



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

FEB 4 2014

REPLY TO THE ATTENTION OF:

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Joseph Kempen  
President  
Motor Castings Company  
1323 South 65th Street  
West Allis, Wisconsin 53214

Dear Mr. Kempen:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves Motor Castings Company, CAA-05-2014-0011. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on FEB 12 2014.

Pursuant to paragraph 39 of the CAFO, Motor Castings Company must pay the civil penalty within 30 days of FEB 12 2014. Your check or electronic funds transfer must display the case name Motor Castings Company and the docket number CAA-05-2014-0011.

Please direct any questions regarding this case to Thomas Williams, Associate Regional Counsel, at (312) 886-0814.

Sincerely,

A handwritten signature in cursive script that reads "Sarah Marshall".

Sarah Marshall  
Chief  
Michigan/Wisconsin Section

Enclosure

cc: William Baumann, Chief  
Enforcement, Compliance, and Inventory Section  
Wisconsin Department of Natural Resources

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

<b>In the Matter of:</b>	)	Docket No. <i>CAA-05-2014-0011</i>
	)	
<b>Motor Castings Company</b>	)	<b>Proceeding to Assess a Civil Penalty</b>
<b>West Allis, Wisconsin</b>	)	<b>Under Section 113(d) of the Clean Air Act,</b>
	)	<b>42 U.S.C. § 7413(d)</b>
<b>Respondent.</b>	)	
_____	)	

**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 Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 5.

3. Respondent is Motor Castings Company, a corporation doing business in Wisconsin.

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.

RECEIVED  
REGIONAL HEARING CLERK  
U.S. EPA-REGION 5  
2014 FEB 27 2:08

### **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. On January 18, 1995, EPA approved Wisconsin Administrative Code NR 406 as part of the federally enforceable SIP for Wisconsin. 60 Fed. Reg. 3543 (January 18, 1995). 40 C.F.R. § 52.2570(c)(75).

10. Wisconsin Administrative Code NR 406 requires air contaminant sources to obtain construction permits unless specifically exempted.

11. Under Section 111 of the Act, 42 U.S.C. § 7411, the Administrator promulgated the NSPS General Provisions, at 40 C.F.R. Part 60, Subpart A, and the Standards of Performance for Calciners and Dryers in Mineral Industries, at 40 C.F.R. Part 60, Subpart UUU. 57 Fed. Reg. 44503 (September 28, 1992).

12. 40 C.F.R. § 60.730(a) provides, in part, that the affected facility to which Subpart UUU applies is each calciner and dryer at a mineral processing plant.

13. 40 C.F.R. § 60.730(c) provides that the owner or operator of any facility under § 60.730(a) that commences construction, modification, or reconstruction after April 23, 1986, is subject to the requirements of Subpart UUU.

14. 40 C.F.R. § 60.731 defines a "calciner" as the equipment used to remove combined (chemically bound) water and/or gases from mineral material through direct or indirect heating.

15. 40 C.F.R. § 60.731 defines a "mineral processing plant" as any facility that processes or produces any of the following minerals, their concentrates or any mixture of which the majority (>50 percent) is any of the following minerals or a combination of these minerals: alumina, ball clay, bentonite, diatomite, feldspar, fire clay, fuller's earth, gypsum, industrial sand, kaolin, lightweight aggregate, magnesium compounds, perlite, roofing granules, talc, titanium dioxide, and vermiculite.

16. 40 C.F.R. § 60.736(b) provides that the owner or operator of an affected facility that is subject to the requirements of Subpart UUU shall use Method 9 of appendix A of Part 60 and the procedures in § 60.11 to determine opacity from stack emissions.

17. 40 C.F.R. § 60.734 requires the owner or operator of an affected facility subject to the provisions of Subpart UUU who uses a dry control device to comply with the mass emission standard to install, calibrate, maintain, and operate a continuous monitoring system to measure and record the opacity of emissions discharged into the atmosphere from the control device, subject to the exceptions recited in § 60.734(b) and (c).

18. 40 C.F.R. § 60.735(a) requires retention of the measurements described in § 60.734 for at least two years.

19. Under Section 112 of the Act, 42 U.S.C. § 7412, the Administrator promulgated the National Emissions Standards for Hazardous Air Pollutants (NESHAP) General Provisions at 40 C.F.R. Part 63, Subpart A, and the NESHAP for Iron and Steel Foundries Area Sources at 40 C.F.R. Part 63, Subpart ZZZZZ, which apply to iron and steel foundries that are area sources of hazardous air pollutants (HAPs). 73 Fed. Reg. 226 (January 2, 2008).

20. Motor Casting's facility is subject to the requirements of Section 112 of the Act, 42 U.S.C. § 7412, and the Iron and Steel Foundry NESHAP at 40 C.F.R. Part 63, Subpart ZZZZZ.

21. The NESHAP, at 40 C.F.R. § 63.10880, requires the owner or operator of an iron and steel foundry that is an area source of HAP emissions to submit a notification to the Administrator that identifies that foundry as a small foundry or large foundry based on annual metal melt production by January 2, 2009.

22. The NESHAP, at 40 C.F.R. § 63.10895, requires that the owner or operator of a large foundry, as that term is defined in 40 C.F.R. § 63.1090, to comply with specified pollution prevention management practices, including the operation and maintenance requirements contained in the owner or operator's operation and maintenance (O&M) plan prepared pursuant to 40 C.F.R. § 63.10896.

23. The owner or operator of an existing affected facility was required to comply with the requirements of 40 C.F.R. § 63.10895 by January 2, 2011.

24. The Administrator of EPA (the Administrator) may assess a civil penalty of up to \$37,500 per day of violation up to a total of \$295,000 for CAA violations that occurred after January 12, 2009 under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

25. 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.

26. 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**

27. Motor Castings owns and operates an iron foundry at 1325 South 65th Street, West Allis, Wisconsin.

28. On December 6-8, 2010, EPA conducted a Clean Air Act inspection of Motor Castings.

29. On September 28, 2011, EPA issued an information request under Section 114 of the Act. On November 23, 2011, Motor Castings provided its response to the information request.

30. According to its 2009 emissions inventory submittal to Wisconsin Department of Natural Resources (Wisconsin DNR), Motor Castings installed a thermal sand reclaim system that includes an industrial sand calciner on January 26, 1998.

31. The industrial sand calciner, as part of the sand reclaim system, processed industrial sand in a manner that meets the definitions of “calciner” and “mineral processing plant” at 40 C.F.R. § 60.731.

32. Motor Castings commenced construction of a replacement industrial sand calciner in early 2012, that also meets the definitions identified in the preceding paragraph.

33. Motor Castings applied for a construction permit for the calciner on May 21, 2012. Wisconsin DNR issued a final construction permit authorizing construction of the new calciner on August 21, 2012. WDNR’s Analysis and Preliminary Determination for the thermal

sand reclaiming process described the calciner as a Gudgeon Brothers fluidized bed thermal sand reclaimer.

34. On January 2, 2009, Motor Castings submitted its notification that identified it as a “large” foundry.

35. Motor Castings prepared operation and maintenance plans for each control device, including such a plan for the baghouse (known as the “Melt Torit dust collector”) serving the electric induction melt furnaces.

36. At the time of the December 6-10, 2010, inspection, Motor Casting was unable to produce any records of the calibration required in its operation and maintenance plan, in violation of the NESHAP at 40 C.F.R. § 63.10896.

37. Motor Castings did not have a certified visible emissions observer measure and record three 6-minute averages of the opacity of visible emissions to the atmosphere each day of operation in accordance with Method 9 of Appendix A of 40 C.F.R. Part 60, in violation of 40 C.F.R. § 60.735(a).

#### **Civil Penalty**

38. 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 a prompt return to compliance, Complainant has determined that an appropriate civil penalty to settle this action is \$ 40,000.

39. Within 30 days after the effective date of this CAFO, Respondent must pay a \$ 40,000 civil penalty by one of the following methods:

- a. By cashier’s or certified check, sent by regular U.S. Postal Service mail: send a cashier’s or certified check, payable to “Treasurer, United States of America,” to:

U.S. EPA  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000

- b. By cashier's or certified check, sent by express mail: send a cashier's or certified check payable to "Treasurer, United States of America," to:

U.S. Bank  
Government Lockbox 979077  
U.S. EPA Fines and Penalties  
1005 Convention Plaza  
Mail Station SL-MO-C2-GL  
St. Louis, Missouri 63101

The check must note Respondent's name, docket number of this CAFO and the billing document number.

- c. By electronic funds transfer: prepare the amount payable to "Treasurer, United States of America," and send to:

Federal Reserve Bank of New York  
ABA No. 02030004  
Account No. 68010727  
33 Liberty Street  
New York, New York 10045

Field Tag 4200 of the Fedwire message should read: "D68010727 Environmental Protection Agency." In the comment or description field of the electronic funds transfer, state Respondent's name, the docket number of this CAFO and the billing document number.

- d. By Automated Clearinghouse (ACH), also known as REX or remittance express: prepare the amount payable to "Treasurer, United States of America," and send to:



US Treasury REX/Cashlink ACH Receiver  
ABA: 051036706  
Account Number: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22-checking

In the comment area of the electronic funds transfer, state Respondent's name, the docket number of this CAFO and the billing document number.

- e. On-line payment: To pay on-line, go to [www.pay.gov](http://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.

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

Attn: Compliance Tracker (AE-17J)  
Air Enforcement and Compliance Assurance Branch  
Air and Radiation Division  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

Thomas Williams (C-14J)  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

Regional Hearing Clerk (E-19J)  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

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

42. 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.

43. 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).

44. Respondent must submit all notices and reports required by this CAFO by first-class mail to the Compliance Tracker of the Air Enforcement and Compliance Assurance Branch at the address provided in paragraph 40, above.

#### **General Provisions**

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

46. 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.

47. This CAFO does not affect Respondent's responsibility to comply with the CAA and other applicable federal, state and local laws. Except as to the violations alleged in paragraphs 36 and 37, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

48. Respondent certifies that it is complying fully with 40 C.F.R. Part 60, Subpart UUU, and 40 C.F.R. Part 63, Subpart ZZZZZ.

49. 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).

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

51. 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.

52. Each party agrees to bear its own costs and attorneys fees in this action.

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

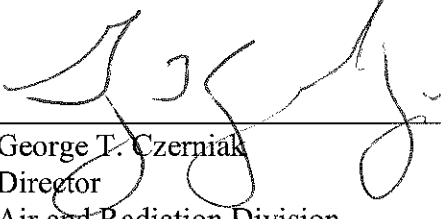
**Motor Castings Company, Respondent**

1/13/2014  
Date

  
\_\_\_\_\_  
Joseph Kempen, President  
Motor Castings Company

**United States Environmental Protection Agency, Complainant**

2/7/14  
Date


  
\_\_\_\_\_  
George T. Czerniak  
Director  
Air and Radiation Division  
U.S. Environmental Protection Agency, Region 5

**Consent Agreement and Final Order**  
**In the Matter of: Motor Castings Company**  
Docket No. CAA-05-2014-0011

**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.

2/10/2014  
Date

  
\_\_\_\_\_  
Susan Hedman  
Regional Administrator  
U.S. Environmental Protection Agency  
Region 5

**Consent Agreement and Final Order**  
**In the matter of: Motor Castings Company**  
**Docket No. CAA-05-2014-0011**

Certificate of Service

I certify that I filed the original and one copy of the Consent Agreement and Final Order (CAFO), docket number CAA-05-2014-0011 with the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, Illinois 60604, and that I mailed a copy to Respondent by first-class, postage prepaid, certified mail, return receipt requested, by placing it in the custody of the United States Postal service addressed as follows:

Joseph Kempen, President  
Motor Castings Company  
1323 South 65th Street  
West Allis, Wisconsin 53214

Matthew Kemp, Attorney  
Godfrey and Kahn  
780 North Water Street  
Milwaukee, Wisconsin 53202-3590

~ 70091680 0000 7672 8782

I certify that I delivered a correct copy of the CAFO by intra-office mail, addressed as follows:

Ann Coyle, Regional Judicial Officer (C-14J)  
U.S. Environmental Protection Agency  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

Thomas Williams, Associate Regional Counsel (C-14J)  
U.S. Environmental Protection Agency  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

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On the 12 day of February 2014.

Loretta Shaffer  
Loretta Shaffer  
Planning and Administration Section

CERTIFIED MAIL RECEIPT NUMBER:

70091680 0000 7672 8775