

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region III

1650 Arch Street

Philadelphia, Pennsylvania 19103-2029

U.S. EPA-REGION 3-RHC
FILED-28OCT2019AM10:39

In Re: :
: Docket No. CAA-03-2020-0025
:
L&M Fabrication and Machine, Inc., :
6814 Chrisphalt Drive, : CONSENT AGREEMENT
Bath, Pennsylvania 18014, :
: Proceeding under the Clean Air Act,
: Section 113(a)(3)(A) and (d)(1)(B)
Respondent. :

CONSENT AGREEMENT

I. Preliminary Statement

1. This administrative consent agreement is entered into by and between the Director, Enforcement and Compliance Assurance Division, United States Environmental Protection Agency (EPA), Region III (Complainant), and L&M Fabrication and Machine, Inc. (Respondent), pursuant to Section 113(a)(3)(A) and (d)(1)(B) of the Clean Air Act (CAA), 42 United States Code (U.S.C.) § 7413(a)(3)(A) and (d)(1)(B), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 Code of Federal Regulations (C.F.R.) Part 22 (Consolidated Rules of Practice). The Consolidated Rules of Practice at 40 C.F.R. § 22.13(b) provide, in pertinent part, that “where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a consent agreement and final order pursuant to § 22.18(b)(2) and (3).”

2. This administrative consent agreement and the accompanying final order (CAFO) address violations set forth herein, which occurred at Respondent’s facility located at 6814 Chrisphalt Drive, Bath, Pennsylvania 18014 (Bath facility). The Commonwealth of Pennsylvania is within the jurisdiction of EPA - Region III.

II. General Provisions

1. Section 113(a)(3)(A) and (d)(1)(B) of the CAA, 42 U.S.C. § 7413(a)(3)(A) and (d)(1)(B), authorizes the Administrator of EPA to, among other things, issue an administrative penalty order assessing a civil administrative penalty whenever, on the basis of any information available to the Administrator, the Administrator finds that a person has violated a requirement of any rule promulgated under Subchapter I of Chapter 85 of Title 42 of the United States Code. Chapter 85 of Title 42 of the United States Code is the CAA, 42 U.S.C. §§ 7401-7671q. Subchapter I of Chapter 85 [also referred to as Title I of the CAA] includes Section 101 to Section 193 of the CAA, 42 U.S.C. §§ 7401-7515. The authority to sign this administrative consent agreement has been duly delegated to the Director, Enforcement and Compliance Assurance Division, of EPA -Region III. The authority to issue the accompanying final order has been duly delegated to the Regional Judicial Officer of EPA - Region III.

2. Respondent is a "person" as that term is defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e), and as that term is used in Section 113(a)(3) and (d)(1) of the CAA, 42 U.S.C. § 7413(a)(3) and (d)(1).
3. On April 3, 2008, EPA proposed a rule under Section 112 of the CAA establishing national emission standards for hazardous air pollutants: area source standards for nine metal fabrication and finishing source categories [73 Federal Register (F.R.) 18334]. On July 23, 2008, EPA promulgated a rule under Section 112 of the CAA establishing national emission standards for hazardous air pollutants: area source standards for nine metal fabrication and finishing source categories (73 F.R. 42978). This rule was effective on July 23, 2008. This rule was and is codified at 40 C.F.R. Part 63, Subpart XXXXXX, National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Nine Metal Fabrication and Finishing Source Categories (40 C.F.R. §§ 63.11514-63.11523). As noted in Section II, Paragraph 1 above, Subchapter I of Chapter 85 includes Section 112 of the CAA, 42 U.S.C. § 7412.
4. Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), limits the Administrator's authority to matters where the total penalty sought does not exceed \$200,000 and the first alleged date of violation occurred no more than 12 months prior to the initiation of the administrative action, except where the Administrator and the Attorney General of the United States jointly determine that a matter involving a larger penalty amount or a longer period of violation is appropriate for administrative penalty action. Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), further provides that any such determination by the Administrator and the Attorney General shall not be subject to judicial review. Under 40 C.F.R. Part 19, Adjustment of Civil Monetary Penalties for Inflation, § 19.4, the figure of \$200,000 has been increased to \$378,852 effective February 6, 2019 (84 F.R. 2056, February 6, 2019, and 84 F.R. 5955, February 25, 2019).
5. The Administrator of EPA and the Attorney General of the United States, each through their respective delegates, have jointly determined that administrative penalty action is appropriate for the longer period of violation involved in this matter.
6. For the purpose of this proceeding, Respondent admits the jurisdictional allegations of this CAFO. Respondent agrees not to contest jurisdiction with respect to the issuance, execution and enforcement of this CAFO.
7. For the purpose of this proceeding, except as provided in Section II, Paragraph 6 immediately above, Respondent neither admits nor denies the findings of fact and conclusions of law in this consent agreement.
8. For the purpose of this proceeding, Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.
9. This CAFO records all terms and conditions of the settlement. This administrative consent agreement and the accompanying final order constitute the entire agreement and understanding of the parties and supersede any prior agreements or understandings, whether written or oral, among the parties with respect to the settlement of the above-captioned matter and the subject matter hereof. There are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this administrative consent agreement and the accompanying final order.

III. Findings of Fact and Conclusions of Law

1. Respondent, L&M Fabrication and Machine, Inc., was registered as a corporation in the Commonwealth of Pennsylvania on June 7, 1967.
2. Respondent operates, and has operated, a facility on leased property at 6814 Chrisphalt Drive, Bath, Pennsylvania 18014 (Bath facility). Respondent leases, and has leased, the property of the Bath facility from Bruce A. Lack. The Bath facility includes, or has included, hazardous air pollutant emission sources involving welding, which involve the emission of nickel (a carcinogen), manganese (a non-carcinogen), or other “metal fabrication and finishing hazardous air pollutants”, as defined in 40 C.F.R. § 63.11522.
3. 40 C.F.R. § 63.11523 and Table 2 of 40 C.F.R. Part 63, Subpart XXXXXX indicate the provisions of 40 C.F.R. Part 63, Subpart A that are applicable to sources that are subject to 40 C.F.R. Part 63, Subpart XXXXXX. Pursuant to 40 C.F.R. § 63.11523 and Table 2 of 40 C.F.R. Part 63, Subpart XXXXXX, 40 C.F.R. Part 63, Subpart A, § 63.2 applies to sources that are subject to 40 C.F.R. Part 63, Subpart XXXXXX. The Bath facility is not a “major source” of hazardous air pollutants as that term is defined in 40 C.F.R. § 63.2. The Bath facility is an “area source” of hazardous air pollutants as that term is defined in 40 C.F.R. § 63.2.
4. On September 19, 2017, personnel from EPA - Region III conducted a CAA compliance inspection at Respondent’s Bath facility.
5. By letter dated November 29, 2017, under Section 114 of the CAA, 42 U.S.C. § 7414, EPA required Respondent to provide certain information and documents to EPA. Information and documents were received from Respondent by letter and attachments dated December 11, 2017.
6. By letter dated July 20, 2018, under Section 114 of the CAA, 42 U.S.C. § 7414, EPA required Respondent to provide certain additional information to EPA. Information was received from Respondent by letter dated August 29, 2018.
7. In Respondent’s above-referenced letter and attachments dated December 11, 2017, Respondent stated that the Bath facility is primarily engaged in fabricated structural metal manufacturing. As the operator of an area source primarily engaged in fabricated structural metal manufacturing, pursuant to 40 C.F.R. § 63.11514(a), Respondent is and has been subject to 40 C.F.R. Part 63, Subpart XXXXXX.
8. 40 C.F.R. § 63.11514(b) provides that the provisions of 40 C.F.R. Part 63, Subpart XXXXXX apply to certain new and existing affected sources listed and defined therein. Pursuant to 40 C.F.R. § 63.11514(d), an affected source is new if construction or reconstruction of it, as defined in 40 C.F.R. § 63.2, commenced on or after April 3, 2008 (the above-referenced date of proposal of 40 C.F.R. Part 63, Subpart XXXXXX). Pursuant to 40 C.F.R. § 63.11514(c), an affected source is existing if construction or reconstruction of it, as defined in 40 C.F.R. § 63.2, commenced before April 3, 2008 (the above-referenced date of proposal of 40 C.F.R. Part 63, Subpart XXXXXX).
9. In Respondent’s above-referenced letter dated August 29, 2018, Respondent stated that it currently had welding affected sources, as defined in 40 C.F.R. § 63.11514(b) and 40 C.F.R. § 63.11522, at the Bath facility.

10. In Respondent's above-referenced letter dated August 29, 2018, Respondent stated, upon information and belief, that the welding affected sources referenced in Section III, Paragraph 9 immediately above commenced construction or reconstruction, as defined in 40 C.F.R. § 63.2, before April 3, 2008 (the above-referenced date of proposal of 40 C.F.R. Part 63, Subpart XXXXXX). Pursuant to 40 C.F.R. § 63.11514(c), these affected sources would be existing affected sources.

11. Pursuant to 40 C.F.R. § 63.11515(a), Respondent, as the operator of existing affected sources at the Bath facility, was required to be in full compliance with all applicable provisions of 40 C.F.R. Part 63, Subpart XXXXXX with regard to such existing affected sources on and after July 25, 2011.

Count 1 - Failure to Submit Initial Notification for Existing Affected Sources

12. The allegations of Sections I, II and III (Paragraphs 1 through 11) above of this administrative consent agreement are incorporated herein by reference. 40 C.F.R. § 63.11523 and Table 2 of 40 C.F.R. Part 63, Subpart XXXXXX indicate that sources that are subject to 40 C.F.R. Part 63, Subpart XXXXXX are subject to 40 C.F.R. Part 63, Subpart A, § 63.9(b). 40 C.F.R. § 63.11519(a)(1) of Subpart XXXXXX required the operator of an existing affected source subject to Subpart XXXXXX to submit the initial notification required by 40 C.F.R. § 63.9(b), with the information specified in 40 C.F.R. § 63.11519(a)(1)(i) through (iv), to EPA no later than July 25, 2011. Respondent failed to comply with this requirement.

13. Respondent's failure to comply with this requirement constitutes a violation of a requirement of a rule promulgated under Subchapter I of Chapter 85 of Title 42 of the United States Code, 40 C.F.R. § 63.9(b) of Subpart A, 40 C.F.R. § 63.11519(a)(1) of Subpart XXXXXX, and Section 112(i)(3)(A) of the CAA, 42 U.S.C. § 7412(i)(3)(A).

Count 2 - Failure to Submit Notification of Compliance Status for Existing Affected Sources

14. The allegations of Sections I, II and III (Paragraphs 1 through 11) above of this administrative consent agreement are incorporated herein by reference. 40 C.F.R. § 63.11519(a)(2) of Subpart XXXXXX required the operator of an existing affected source subject to Subpart XXXXXX to submit a notification of compliance status, with the information specified in 40 C.F.R. § 63.11519(a)(2)(i) through (iv), to EPA no later than November 22, 2011. Respondent failed to comply with this requirement.

15. Respondent's failure to comply with this requirement constitutes a violation of a requirement of a rule promulgated under Subchapter I of Chapter 85 of Title 42 of the United States Code, 40 C.F.R. § 63.11519(a)(2) of Subpart XXXXXX, and Section 112(i)(3)(A) of the CAA, 42 U.S.C. § 7412(i)(3)(A).

Count 3 - Failure to Submit Annual Certification and Compliance Reports for Existing Affected Sources

16. The allegations of Sections I, II and III (Paragraphs 1 through 11) above of this administrative consent agreement are incorporated herein by reference. 40 C.F.R. § 63.11519(b) of Subpart XXXXXX requires the operator of affected sources subject to Subpart XXXXXX to prepare and submit to EPA annual certification and compliance reports for each affected source no later than January 31 of each year following the reporting period ending the prior December 31. Annual certification and compliance reports for each existing and new affected source at the Bath facility were due no later than January 31, 2012, January 31, 2013, January 31, 2014, January 31, 2015, January 31, 2016, January 31, 2017, January 31, 2018, and January 31, 2019. Respondent failed to submit all eight (8) of these reports.

17. Respondent's failures to submit these eight (8) reports constitute violations of a requirement of a rule promulgated under Subchapter I of Chapter 85 of Title 42 of the United States Code, 40 C.F.R. § 63.11519(b) of Subpart XXXXXX, and Section 112(i)(3)(A) of the CAA, 42 U.S.C. § 7412(i)(3)(A).

**Count 4 - Failure to Comply with Applicable Standards and Management Practices
for Existing Welding Affected Sources**

18. The allegations of Sections I, II and III (Paragraphs 1 through 11) above of this administrative consent agreement are incorporated herein by reference. 40 C.F.R. § 63.11516(f) contains applicable standards and management practices for existing welding affected sources. Respondent failed to comply with the requirements of 40 C.F.R. § 63.11516(f)(1), (2) and (3) at the Bath facility from July 25, 2011 through at least August 29, 2018. The factual basis for these violations was obtained from information and documents obtained during EPA's investigation described in Section III., Paragraphs 4, 5 and 6 above.

19. Respondent's failures to comply with these requirements constitute violations of requirements of a rule promulgated under Subchapter I of Chapter 85 of Title 42 of the United States Code, 40 C.F.R. § 63.11516(f)(1), (2) and (3) of Subpart XXXXXX, and Section 112(i)(3)(A) of the CAA, 42 U.S.C. § 7412(i)(3)(A).

**Count 5 - Failure to Comply with Applicable Monitoring Requirements
for Existing Welding Affected Sources**

20. The allegations of Sections I, II and III (Paragraphs 1 through 11) above of this administrative consent agreement are incorporated herein by reference. 40 C.F.R. § 63.11517 contains applicable monitoring requirements for existing welding affected sources. Respondent failed to comply with the requirements of 40 C.F.R. § 63.11517(a) and (b)(1) at the Bath facility from July 25, 2011 through at least August 29, 2018. The factual basis for these violations was obtained from information and documents obtained during EPA's investigation described in Section III., Paragraphs 4, 5 and 6 above.

21. Respondent's failures to comply with these requirements constitute violations of requirements of a rule promulgated under Subchapter I of Chapter 85 of Title 42 of the United States Code, 40 C.F.R. § 40 C.F.R. § 63.11517(a) and (b)(1) of Subpart XXXXXX, and Section 112(i)(3)(A) of the CAA, 42 U.S.C. § 7412(i)(3)(A).

**Count 6 - Failure to Comply with Applicable
Recordkeeping Requirements for Existing Welding Affected Sources**

22. The allegations of Sections I, II and III (Paragraphs 1 through 11) above of this administrative consent agreement are incorporated herein by reference. 40 C.F.R. § 63.11519(c) contains applicable recordkeeping requirements for existing welding affected sources. Respondent failed to comply with the requirements of 40 C.F.R. § 63.11519(c)(1), (2), (13) and (15) at the Bath facility from July 25, 2011 through at least August 29, 2018. The factual basis for these violations was obtained from information and documents obtained during EPA's investigation described in Section III., Paragraphs 4, 5 and 6 above.

23. Respondent's failures to comply with these requirements constitute violations of requirements of a rule promulgated under Subchapter I of Chapter 85 of Title 42 of the United States Code, 40 C.F.R. § 63.11519(c)(1), (2), (13) and (15) of Subpart XXXXXX, and Section 112(i)(3)(A) of the CAA, 42 U.S.C. § 7412(i)(3)(A).

IV. Civil Penalty

1. In settlement of the violations set forth in Paragraphs 12 through 23 of Section III above, and for the purpose of this proceeding, Respondent consents to the assessment of, and agrees to pay, a civil penalty in the amount of two hundred one thousand forty-eight dollars (\$201,048) in the manner specified herein.
2. The settlement amount of two hundred one thousand forty-eight dollars (\$201,048) is based upon Complainant EPA's consideration of, and application of, the statutory penalty factors set forth in Section 113(e)(1) of the CAA, 42 U.S.C. § 7413(e)(1) [which include the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violations as established by any credible evidence, payment by the violator of penalties previously assessed for the same violations, the economic benefit of noncompliance, the seriousness of the violations, and such other matters as justice may require], and EPA's Clean Air Act Stationary Source Civil Penalty Policy (dated October 25, 1991), as modified [including modifications to adjust for inflation in keeping with 40 C.F.R. Part 19, Adjustment of Civil Monetary Penalties for Inflation].
3. In accordance with 40 C.F.R. § 13.9(a)(2), the assessed civil penalty of two hundred one thousand forty-eight dollars (\$201,048) is due on the date that a copy of the filed CAFO is mailed or hand-delivered to Respondent. Respondent must pay the entire civil penalty within thirty (30) calendar days of this date 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.
4. Payment of the civil penalty set forth in Section IV, Paragraph 1 above shall be made by cashier's check, certified check, electronic wire transfer, the Automated Clearing House/REX, or online internet payment, as specified below. Payment, regardless of how it is made, is to be made payable to Treasurer, United States of America, and shall reference the above case caption and docket number (CAA-03-2020-0025).
5. Instructions for making payment of the civil penalty set forth in Section IV, Paragraph 1 above using the methods described in Section IV, Paragraph 4 immediately above are provided at the following EPA website addresses:

<http://www2.epa.gov/financial/makepayment>

<http://www2.epa.gov/financial/additional-instructions-making-payments-epa>
6. At the same time that payment is made, regardless of how it is made, copies of any check or written documentation confirming any electronic wire transfer, ACH/REX payment, or online internet payment shall be mailed to Regional Hearing Clerk (3RC00), EPA - Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029, to James M. Baker, Senior Assistant Regional Counsel (3RC30), EPA - Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029, and to Paul Arnold, Environmental Engineer (3ED21), EPA - Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029.
7. If Respondent fails to timely pay any portion of the civil penalty assessed under this consent agreement, 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 [see 42 U.S.C. § 7413(d)(5)];

b. refer the debt to a credit reporting agency or a collection agency [see 42 U.S.C. § 7413(d)(5) and 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 United States) which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds [see 40 C.F.R. Part 13, Subparts C and H]; and

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

8. 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 delinquent debts owed to the United States and a charge to cover the costs of processing and handling delinquent debts, as more fully described below. Accordingly, Respondent's failure to make timely payment or to comply with the conditions in this CAFO shall result in the assessment of late payment charges, including interest, penalties, and/or administrative costs of handling delinquent debts.

9. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a copy of the filed 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).

10. The cost of EPA's administrative handling of delinquent debts will be charged and assessed monthly throughout the period the debt is delinquent [see 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 an unpaid penalty 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.

11. A late payment penalty charge of six percent per year will be assessed monthly on any portion of the civil penalty which remains delinquent for more than ninety (90) calendar days [see 40 C.F.R. § 13.11(c)]. Should assessment of the late payment penalty charge on the delinquent debt be required, it shall accrue from the first day the payment is delinquent [see 31 C.F.R. § 901.9(d)].

12. In accordance with the above provisions, in order to avoid the assessment of interest, charges for administrative costs, and late payment penalties on the civil penalty set forth herein, Respondent must pay the full amount of the civil penalty, in the manner directed, no later than thirty (30) calendar days after a copy of the filed CAFO is mailed or hand-delivered to Respondent, as provided in Section IV, Paragraph 9 above.

13. Complainant and Respondent enter into this consent agreement in order to settle the violations specifically set forth in Paragraphs 12 through 23 of Section III of this consent agreement.

14. This settlement pursuant to 40 C.F.R. § 22.18(b) of the Consolidated Rules of Practice:
 - a. shall only resolve Respondent's liability for CAA civil penalties for the violations specifically set forth in Paragraphs 12 through 23 of Section III of this consent agreement;
 - b. shall not in any case affect the right of EPA or the United States to pursue Federal civil penalties for other violations of law; and
 - c. shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

V. Settlement

1. For the purpose of this proceeding, Respondent waives any right to contest the findings of fact and conclusions of law in this consent agreement, waives its right to appeal the final order accompanying this consent agreement, waives its opportunity for a hearing on the record in accordance with 5 U.S.C. §§ 554 and 556 under Section 113(d)(2)(A) of the CAA, 42 U.S.C. § 7413(d)(2)(A), and waives its right to judicial review under Section 113(d)(4) of the CAA, 42 U.S.C. § 7413(d)(4).
2. Pursuant to 40 C.F.R. § 22.31(b), the effective date of this CAFO is the date on which the final order, signed by either the Regional Administrator of EPA - Region III or his designee, the Regional Judicial Officer of EPA - Region III, is filed by the Regional Hearing Clerk of EPA - Region III.
3. Complainant and Respondent each agree to pay their own costs and attorney fees.
4. Respondent agrees that this CAFO shall apply to, and be binding upon, Respondent, its directors, officers, employees, servants, agents, successors and assigns.
5. By signing this consent agreement, the undersigned representative of Respondent certifies that she is fully authorized to execute and enter into the terms and conditions of this consent agreement and that she has the legal capacity to bind Respondent to the terms and conditions of this consent agreement.
6. 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. 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.
7. Civil penalties, interest, administrative costs or charges, and late payment penalties paid pursuant to this consent agreement shall not be deductible for purposes of federal taxes.
8. Nothing in this consent agreement or the accompanying final order shall be construed to affect or limit in any way the obligation of Respondent to comply fully with the CAA and all federal, state and local laws and regulations. Nothing in this consent agreement or the accompanying final order shall be construed to limit EPA's authority to enforce compliance with any federal laws and regulations which it administers. Nothing in this consent agreement or the accompanying final order shall be construed to be a ruling on or determination of any issue related to any federal, state or local permit. Compliance with this consent agreement and the accompanying final order shall not be a defense to any action commenced at any time for any violation of any federal laws and regulations administered by EPA except a civil penalty

action for the violations specifically set forth in Paragraphs 12 through 23 of Section III of this consent agreement.

9. By signing this consent agreement, Respondent certifies that Respondent is, as of the date of that signature, in full compliance with all applicable requirements of 40 C.F.R. Part 63, Subpart XXXXXX, National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Nine Metal Fabrication and Finishing Source Categories (40 C.F.R. §§ 63.11514-11523).

10. Nothing in this consent agreement or the accompanying final order shall be construed to limit EPA's authority to commence any action against Respondent or any other person to address conditions that may present an imminent and substantial endangerment to the public health, welfare or environment.

11. EPA reserves all rights and remedies available to it under the CAA, the regulations promulgated thereunder, and all other federal laws or regulations, to enforce the terms and conditions of this CAFO following its filing by the Regional Hearing Clerk.

For the Respondent:

October 16, 2019

Date

Angela Lack Kopchak, pres.

Angela Lack Kopchak
President
L&M Fabrication and Machine, Inc.

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement and Compliance Assurance Division of the United States Environmental Protection Agency, Region III, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

OCT 22 2019

Date



Karen Melvin
Director
Enforcement and Compliance Assurance Division
United States Environmental Protection Agency
Region III

10/22/19

Date



Paul Arnold, Environmental Engineer
Air Section
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency
Region III

10/21/19

Date



James M. Baker
Senior Assistant Regional Counsel
Office of Regional Counsel
United States Environmental Protection Agency
Region III
Counsel for Complainant

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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U.S. EPA-REGION 3-RHC
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In Re: :
: Docket No. CAA-03-2020-0025
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L&M Fabrication and Machine, Inc., :
6814 Chrisphalt Drive, : FINAL ORDER
Bath, Pennsylvania 18014, :
: Proceeding under the Clean Air Act,
: Section 113(a)(3)(A) and (d)(1)(B)
Respondent. :

FINAL ORDER

Complainant, Director, Enforcement and Compliance Assurance Division, United States Environmental Protection Agency (EPA), Region III, and Respondent, L&M Fabrication and Machine, Inc., 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 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3)]. The terms of the executed CONSENT AGREEMENT, attached hereto, are accepted by the undersigned and incorporated herein as if fully set forth.

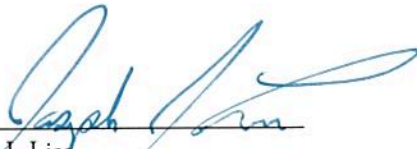
Based on the representations of the parties in the attached CONSENT AGREEMENT, the civil penalty agreed to therein is based upon consideration of, *inter alia*, EPA's Clean Air Act Stationary Source Civil Penalty Policy, dated October 25, 1991, as modified, and the statutory factors set forth in Section 113(e)(1) of the Clean Air Act (CAA), 42 U.S.C. § 7413(e)(1). **NOW, THEREFORE, PURSUANT TO** Section 113(a)(3)(A) and (d)(1)(B) of the CAA, 42 U.S.C. § 7413(a)(3)(A) and (d)(1)(B), and 40 C.F.R. § 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent shall pay a civil penalty of **TWO HUNDRED ONE THOUSAND FORTY-EIGHT DOLLARS (\$201,048)**, plus any applicable interest, administrative charges, or late payment penalties, as specified in the CONSENT AGREEMENT, and comply with the terms and conditions of the CONSENT AGREEMENT.

This FINAL ORDER constitutes the final Agency action in this proceeding. This FINAL ORDER shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This FINAL ORDER resolves only those causes of action alleged in the Consent Agreement and does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of the CAA and the regulations promulgated thereunder.

The effective date of this FINAL ORDER and attached CONSENT AGREEMENT is the date on which the FINAL ORDER, signed by either the Regional Administrator of EPA - Region III or his

designee the Regional Judicial Officer of EPA - Region III, is filed by the Regional Hearing Clerk of EPA - Region III.

Oct. 28, 2019
Date



Joseph J. Lisa
Regional Judicial Officer
EPA - Region III

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III

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Philadelphia, Pennsylvania 19103-2029

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: Proceeding under the Clean Air Act,
: Section 113(a)(3)(A) and (d)(1)(B)
Respondent. :

CERTIFICATE OF SERVICE

OCT 28 2019

I certify that, on _____, the original and one (1) copy of the **Consent Agreement and Final Order** in Docket No. CAA-03-2020-0025 were filed with the U.S. EPA Region III Regional Hearing Clerk. I further certify that, on the date set forth below, I served a true and correct copy of the same upon each of the following persons, in the manner specified below, at the following addresses:

Copy served via **Overnight Mail** to:

Angela Lack Kopchak
President
L&M Fabrication and Machine, Inc.
6814 Chrisphalt Drive
Bath, Pennsylvania 18014

Copy served via **Hand Delivery or Inter-Office Mail** to:

James M. Baker
Senior Assistant Regional Counsel, Air and Toxics Branch (3RC30)
Office of Regional Counsel
U.S. EPA - Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103

Date: OCT 28 2019


Regional Hearing Clerk
U.S. EPA - Region III

Tracking Number(s): 1Z A43 F71 01 9775 0119