of the Clean Air Act,
)	42 U.S.C. § 7413(d)
Respondent.)	
<hr/>)	

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the CAA), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at 40 C.F.R. Part 22.

2. Complainant is the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency (EPA), Region 5.

3. Respondent is Fabrications Unlimited, Inc., a corporation doing business in Michigan.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

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

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO.

Statutory and Regulatory Background

9. The CAA is designated to, among other things, 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. Section 101(b)(1) of the CAA, 42 U.S.C. § 7401(b)(1).

10. Under Section 112 of the CAA, 42 U.S.C. § 7412, EPA promulgated the National Emission Standards for Hazardous Air Pollutants (NESHAP) Area Source Standards for Nine Metal Fabrication and Finishing Source Categories at 40 C.F.R. Part 63, Subpart XXXXXX. 73 Fed. Reg. 43000 (July 23, 2008). The NESHAP Area Source Standards for Nine Metal Fabrication and Finishing Source Categories applies to Fabrications Unlimited, Inc.

11. The Metal Fabrication NESHAP establishes requirements to demonstrate initial and continuous compliance with management standards and monitoring and recordkeeping requirements associated with sources primarily engaged with one of the nine source categories listed in 40 C.F.R. § 63.11514(a)(1) through (9) that use materials or have the potential to emit metal fabrication or finishing metal HAP (MFHAP). *See* 40 C.F.R. § 63.11514.

12. The NESHAP, at 40 C.F.R. Part 63, Subpart A, contains general provisions applicable to the owner or operator of any stationary source that contains an effected source subject to the NESHAP at Part 63. These general provisions include the definitions at 40 C.F.R. § 63.2.

13. Section 112(a)(1) of the CAA, 42 U.S.C. § 7412(a)(1), 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 (PTE) considering controls, in the aggregate, 10 tons per year (TPY) or more of any single HAP or 25 TPY or more of any combination of HAPs.

14. Section 112(a) of the CAA, 42 U.S.C. § 7412(a)(2), defines “area source” as any stationary source of HAPs that is not a major source.

15. Section 112(a) of the CAA, 42 U.S.C. § 7412(a)(3), and 40 C.F.R. § 63.4 prohibit the owner or operator of any source from operating such source in violation of any NESHAP applicable to such source.

16. The NESHAP, at 40 C.F.R. § 63.2, defines “affected source” as the collection of equipment, activities, or both within a single contiguous area and under common control that is included in a CAA 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 CAA.

17. The NESHAP, at 40 C.F.R. § 63.11514(c), states that an affected source is existing if construction or reconstruction of the affected source was commenced before April 3, 2008.

18. The NESHAP, at 40 C.F.R. § 63.11514(d), states that an affected source is new if construction or reconstruction of the affected source was commenced on or after April 3, 2008.

19. 40 C.F.R. § 63.11522 defines “machining” as dry metal turning, milling, drilling, boring, tapping, planing, broaching, sawing, cutting, shaving, shearing, threading, reaming, shaping, slotting, hobbing, and chamfering with machines. Shearing operations cut materials into a desired shape and size, while forming operations bend or conform materials into specific

shapes. Cutting and shearing operations include punching, piercing, blanking, cutoff, parting, shearing and trimming. Forming operations include bending, forming, extruding, drawing, rolling, spinning, coining, and forging the metal. Processes specifically excluded are hand-held devices and any process employing fluids for lubrication or cooling.

20. 40 C.F.R. § 63.11522 defines “metal fabrication and finishing HAP (MFHAP)” to mean any compound of the following metals: cadmium, chromium, lead, manganese, or nickel, or any of these metals in the elemental form, with the exception of lead.

21. 40 C.F.R. § 63.11522 defines “welding” as a process which joins two metal parts by melting the parts at the joint and filling the space with molten metal.

22. The NESHAP, at 40 C.F.R. §§ 63.11516(b)(1) and (2), requires the owner or operator of machining operations to take steps to minimize excess dust in the surrounding area to reduce metal fabrication and finishing hazardous air pollutants (MFHAP) emissions and operate all equipment associated with machining according to manufacturer’s instructions.

23. The NESHAP, at 40 C.F.R. § 63.11516(f)(1), requires the owner or operator of welding operations to operate all equipment associated with welding operations according to manufacturer’s instructions.

24. The NESHAP, at 40 C.F.R. § 63.11516(f)(2), requires the owner or operator of welding operations to implement one or more of the management practices specified in 40 C.F.R. § 63.11516(f)(2)(i) through (v) to minimize MFHAP emissions.

25. The NESHAP, at 40 C.F.R. §§ 63.11516(f)(3) through (7), requires the owner or operator of welding operations to complete visual determinations of visible emissions following either EPA Method 22 or EPA Method 9 and in accordance with its corresponding graduated schedule.

26. The NESHAP, at 40 C.F.R. § 63.11519(b), requires the owner or operator of machining and welding operations to prepare and submit required records and reports.

27. The Administrator of EPA (the Administrator) may assess a civil penalty of up to \$48,762 per day of violation up to a total of \$390,092 for violations that occurred after November 2, 2015, under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

28. Section 113(d)(1) limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and the Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

29. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

Factual Allegations and Alleged Violations

30. Fabrications Unlimited, Inc. owns and operates a metal fabrication facility at 4651 Beaufait Street, Detroit, Michigan.

31. On December 4, 2019, EPA inspectors observed emissions coming from a stack at Fabrications Unlimited's Detroit facility. The emissions were yellow and lasted about 30 seconds, recurring approximately four times in an approximately five-minute period. The emissions were recorded on video.

32. On December 6, 2019, EPA inspectors completed a CAA inspection at the facility. EPA showed the video with the observed emissions to representatives of Fabrications Unlimited, Inc.

33. On February 21, 2020, EPA issued a CAA Section 114 Information Request pursuant to Section 114 of the Clean Air Act, 42 U.S.C. § 7414.

34. On March 23, 2020, Fabrications Unlimited, Inc. provided a mailed response to the CAA Section 114 Information Request.

35. On April 17, 2020, and May 14, 2020, Fabrications Unlimited, Inc. submitted an electronic response to the CAA Section 114 Information Request.

36. Fabrications Unlimited, Inc. started operations in 2014.

37. Fabrications Unlimited, Inc. is primarily engaged in fabricated structural metal manufacturing and has machining and welding operations that emit or have the potential to emit MFHAP emissions. Fabrications Unlimited, Inc. is subject to the NESHAP Area Source Standards for Nine Metal Fabrication and Finishing Source Categories.

38. Fabrications Unlimited, Inc. has a PTE of less than 10 TPY of a single HAP and less than 25 TPY of a combination of HAPs.

39. EPA determined Fabrications Unlimited, Inc. was in violation of the NESHAP Area Source Standards for Nine Metal Fabrication and Finishing Source Categories for its machining and welding operations.

40. On August 24, 2020, EPA issued to Fabrications Unlimited, Inc. a notice and finding of violation alleging that it violated the NESHAP Area Source for Nine Metal Fabrication and Finishing Source Categories by not complying with the work practices, monitoring, recordkeeping and reporting requirements of the rule.

41. On October 7, 2020, representatives of Fabrications Unlimited, Inc. and EPA discussed the August 24, 2020, notice and finding of violation. Fabrications Unlimited, Inc. provided copies of its Initial Notification and Notification of Compliance Status as is required by 40 C.F.R. § 63.11519(a).

42. On October 15, 2020, Respondent submitted a written response to the August 24, 2020, notice and finding of violation.

43. Fabrications Unlimited, Inc. failed to comply with management practices for machining operations and welding operations from February 2014 to October 2020, in accordance with 40 C.F.R. §§ 63.11516(b) and (f).

44. Fabrications Unlimited, Inc. failed to monitor for fugitive emissions of welding operations (i.e., Tier 1, Tier 2 and Tier 3 visual determinations), from February 2014 to October 2020, in accordance with 40 C.F.R. § 63.11516(f)(3)-(7).

45. Fabrications Unlimited, Inc. failed to submit an Initial Notification and a Notification of Compliance Status within 120 days after initial startup after February 2014 in accordance with 40 C.F.R. § 63.11519(a).

46. Fabrications Unlimited, Inc. failed to submit an annual certification and compliance reports from January 2015 to January 2021 in accordance with 40 C.F.R. § 63.11519(b).

47. Fabrications Unlimited, Inc. failed to maintain records from February 2014 to October 2020, in accordance with 40 C.F.R. § 63.11519(c).

Civil Penalty

48. Based on analysis of the factors specified in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), the facts of this case and other factors such as cooperation and prompt

return to compliance, Complainant has determined that an appropriate civil penalty to settle this action is \$31,466.00.

49. Within 30 days after the effective date of this CAFO, Respondent must pay a \$31,466.00 civil penalty by an online payment. To pay on-line, go to www.pay.gov. Use the Search Public Forms option on the tool bar and enter SFO 1.1 in the search field. Open the form and complete the required fields.

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

Air Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency, Region 5
r5airenforcement@epa.gov

Mark Koller
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
koller.mark@epa.gov

Regional Hearing Clerk (E-19J)
U.S. Environmental Protection Agency, Region 5
r5hearingclerk@epa.gov

51. This civil penalty is not deductible for federal tax purposes.

52. If Respondent does not pay timely the civil penalty, EPA may request the Attorney General of the United States to bring an action to collect any unpaid portion of the penalty with interest, nonpayment penalties and the United States enforcement expenses for the collection action under Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

53. Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621(a)(2). Respondent must pay the

United States enforcement expenses, including but not limited to attorneys fees and costs incurred by the United States for collection proceedings. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue. This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter. 42 U.S.C. § 7413(d)(5).

General Provisions

54. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: koller.mark@epa.gov (for Complainant), and contact@fabsunlimited.com (for Respondent).

55. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in this CAFO.

56. The effect of the settlement described in paragraph 55, above, is conditioned upon the accuracy of Respondent's representations to EPA, as memorialized in paragraphs 34, 35, 41 and 42 of this CAFO.

57. The CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

58. This CAFO does not affect Respondent's responsibility to comply with the CAA and other applicable federal, state and local laws. Except as provided in paragraph 55, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

59. Respondent certifies that it is complying fully with 40 C.F.R. Part 63, Subpart XXXXXX Metal Fabrication NESHAP.

60. This CAFO constitutes an “enforcement response” as that term is used in EPA’s Clean Air Act Stationary Civil Penalty Policy to determine Respondent’s “full compliance history” under Section 113(e) of the CAA, 42 U.S.C. § 7413(e).

61. The terms of this CAFO bind Respondent, its successors and assigns.

62. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

63. Each party agrees to bear its own costs and attorney’s fees in this action.

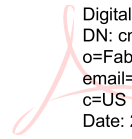
64. This CAFO constitutes the entire agreement between the parties.

Fabrications Unlimited, Inc., Respondent

02-23-2022

Date

**Paul B.
Perrell**



Digitally signed by Paul B. Perrell
DN: cn=Paul B. Perrell,
o=Fabrications Unlimited Inc, ou,
email=contact@fabsunlimited.com,
c=US
Date: 2022.02.23 14:29:59 -05'00'

Paul Perrell, President
Fabrications Unlimited, Inc.

United States Environmental Protection Agency, Complainant

MICHAEL HARRIS Digitally signed by MICHAEL
HARRIS
Date: 2022.03.03 14:40:22 -06'00'

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 5

Consent Agreement and Final Order
In the Matter of: Fabrications Unlimited, Inc.
Docket No. CAA-05-2022-0009

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

Date

ANN COYLE Digitally signed by ANN
COYLE
Date: 2022.03.15
09:41:49 -05'00'

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

