

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI

In Re:)	
)	
BRIGGS & STRATTON, <i>et al</i>)	Case No. 20-43597-11
Debtors.)	Jointly Administered

MOTION OF CURTIS MACHINE COMPANY, INC. FOR ALLOWANCE
OF ADMINISTRATIVE EXPENSE CLAIM, PURSUANT TO
11 U.S.C. SECTION 503(B)(9) AND RELATED RELIEF

COMES NOW Curtis Machine Company, Inc. (“Curtis Machine”), by and through its undersigned counsel, and for its Motion For Allowance Of Administrative Expense Claim (“Motion”) states as follows:

JURISDICTION

1. This Motion is a core proceeding under 28 U.S.C. § 157(b)(2) and this Court has jurisdiction over the Motion pursuant to 28 U.S.C. § 157 and 28 U.S.C. § 1334.
2. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

BACKGROUND

3. On July 20, 2020 (the “Petition Date”), Briggs & Stratton and its affiliates (the “Debtors”) filed voluntary petitions for relief under Chapter 11, Title 11, of the Bankruptcy Code.
4. Pre-petition, the Debtor regularly ordered goods from Curtis Machine in the ordinary course of the Debtor’s business. Curtis Machine accepted orders, produced goods and delivered to Debtor within 20-days of the Petition \$47,182.00 worth of goods (the “503(b)(9) Goods”) on credit for which the Curtis Machine has received no payment. A list of the 503(b)(9) Goods is attached hereto as Exhibit A and incorporated herein.



RELIEF REQUESTED

5. Curtis Machine requests that the Court enter an Order (i) granting Curtis Machine an allowed administrative priority claim in the amount of \$47,182.00 pursuant to Bankruptcy Code §§ 503(a), 503(b)(1), 503(b)(9) and 507(a)(2) and (ii) directing Debtors to pay Curtis Machine's allowed administrative expense claim within fourteen (14) business days of entry of the Order approving the same.

BASIS FOR THE RELIEF REQUESTED

6. Section 503(b)(1) provides for an administrative expense claim for "the actual, necessary cost and expense of preserving the estate". *See* 11 U.S. C. § 503(b)(1). Section 503(b)(9) provides for an administrative expense claim for "the value of any goods received by the debtor within twenty (20) days before the date of commencement of a case under this title, in which the goods have been sold to the debtor in the ordinary course of the debtor's business". *See* 11 U.S.C. § 503(b)(9). Section 503(b) of the Bankruptcy Code provides that an administrative expense claim that is allowed under § 503(b) of the Bankruptcy Code has first priority. *See* 11 U.S.C. § 507(a)(2).
7. As shown on Exhibit A, product from Curtis Machine as requested by Briggs & Stratton was delivered to the Debtor on July 1, 2020, and the delivered items had a value of \$19,615.00.
8. As shown on Exhibit A product from Curtis Machine was also delivered as requested by Briggs & Stratton, the Debtor, on July 9, 2020, and these delivered items had a value of \$27,567.00.

9. On the basis of the foregoing, Curtis Machine respectfully requests that the Court enter an Order allowing its administrative expense claim in the amount of \$47,182.00 and directing payment thereof within fourteen (14) days thereafter.

WHEREFORE, Curtis Machine Company, Inc. requests that the Court enter an Order (i) awarding it an administrative expense claim in the sum of \$47,182.00 against the Debtors' bankruptcy estate under § 503(b) of the Bankruptcy Code, (ii) requiring payment for such administrative expense claim within fourteen (14) days of entry of any Order approving the claim of Curtis Machine Company, Inc., and (iii) granting Curtis Machine Company, Inc. such additional relief as this Court deems just and proper.

Dated: October 7, 2020

Respectfully Submitted,

s/ Christopher J. Redmond
CHRISTOPHER J. REDMOND, MO. BAR #48072
REDMOND LAW FIRM LLC
13220 Metcalf, Suite 310
Overland Park, KS 66213
Telephone: 913-379-1100
Fax: 913-379-1109
christopher.redmond@christopherredmondlawfirm.com

Attorney for Curtis Machine Company, Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document was filed electronically with the Court on October 7, 2020, and was served upon all parties receiving service via the Court's CM/ECF System as listed on the Court's Electronic Mail Notice List in this matter.

/s/ Christopher J. Redmond

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI

In Re:

BRIGGS & STRATTON, *et al*

Debtors.

)
)
)
)

Case No. 20-43597-11

Jointly Administered

DECLARATION OF JOHN CURTIS

John Curtis, being duly sworn, declares as follows:

1. I am a resident of the State of Kansas and of legal age, over the age of 18.
2. I am President of Curtis Machine Company, Inc.
3. Curtis Machine Company, Inc. is a Kansas Corporation located at 4209 Jayhawk Drive, Dodge City, Kansas, 67801-0700.
4. I am personally familiar with the facts and statements set forth in this Declaration which are true and accurate.
5. To the best of my knowledge and belief, Curtis Machine Company, Inc. is a machine company which manufactures gear boxes and other products for customers on a national and international basis.
6. As of July 20, 2020, Curtis Machine Company, Inc. was owed the sum of \$66,478.90 by the Debtor, Briggs & Stratton Corporation of which \$47,182.00 was delivered to Briggs & Stratton Corporation within the twenty (20) days prior to the commencement of the Chapter 11 proceeding of the Debtor.
7. The documentation and support for the balance due to Curtis Machine Company, Inc. and the delivery to Briggs & Stratton Corporation within the twenty (20) day period prior to the filing of this Chapter 11 by Briggs & Stratton Corporation are attached and set out within Exhibit A.

8. The balance of \$47,182.00 remains unpaid and is due and owing to Curtis
Machine Company, Inc.

I declare under penalty of perjury that the above and foregoing Declaration is true and
correct.

Executed on this 7th day of October, 2020.


JOHN CURTIS

Fill in this information to identify the case:

Debtor 1 Briggs & Stratton Corporation

Debtor 2 _____
(Spouse, if filing)

United States Bankruptcy Court for the: Eastern District of Missouri

Case number 20-43597

Official Form 410

Proof of Claim

04/19

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. Who is the current creditor?	<u>Curtis Machine Company, Inc.</u> Name of the current creditor (the person or entity to be paid for this claim)	
	Other names the creditor used with the debtor _____	
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
3. Where should notices and payments to the creditor be sent? Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Where should notices to the creditor be sent? <u>Curtis Machine Company, Inc.</u> Name <u>PO Box 700 / 4209 Jayhawk Drive</u> Number Street <u>Dodge City</u> <u>KS</u> <u>67801</u> City State ZIP Code Contact phone <u>620-227-7164</u> Contact email <u>ap_ar@curtismachine.com</u>	Where should payments to the creditor be sent? (if different) <u>Curtis Machine Company, Inc.</u> Name <u>PO Box 1761</u> Number Street <u>Dodge City</u> <u>KS</u> <u>67801-1761</u> City State ZIP Code Contact phone <u>620-227-7164</u> Contact email <u>ap_ar@curtismachine.com</u>
Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____		
4. Does this claim amend one already filed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY	
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____	

RECEIVED

AUG 31 2020

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2043597200831000000000055

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? ☐ No
☒ Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: 2 1 5 1

7. How much is the claim? \$ 66,478.90. Does this amount include interest or other charges?
☒ No
☐ Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.
Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).
Limit disclosing information that is entitled to privacy, such as health care information.
Goods Sold

9. Is all or part of the claim secured? ☒ No
☐ Yes. The claim is secured by a lien on property.
Nature of property:
☐ Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
☐ Motor vehicle
☐ Other. Describe: _____
Basis for perfection: _____
Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)
Value of property: \$ _____
Amount of the claim that is secured: \$ _____
Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amounts should match the amount in line 7.)

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Amount necessary to cure any default as of the date of the petition: \$ _____

Annual Interest Rate (when case was filed) _____%

☐ Fixed
☐ Variable

10. Is this claim based on a lease? ☒ No
☐ Yes. Amount necessary to cure any default as of the date of the petition. \$ _____

11. Is this claim subject to a right of setoff? ☒ No
☐ Yes. Identify the property: _____

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

- ☒ No
☐ Yes. Check one:

- ☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).
☐ Up to \$3,025* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).
☐ Wages, salaries, or commissions (up to \$13,650*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).
☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).
☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).
☐ Other. Specify subsection of 11 U.S.C. § 507(a)() that applies.

Amount entitled to priority

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

* Amounts are subject to adjustment on 4/01/22 and every 3 years after that for cases begun on or after the date of adjustment.

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

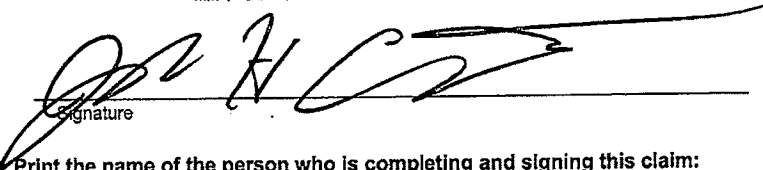
- ☒ I am the creditor.
☐ I am the creditor's attorney or authorized agent.
☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 08/25/2020
MM / DD / YYYY


Signature

Print the name of the person who is completing and signing this claim:

Name John H. Curtis
First name Middle name Last name

Title President

Company Curtis Machine Company, Inc.
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address PO Box 700 / 4209 Jayhawk Drive
Number Street

Dodge City KS 67801
City State ZIP Code

Contact phone 620-227-7164 Email john@curtismachine.com

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AUG 31 2020

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08/25/2020 14:53:29

Page 1 of 1

CURTIS MACHINE COMPANY, INC

Function: ARIC

A/R Invoices By Customer

Customer ID: 172151	Name: BRIGGS & STRATTON CORPORATION	-----Balances-----
Acct Contact: VENDER # 924056		OVER 60: 19,296.90
Acct Phone:		31-60: 0.00
Unapplied Cash: 0.00		1-30: 47,182.00
Unapplied Credit: 0.00		Current: 0.00
		Hold/Unapp: 0.00
Select Invoice Option: 0		Total A/R: 66,478.90

Order By: Due Date

Due Date	-----Invoice----- No	Typ	St	Adjusted Invoice Amt	Discounts Allowed	Payment Amount	Remaining Balance
092219	0000105008	I	N	19,296.90	0.00	0.00	19,296.90
072920	0000106276	I	N	19,615.00	0.00	0.00	19,615.00
080720	0000106305	I	N	27,567.00	0.00	0.00	27,567.00

PRINTED IN: U. S. DOLLARS

P. O. BOX 700
4209 JAYHAWK DRIVE
DODGE CITY KANSAS
67801-0700 USA

Invoice No: 0000105008

Invoice Date: 08/23/2019

INVOICE

Customer No: 172151

Your Order No: 4502056044

Customer Phone:

Our Order No: C62144-0001

Bill To:

Ship To:

BRIGGS & STRATTON CORPORATION
ATTN: ACCOUNTS PAYABLE
P.O. BOX 702
MILWAUKEE, WI
53201-0702 USA

B&S MFG SHERRILL NY
100 E SENECA ST
SHERRILL, NY
13461-1008 USA

Terms: Cash #1: Disc:
Cash #2: Disc:
Net Due Date: 092219



Shipped: 082319
Shipped Via: FED EX FRT
F.O.B.: DODGE CITY, KANSAS
Shipment No: 000049745 Ref:

Your Customer Rep Is: JUM

Pro No:

Ordered Qty	Shipped QTY	Back-ordered Item Qty Number	Unit Price U. S. DOLLARS	Extd Price U. S. DOLLARS
70	70	0 949586	275.67	19,296.90
215 1:1 SB TYPE 'BC' FOR BRIGGS & STRATTON 5105359				

SALES TOTAL:	19,296.90
SALES TAX:	0.00
FREIGHT:	0.00
LESS:	0.00
OTHER CHARGES:	0.00
INVOICE TOTAL:	19,296.90
U. S. DOLLARS	

						BOL NO: BS47000759			
BILL OF LADING						Carrier: Old Dominion Freight Line			
Ship From						Pickup Date: 08-23-2019			
CURTIS MACHINE COMPANY INC 4209 JAYHAWK DR DODGE CITY, KS 67801						Origin Terminal			
						GREAT BEND KS P: 620-792-2006 F:			
						Destination Terminal			
Ship To						References:			
B&S DIST CTR SHERRILL NY 100 E SENECA ST SHERRILL, NY 13461 JEFF WEST, 315-361-8306 EXT2,						BOL BS47000759 Equipment TF PO 4502056044			
						GEDDES NY P: 315-457-3020			
						3rd Party Freight Charges Bill To			
Briggs and Stratton Co / FedEx Supply Chain 1400 LOMBARDI AVE SUITE 204 GREEN BAY, WI 54304						 <div style="float: right; text-align: right;">SHIPPER LABEL</div>  <div style="clear: both;"></div> <div style="display: flex; justify-content: space-between;"> 27202392257 GRB </div> <small>DRIVERS SIGNATURE ACKNOWLEDGES RECEIPT OF FREIGHT ONLY. UNLESS OTHERWISE AGREED UNDER SEPARATE CONTRACT, TERMS AND CONDITIONS ARE GOVERNED BY ODFL TARIFFS AND NMF 100 SERIES.</small>			
								Special Instructions: Pual Lawless from Briggs and Stratton would like these shipped today Freight Terms: Prepaid: _____ Collect: _____ 3rd Party: <u> x </u>	
Qty	Type	Weight	HM (X)	NMFC	Item Description	LTL Class			
0	PCS	00		133300-3	GEAR BOX, RIGHT ANGLE, 215 SPECIAL - NET	92.5			
70	PCS	1800		133300-3	GEAR BOX, RIGHT ANGLE, 215 SPECIAL - NET	92.5			
0	PCS	00		133300-3	GEAR BOX, RIGHT ANGLE, 215 SPECIAL - NET	92.5			
0	Pieces	00			Unit Of Measure	50.0			
70		1800		GRAND TOTALS:					
<small>Where the rate is dependent on value, shippers are required to state specifically in writing the agreed or declared value of the property as follows: "The agreed or declared value of the property is specifically stated by the shipper to be not exceeding _____ per _____."</small>									
Remit COD to:									
Collect _____ Prepaid _____ Customer check acceptable _____ COD Amount:									
Note: Liability limitation for loss or damage in this shipment may be applicable. See 49 USC 14706(c)(1)(A) and (B).									
<small>Received, subject to individually determined rates or contracts that have been agreed upon in writing between the carrier and shipper, if applicable, otherwise to the rates, classifications and rules that have been established by the carrier and are available to the shipper, on request, and to all applicable state and federal regulations.</small>				Trailer Loaded:		Freight Counted:			
				_____ by Shipper _____ by Driver		_____ by Shipper _____ by Driver			
Shipper Signature/Date: <small>This is to certify that the above named materials are properly classified, packaged, marked and labeled, and are in proper condition for transportation according to the applicable regulations of the DOT.</small>				Carrier Signature/Pickup Date: <small>Carrier acknowledges receipt of packages and required placards. Carrier certifies emergency response information was made available and/or carrier has the DOT emergency response guidebook or equivalent documentation in vehicle. Property described above is received in good order, except as noted.</small>					
								Shipper: _____	
				Carrier: <i>ODFL</i> <i>Briggs</i> <i>1-5K.E</i> <div style="text-align: right; font-size: 1.2em;">8-23-19</div>					

CURTIS MACHINE COMPANY, INC

P. O. BOX 700

4209 JAYHAWK DRIVE

DODGE CITY KANSAS

67801-0700 USA

Invoice No: 0000106276

Invoice Date: 06/29/2020

INVOICE

Customer No: 172151

Customer Phone:

Your Order No: 4502078008

Our Order No: C62891-0000

Bill To:

BRIGGS & STRATTON CORPORATION
 ATTN: ACCOUNTS PAYABLE
 P.O. BOX 702
 MILWAUKEE, WI
 53201-0702 USA

Ship To:

B&S MFG SHERRILL NY
 100 E SENECA ST
 SHERRILL, NY
 13461-1008 USA

Terms: Cash #1: Disc:
 Cash #2: Disc:
 Net Due Date: 072920

Shipped: 062920
 Shipped Via: GENCO
 F.O.B.: DODGE CITY, KANSAS
 Shipment No: 000050941 Ref:

Your Customer Rep Is: JUM

Pro No:

Ordered Qty	Shipped QTY	Back-ordered Item Qty Number	Unit Price U. S. DOLLARS	Extd Price U. S. DOLLARS
100	100	0 949735	196.15	19,615.00
200C 1:1.1 SB TYPE 'F' FOR BRIGG & STRATTON (5101164)				

SALES TOTAL:	19,615.00
SALES TAX:	0.00
FREIGHT:	0.00
LESS:	0.00
OTHER CHARGES:	0.00
CLOSE VARIANCE:	0.00
INVOICE TOTAL:	19,615.00
U. S. DOLLARS	

CURTIS MACHINE COMPANY, INC
P. O. BOX 700
4209 JAYHAWK DRIVE
DODGE CITY KANSAS
67801-0700 USA

Invoice No: 0000106305

Invoice Date: 07/08/2020

INVOICE

Customer No: 172151

Your Order No: 4502056044

Customer Phone:

Our Order No: C62144-0007

Bill To:

BRIGGS & STRATTON CORPORATION
ATTN: ACCOUNTS PAYABLE
P.O. BOX 702
MILWAUKEE, WI
53201-0702 USA

Ship To:

B&S MFG SHERRILL NY
100 E SENECA ST
SHERRILL, NY
13461-1008 USA

Terms: Cash #1:
Cash #2:
Net Due Date: 080720

Disc:
Disc:

Shipped: 070820
Shipped Via: GENCO
F.O.B.: DODGE CITY, KANSAS

Shipment No: 000050973

Ref:

Your Customer Rep Is: JUM

Pro No:

Ordered Qty	Shipped QTY	Back-ordered Item Qty	Unit Price U. S. DOLLARS	Extd Price U. S. DOLLARS
100	100	0 949586	275.67	27,567.00
215A 1:1 SB TYPE 'BC' FOR BRIGGS & STRATTON 5105359				

SALES TOTAL:	27,567.00
SALES TAX:	0.00
FREIGHT:	0.00
LESS:	0.00
OTHER CHARGES:	0.00
CLOSE VARIANCE:	0.00
INVOICE TOTAL:	27,567.00
U. S. DOLLARS	

Date: 07/09/2020

Page: 1 of: 1

Bill of Lading Number: **BS47841010**

FOB

PO#: 4502056044, 4502056044

FOB

Driver's signature acknowledges receipt of freight only. Received shipment is subject to terms of a written contract, if any, otherwise subject to the terms, conditions and limitations of liability set forth in XPO Logistics Freight, Inc. rules tariff. (see www.xpo.com)

860-127763

XPO Logistics☐ **Prepaid**☒ **Collect**☒ 3rd Party☐ Master Bill of Lading with attached underlying Bills of Lading[illegible]

FOR EMERGENCY CONTACT CHEMTREC EMERGENCY RESPONSE 1-800-451-8346

GRAND TOTAL

2,576

Total Pallets:

1

If a motor carrier, freight forwarder, broker or other transportation service provider accepts this shipment from anyone other than the shipper listed hereon, it agrees to seek payment of its charges exclusively from the entity from which it accepted the shipment and expressly waives any other collection rights or remedies otherwise available to it, including any right to seek payment of the transportation charges from the consignor or consignee.

RECEIVED, subject to individually determined rates or contracts that have been agreed upon in writing between the carrier and shipper, the property described below, received in good order, except as noted (contents and condition of contents of packages unknown), marked, consigned, and destined as shown below. This Bill of Lading is not subject to any tariffs or classifications whether individually determined or filed with any federal or state regulatory agency, or maintained by the carrier, except as specifically agreed to in writing by the Shipper and Carrier. Rate individually determined and NOT subject to filed tariffs. No limitation of carrier liability applies to this shipment.

The carrier shall not make delivery of this shipment without payment of freight and all other lawful charges.

2

Carrier Signature

SHIPPER SIGNATURE / DATE

TRAILER LOADED:**FREIGHT COUNTED:**

CARRIER SIGNATURE / PICKUP DATE

This is to certify that the above named materials are properly classified, described, packaged, marked and labeled, and is in proper condition for transportation according to the applicable regulations of the U.S. DOT.

☐ By Shipper

8v Driver

By Shipper

By Driver/pallets said to contain

By Driver/Pieces

Carrier acknowledges receipt of packages and required placards. Carrier certifies emergency response information was made available and/or carrier has the U.S. DOT emergency response guidebook or equivalent documentation in the vehicle.

X Alana Robins
Shipper Signature - Badge# and Department#

Property described above is received in good order, except as noted.