

STATE OF MICHIGAN  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OFFICE OF THE DIRECTOR

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In the matter of administrative proceedings )  
against **COMFORT RESEARCH**, a )  
corporation organized under the laws of the )  
State of Michigan and doing business at )  
1719 Elizabeth Street Avenue NW, in the )  
City of Grand Rapids, County of Kent, State )  
of Michigan )

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AQD No. 4-2013

SRN: N1916

STIPULATION FOR ENTRY OF FINAL ORDER  
BY CONSENT

This proceeding resulted from allegations by the Michigan Department of Environmental Quality (MDEQ) Air Quality Division (AQD) against Comfort Research, (Company), a Michigan corporation located at 1719 Elizabeth Avenue NW, in the City of Grand Rapids, County of Kent, State of Michigan, with State Registration Number (SRN) N1916. The MDEQ alleges that the Company is in violation of the Michigan Administrative Code (MAC), 2008 AACRS, R 336.1201 (Rule 201), and air use Permit to Install (PTI) 233-08A. Specifically, the MDEQ alleges that the Company exceeded operational restrictions for its expanded polystyrene (EPS) bead manufacturing in air use PTI 233-08A Special Condition III(1), installed two 140 horsepower (hp) boilers without permit, and installed three additional EPS expanders without first obtaining an air use permit at the facility, and failed to timely submit Michigan Air Emission System (MAERS) reporting, as cited herein and in the April 27, 2012, May 21, 2012, June 14, 2012, and August 31, 2012, Violation Notices, and December 17, 2012, Enforcement Notice. The Company and MDEQ stipulate to the termination of this proceeding by entry of a Stipulation for Entry of a Final Order by Consent (Consent Order).

The Company and MDEQ stipulate as follows:

1. The Natural Resources and Environmental Protection Act, 1994 PA 451 (Act 451), MCL 324.101 *et seq.* is an act that controls pollution to protect the environment and natural resources in this State.
2. Article II, Pollution Control, Part 55 of Act 451 (Part 55), MCL 324.5501 *et seq.* provides for air pollution control regulations in this State.

3. The MDEQ was created as a principal department within the Executive Branch of the State of Michigan pursuant to Executive Order 2011-1 and has all statutory authority, powers, duties, functions and responsibilities to administer and enforce all provisions of Part 55.

4. The Director has delegated authority to the Chief of the AQD (AQD Chief) to enter into this Consent Order.

5. The termination of this matter by a Consent Order pursuant to Section 5528 of Part 55 is proper and acceptable.

6. The Company and the MDEQ agree that the signing of this Consent Order is for settlement purposes only and does not constitute an admission by the Company of any allegations in the Violation Notices or the Enforcement Notice or that the law has been violated.

7. This Consent Order becomes effective on the date of execution (effective date of this Consent Order) by the AQD Chief.

8. The Company shall achieve compliance with the aforementioned regulations in accordance with the requirements contained in this Consent Order.

#### PERMITS

9. On and after the effective date of this Consent Order, the Company shall comply with the terms and conditions of air use PTI 150-12A, or any subsequent permit revision, which shall be attached hereto as Exhibit A of this Consent Order.

10. Within thirty (30) days after completion of final installation and commencement of trial operation of the new EPS expander under PTI 150-12A, the Company shall fully disable the three expanders the new EPS expander is to replace.

11. A. On December 19, 2012 the Company submitted to the AQD, pursuant to the administrative rules of Part 55 of NREPA, acceptable plans and specifications, and an application for an initial Renewable Operating Permit (ROP) describing the manufacturing processes, air emission sources, and air pollution control device(s) and/or other equipment to be used to control air contaminant emissions, including but not limited to volatile organic compound (VOC) emissions from the process equipment at

the Company, to obtain compliance with the federal CAA, Part 55 of NREPA and the administrative rules promulgated thereunder.

B. Within thirty (30) calendar days after receipt of draft ROP conditions for the facility, the Company shall submit in writing either comments on the draft ROP conditions or an acceptance of all terms and conditions of the ROP to the AQD Grand Rapids District Office Supervisor.

C. Upon issuance of the ROP air use permit for the facility, the Company shall fully comply with its terms and conditions, which will be attached as Exhibit B, incorporated by reference, and made an enforceable part of this Consent Order; or with any subsequent revisions to Exhibit B during the effective term of the Consent Order.

12. If the Company relocates during the effective term of the Consent Order, it shall first comply with the requirements of Rules 201 and 210 and any new or revised air use Permit to Install and Renewable Operating Permit which shall, upon issuance, supersede prior Exhibits A and B, respectively, be incorporated by reference, and become enforceable parts of this Consent Order.

#### RECORDKEEPING AND REPORTING

13. On and after the effective date of this Consent Order, the Company shall keep separate records of the expansion polystyrene (EPS) bead throughput for the EUBEADEXPAND first stage expanders per calendar day, as specified in Exhibits A and/or B. This information shall be kept on file at the Company for a period of at least five (5) years, and shall be made available to MDEQ upon written or verbal request. Additionally, from the effective date of this Consent Order, the information for each calendar month in which the data was collected and recorded, continuing through January 31, 2014, shall be submitted to the AQD Grand Rapids District Office Supervisor in an approved format within thirty (30) days following the end of the calendar month.

14. On and after the effective date of this Consent Order, the Company shall keep separate records of the EPS bead throughput for the EUBEADEXPAND first stage expanders in pounds

per 12-month rolling time period as determined at the end of each calendar month, as specified in Exhibits A and/or B. This information shall be kept on file at the Company for a period of at least five (5) years, and shall be made available to MDEQ upon written or verbal request. Additionally, from the effective date of this Consent Order, the information for each calendar month in which the data was collected and recorded, continuing through January 31, 2014, shall be submitted to the AQD Grand Rapids District Office Supervisor in an approved format within thirty (30) days following the end of the calendar month.

15. On and after the effective date of this Consent Order, the Company shall keep separate records of the pounds of VOC per 100 pounds of EPS beads, for each shipment of EPS beads received at the Company, on file at the facility, as specified in Exhibits A and/or B. This information shall be kept on file at the Company for a period of at least five (5) years, and shall be made available to MDEQ upon written or verbal request. Additionally, from the effective date of this Consent Order, the information for each calendar month in which the data was collected and recorded, continuing through January 31, 2014, shall be submitted to the AQD Grand Rapids District Office Supervisor in an approved format within thirty (30) days following the end of the calendar month.

16. On and after the effective date of this Consent Order, the Company shall keep monthly and 12-month rolling time period records of the VOC emission rate from EUBEADXPAND, using a method acceptable to the AQD Grand Rapids District Supervisor, on file at the facility, as specified in Exhibits A and/or B. This information shall be kept on file at the Company for a period of at least five (5) years, and shall be made available to MDEQ upon written or verbal request. Additionally, from the effective date of this Consent Order, the information for each calendar month in which the data was collected and recorded, continuing through January 31, 2014, shall be submitted to the AQD Grand Rapids District Office Supervisor in an approved format within thirty (30) days following the end of the calendar month.

17. On and after the effective date of this Consent Order, the Company shall by March 15 of each year, for the prior year of operation, submit an air pollution report to the AQD pursuant to R 336.202 (Rule 2), Michigan Air Emissions Reporting System (MAERS), on appropriate forms.

#### GENERAL PROVISIONS

18. On and after the effective date of this Consent Order, except as otherwise provided by the administrative rules of Part 55, the Company shall not install, construct, reconstruct, relocate, alter, or modify any process or process equipment including control equipment pertaining thereto, which may emit an air contaminant, unless a permit to install which authorizes such action is issued by the MDEQ pursuant to Rule 201, the Company is issued a waiver pursuant to Rule 202, or the change is exempt from the requirements of Rule 201.

19. This Consent Order in no way affects the Company's responsibility to comply with any other applicable state and federal, or local laws or regulations, including without limitation, any amendments to the federal Clean Air Act, 42 USC 7401 *et seq.*, Act 451, Part 55 or their rules and regulations, or to the State Implementation Plan.

20. This Consent Order constitutes a civil settlement and satisfaction as to the resolution of the violations specifically addressed herein; however, it does not resolve any criminal action that may result from these same violations.

21. Within thirty (30) days after the effective date of this Consent Order, the Company shall pay to the General Fund of the State of Michigan, in the form of a check made payable to the "State of Michigan" and delivered to the Michigan Department of Environmental Quality, Financial and Business Services Division, Revenue Control, P.O. Box 30657, Lansing, Michigan 48909-8157, a settlement amount of \$27,000.00, which includes AQD costs for investigation and enforcement. This total settlement amount shall be paid within thirty (30) days of the effective date of this Consent Order. To ensure proper credit, all payments made pursuant to this Consent Order shall include the Agreement Identification No. AQD40009 on the face of the check. This settlement amount is in addition to any fees, taxes, or other fines that may be imposed on the Company by law.

22. On and after the effective date of this Consent Order, if the Company fails to comply with paragraph 18 of this Consent Order, the Company is subject to a stipulated fine of up to \$10,000.00 per violation. On and after the effective date of this Consent Order, if the Company fails to comply with paragraphs 13, 14, 15, 16 or 17 of this Consent Order, the Company is subject to stipulated fines of up to \$4,000.00 per month. On and after the effective date of this Consent Order, if the Company fails to comply with any other provision of Exhibit A or B, or this Consent Order (other than paragraphs 21 and 22), the Company is subject to a stipulated fine of up to \$500.00 per violation. The amount of the stipulated fines imposed pursuant to this paragraph shall be within the discretion of the MDEQ up to the maximum amount stated. Stipulated fines submitted under this Consent Order shall be by check, payable to the State of Michigan within thirty (30) days after written demand from the AQD and shall be delivered to the Michigan Department of Environmental Quality, Financial and Business Services Division, Revenue Control, P.O. Box 30657, Lansing, Michigan 48909-8157. To ensure proper credit, all payments shall include the Agreement Identification No. AQD40009-S on the face of the check. Payment of stipulated fines shall not alter or modify in any way the Company's obligation to comply with the terms and conditions of this Consent Order.

23. The AQD, at its discretion, may seek stipulated fines or statutory fines for any violation of this Consent Order which is also a violation of any provision of applicable federal and state law, rule, regulation, permit, or MDEQ administrative order. However, the AQD is precluded from seeking both a stipulated fine under this Consent Order and a statutory fine for the same violation.

24. To ensure timely payment of the settlement amount assessed in paragraph 21 and any stipulated fines assessed pursuant to paragraph 22 of this Consent Order, the Company shall pay an interest penalty to the State of Michigan each time it fails to make a complete or timely payment under this Consent Order. The interest penalty shall be determined at a rate that is one percent (1%) plus the average interest rate paid at auctions of 5-year United States Treasury notes during the six (6) months immediately preceding July 1 and January 1, as certified by the State Treasurer, compounded annually, using the full increment of amount due as principal, calculated from the due date specified in this Consent Order until the date that delinquent payment is finally paid in full. Payment of an interest penalty by the Company shall be made to the State of Michigan in accordance with paragraph 21 of this Consent Order. Interest payments shall be applied first towards the most overdue amount or outstanding interest penalty

owed by the Company before any remaining balance is applied to subsequent payment amount or interest penalty.

25. The Company agrees not to contest the legal basis for the settlement amount assessed pursuant to paragraph 21. The Company also agrees not to contest the legal basis for any stipulated fines assessed pursuant to paragraph 22 of this Consent Order, but reserves the right to dispute in a court of competent jurisdiction the factual basis upon which a demand by MDEQ of stipulated fines is made. In addition, the Company agrees that said fines have not been assessed by the MDEQ pursuant to Section 5529 of Part 55 and therefore are not reviewable under Section 5529 of Part 55.

26. This compliance program is not a variance subject to the 12 month limitation specified in Section 5538 of Part 55.

27. This Consent Order shall remain in full force and effect for a period of at least three (3) years. Thereafter, the Consent Order shall terminate only upon written notice of termination issued by the AQD Chief. Prior to issuance of a written notice of termination, the Company shall submit a request, to the AQD Chief at the Michigan Department of Environmental Quality, Air Quality Division, P.O. Box 30260, Lansing, Michigan 48909-7760, consisting of a written certification that the Company has fully complied with all the requirements of this Consent Order and has made all payments including all stipulated fines required by this Consent Order. Specifically, this certification shall include: (i) the date of compliance with each provision of the compliance program and the date any payments or stipulated fines were paid; (ii) a statement that all required information has been reported to the AQD Grand Rapids District Supervisor; (iii) confirmation that all records required to be maintained pursuant to this Consent Order are being maintained at the facility; and, (iv) such information as may be requested by the AQD Chief.

28. In the event the Company sells or transfers the facility, with SRN N1916, it shall advise any purchaser or transferee of the existence of this Consent Order in connection with such sale or transfer. Within thirty (30) calendar days, the Company shall also notify the AQD Grand Rapids District Supervisor, in writing, of such sale or transfer, the identity and address of any purchaser or transferee, and confirm the fact that notice of this Consent Order has been given to the purchaser and/or transferee. As a condition of the sale, the Company must obtain the consent of the purchaser and/or transferee, in writing, to assume all of the obligations of this Consent Order. A copy of that agreement shall be forwarded to the

AQD Grand Rapids District Supervisor within thirty (30) days of assuming the obligations of this Consent Order.

29. Prior to the effective date of this Consent Order and pursuant to the requirements of Sections 5511 and 5528(3) of Part 55, the public was notified of a 30-day public comment period and was provided the opportunity for a public hearing.

30. Section 5530 of Part 55 may serve as a source of authority but not a limitation under which the Consent Order may be enforced. Further, Part 17 of Act 451 and all other applicable laws and any other legal basis or applicable statute may be used to enforce this Consent Order.

31. The Company hereby stipulates that entry of this Consent Order is a result of an action by MDEQ to resolve alleged violations of the Company's facility located at 1719 Elizabeth Avenue NW, in Grand Rapids, Michigan. The Company further stipulates that it will take all lawful actions necessary to fully comply with this Consent Order, even if the Company files for bankruptcy in the future. The Company will not seek discharge of the settlement amount and any stipulated fines imposed hereunder in any future bankruptcy proceedings, and the Company will take necessary steps to ensure that the settlement amount and any future stipulated fines are not discharged. The Company, during and after any future bankruptcy proceedings, will ensure that the settlement amount and any future stipulated fines remain an obligation to be paid in full by the Company to the extent allowed by applicable bankruptcy law.



The undersigned certifies that he/she is fully authorized by the Company to enter into this Consent Order and to execute and legally bind the Company to it.

**COMFORT RESEARCH**

Matthew Jung - President  
Print Name and Title

[Signature] Date: 5/23/13  
Signature

The above signatory subscribed and sworn to before me this 23<sup>rd</sup> day of MAY, 2013.

[Signature]  
Notary Public

**ROBERT L. STALEY**  
Notary Public, Ottawa County, MI  
My Commission Expires 08/2016  
Acting in the county of KENT

Approved as to Content:

Approved as to Form:

[Signature]  
G. Vinson Hellwig, Chief  
AIR QUALITY DIVISION  
DEPARTMENT OF  
ENVIRONMENTAL QUALITY

[Signature]  
Neil Gordon, Section Head  
ENVIRONMENTAL REGULATION SECTION  
ENVIRONMENT, NATURAL RESOURCES,  
AND AGRICULTURE DIVISION  
DEPARTMENT OF ATTORNEY GENERAL

Dated: 6/6/13

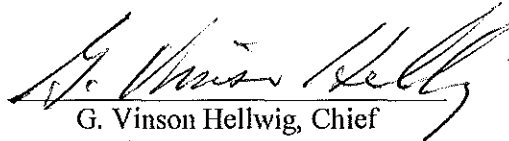
Dated: June 6, 2013

FINAL ORDER

The Chief of the Air Quality Division having had opportunity to review the Consent Order and having been delegated authority to enter into Consent Orders by the Director of the Michigan Department of Environmental Quality pursuant to the provisions of Part 55 of Act 451 and otherwise being fully advised on the premises,

HAS HEREBY ORDERED that the Consent Order is approved and shall be entered in the record of the MDEQ as a Final Order.

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY

  
G. Vinson Hellwig, Chief  
Air Quality Division

Effective Date: 6/6/13

AQD No. 4-2013

Exhibit A

PTI No. 150-12A

Exhibit B

Renewable Operating Permit