

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION VII  
KANSAS CITY, KANSAS

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ENVIRONMENTAL PROTECTION  
AGENCY-REGION VII  
REGIONAL HEARING CLERK

**In The Matter of:** )  
)  
**ABLE MANUFACTURING &** ) **No. CAA-07-2006-0165**  
**ASSEMBLY, LLC,** )  
)  
**Respondent,** )

**ANSWER**

Respondent Able Manufacturing & Assembly LLC responds as follows to the Complaint filed by the United States Environmental Protection Agency.

1. Paragraph 1 of the Complaint contains solely statements of law, and no response is required of Able.
2. Paragraph 2 of the Complaint contains solely statements of law and no response is required of Able.
3. Able is without knowledge sufficient to admit or deny the allegations of paragraph 3 of the Complaint and, therefore, denies such allegations.
4. Able admits the allegations of paragraph 4 of the Complaint.
5. Paragraph 5 of the Complaint contains solely statements of law, and no response is required of Able.
6. Paragraph 6 of the Complaint contains solely statements of law, and no response is required of Able.
7. In answer to paragraph 7 of the Complaint, Able states only that 40 CFR Part 63, Subpart VVVV, establishes certain standards for hazardous air pollutants associated with boat

manufacturing, which regulations and standards speak for themselves. Able denies EPA's characterization of such regulations.

**8.** In answering paragraph 8 of the Complaint, Able states that the applicable regulation speaks for itself and denies EPA's characterization of that regulation.

**9.** In answer to paragraph 9 of the Complaint, Able states that the applicable regulation speaks for itself, and Able denies EPA's characterization of that regulation.

**10.** In answer to paragraph 10 of the Complaint, Able states that the cited statutory provisions speak for themselves and denies EPA's characterization of those provisions.

**11.** In answer to paragraph 11 of the Complaint, Able states that the cited statutory and regulatory provisions speak for themselves, and Able denies EPA's characterization of those provisions.

**12.** In answer to paragraph 12, Able states that the cited regulation speaks for itself and denies EPA's characterization of that regulation.

**13.** In answer to paragraph 13, Able states that the cited regulations speak for themselves and denies EPA's characterization of that regulation.

**14.** In answer to paragraph 14, Able states that the cited regulations speak for themselves and denies EPA's characterization of those regulations.

**15.** In answer to paragraph 15, Able states that the cited statutes speak for themselves and denies EPA's characterization of these statutes.

**16.** Able denies the allegations of paragraph 16.

**17.** In answer to paragraph 17, Able admits only that it is the owner and operator of a manufacturing facility at 1000 Schifferdecker Avenue in Joplin, Missouri. Formerly, this facility was a boat manufacturing facility subject to 40 CFR Subpart VVVV. Able no longer manufactures

boats in any amount and did not manufacture any boats during the time period alleged in paragraph 23 of the complaint. Able denies all other allegations of paragraph 17.

**18.** Able incorporates its response to paragraph 17. Able admits only that it is a major source of hazardous air pollutants pursuant to the applicable regulations. Able denies it was a major source of hazardous air pollutants due to boat manufacturing during the time period alleged in paragraph 23 of the complaint.

**19.** Able incorporates its response to paragraph 17. Respondent has been previously subject to 40 CFR Subpart VVVV, but Able denies that it is currently subject to that provision or that it was subject to it during the time period identified in paragraph 23.

**20.** In answer to paragraph 20, Able states that the statutory provision speaks for itself, and Able denies EPA's characterization of that the statute.

**21.** Able realleges paragraphs 5 through 20 of this Answer as if fully set forth herein.

**22.** In answer to paragraph 22, Able states that the cited regulation speaks for itself and denies EPA's characterization of that regulation. Further answering, Able incorporates its answers to paragraphs 18 and 19.

**23.** Able denies the allegations of paragraph 23.

**24.** Able denies the allegations of paragraph 24.

**25.** In answer to paragraph 25, Able states that the cited statute and regulations speak for themselves and denies EPA's characterization.

**26.** Able does not have information sufficient to admit or deny the allegations of paragraph 26 and therefore denies each and every allegation. Further answering, Able states that it has fewer than 500 employees, which qualifies it as a small business pursuant to the Small Business Regulatory Enforcement Fairness Act (SBREFA). Further answering, Able states that if there was

noncompliance, which Able denies, Able secured no economic or other benefit from such noncompliance.

**27.** In answer to paragraph 27, Able denies that any penalty or payment is appropriate.

**28.** In answer to paragraph 28, Able states that the statutory provision speaks for itself, and Able denies EPA's characterization. Able requests a hearing on EPA's Complaint and Able's Answer.

**29.** In answer to paragraph 29, Able states that the cited regulations speak for themselves, and Able denies EPA's characterization.

**30.** In answer to paragraph 30, Able states that the applicable Rules of Practice governing this proceeding speak for themselves, and Able denies EPA's characterization.

**31.** In answer to paragraph 31, Able states that the applicable Rules of Practice speak for themselves, and Able denies EPA's characterization.

**32.** In answer to paragraph 32, Able requests a hearing. Able also requests an informal settlement conference with EPA.

**33.** In answer to paragraph 33, Able states that the applicable Rules of Practice speak for themselves, and Able denies EPA's characterization.

**34.** In answer to paragraph 34, Able states that the applicable Rules of Practice speak for themselves, and Able denies EPA's characterization.

**35.** Further answering the Complaint, Able states that the penalty proposed by EPA is excessive in comparison to the factors to be considered pursuant to applicable law, regulations, and EPA guidance; that the penalty violates requirements of the Small Business Regulatory Enforcement Fairness Act (SBREFA) and applicable regulations and guidance; the manner in which 40 CFR Part 63, Subpart VVVV is enforced affects small businesses disproportionately to large businesses; and

that Able received no profit or economic benefit from any alleged violations or from the manufacturing process itself.

36. Able denies each and every allegation of the Complaint not specifically admitted herein.

37. The Complaint fails to state a claim upon which relief can be granted.

WHEREFORE, Respondent Able Manufacturing & Assembly, LLC, requests the Administrator conduct a hearing on all matters raised by the Complaint and this Answer, grant a settlement conference, dismiss the Complaint, and award Able's attorneys' fees as are consistent with applicable law.

Respectfully submitted,

**SPENCER FANE BRITT & BROWNE LLP**

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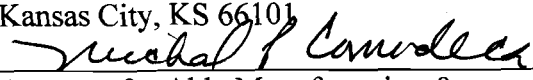
**Attorneys for Able Manufacturing &  
Assembly, LLC**

**CERTIFICATE OF SERVICE**

On this 7<sup>th</sup> day of June, 2006, I hereby certify that a true and correct copy of the above and foregoing Answer of Respondents Able Manufacturing and Assembly LLC was placed in the U.S. Mail, postage prepaid, addressed to:

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