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**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY**

BEFORE THE ADMINISTRATOR

IN THE MATTER OF:

PRAEFKE BRAKE & SUPPLY CORP.

DOCKET NO. CAA-5-2000-07

CONSENT AGREEMENT AND FINAL ORDER

CONSENT AGREEMENT

Complainant, the Director, Air and Radiation Division, Region 5, United States Environmental Protection Agency, ("U.S. EPA"), having filed the Complaint for this civil administrative action against Praefke Brake & Supple Corporation, West Bend, Wisconsin, (Respondent); and,

The parties having agreed that the resolution of this action is in the public interest and that the entry of this Consent Agreement and Final Order ("CAFO") without further litigation is the most appropriate means of resolving this action;

NOW, THEREFORE, based upon the pleadings, before the taking of any testimony, without the adjudication of any issue of fact or law, and upon the consent and agreement of the parties, it is hereby Ordered as follows:

I. PRELIMINARY STATEMENT

1. On April 19, 2000, Complainant initiated this action for the assessment of a civil penalty pursuant to Section 113(d)(1) of the Clean Air Act ("the Act"), 42 U.S.C. § 7413(d)(1), and Sections 22.1(a)(2) and 22.13 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action

Orders, and the Revocation, Termination or Suspension of Permits, (“the Consolidated Rules of Practice”), Final Rule, 64 Fed. Reg. 40138, to be codified at 40 C.F.R. §§ 22.1(a)(2) and 22.13.

2. The Complaint alleged that from at least September 20, 1998, through March 17, 1999, Respondent failed to monitor the potential sources of asbestos emissions from its fabricating facility for visible emissions to the outside air, failed to maintain records of its visible emissions monitoring, failed to retain copies of its monitoring and inspection records for the past two years, and failed to label its containers or wrapped materials of asbestos-containing waste to be transported off its facility with the location at which the waste was generated, in violation of the regulations at 40 C.F.R. §§ 61.147(b)(3), 61.147(b)(5), 61.147(b)(6), and 61.150(a)(1)(v) respectively, and the Act, and proposed a civil penalty of \$62,700.00.

3. On May 18, 2000, Respondent filed its Answer to the Complaint. In such Answer, Respondent admitted certain allegations and denied the remaining allegations of the Complaint, and requested a hearing pursuant to the Administrative Procedure Act, 5 U.S.C. §§ 551 et seq. and the Consolidated Rules of Practice.

4. This CAFO shall apply to and be binding upon Respondent, its officers, directors, servants, employees, agents, successors and assigns, including, but not limited to, subsequent purchasers.

5. Respondent admits the jurisdictional allegations of the Complaint.

6. Respondent waives its right to an administrative hearing or appeal or judicial hearing or appeal on any issue of fact or law set forth in the Complaint.

II. TERMS AND CONDITIONS

7. Respondent consents to the issuance of this CAFO and the payment of a civil penalty to resolve this action without resort to further litigation or hearing.

8. Complainant has determined \$28,105.00 is an appropriate civil penalty to resolve this action without resort to further litigation or hearing, pursuant to Section 113 of the Act, 42 U.S.C. § 7413, and the United States Environmental Protection Agency Clean Air Act Stationary Source Civil Penalty Policy.

9. Upon filing, Complainant will transmit an original of the filed CAFO to the Respondent. Respondent shall pay the civil penalty, in four (4) separate payments, over three (3) consecutive years, at an interest rate of five percent (5%) per year, pursuant to the schedule of Attachment A, by submitting cashiers or certified checks, payable to the order of the "Treasurer, United States of America," to:

Region 5
U.S. Environmental Protection Agency, Region 5
P.O. Box 70753
Chicago, IL 60673

Respondent shall provide a copy of the checks to:

Regional Hearing Clerk
Region 5
U.S. Environmental Protection Agency
77 West Jackson Boulevard (R-19J)
Chicago, IL 60604-3590;

Jeffery M. Trevino
Office of Regional Counsel
Region 5
U.S. Environmental Protection Agency
77 West Jackson Boulevard (C-14J)
Chicago, IL 60604-3590; and,

Michelle Farley
Region 5
U.S. Environmental Protection Agency
77 West Jackson Boulevard (AE-17J)
Chicago, IL 60604-3590

10. The civil penalty specified in paragraphs 7, 8, and 9 above, is a civil penalty assessed by Complainant against Respondent, to be paid by Respondent, and is not deductible for purposes of Federal taxes.

11. Complainant is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim pursuant to 31 U.S.C. § 3717. Therefore, interest will begin to accrue on a civil penalty if it is not paid by the last date required. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 4 C.F.R. § 102.13(c). A charge will be assessed to cover the costs of debt collection, including processing and handling costs. In addition, a non-payment penalty charge of five (5) percent per year compounded annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. Any such non-payment penalty charge on the debt will accrue from the date the penalty payment becomes due and is not paid. 4 C.F.R. §§ 102.13(d) and (e).

12. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of Federal, state, county, and municipal, statute, law, regulation, and ordinance, nor shall it be construed by Complainant or Respondent to be a ruling on, or determination of, any issue related to any Federal, state, or local permit.

13. This CAFO constitutes a full, complete, and final resolution of all civil liability of the violations of 40 C.F.R. Part 61, Subpart M, alleged in the Complaint, that occurred or may

have occurred at the facility prior to April 19, 2000. Nothing in this CAFO is intended to or shall be construed to operate in any way to resolve any criminal liability of the Respondent.

Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to Federal laws and regulations administered by Complainant, and it is the responsibility of Respondent to comply with such laws and regulations.

14. Each party shall bear its own costs and attorneys' fees in connection with the action resolved by this CAFO.

15. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this CAFO and to execute and legally bind that party to it.

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

17. This CAFO constitutes a Final Order pursuant to Section 22.31 of the Consolidated Rules.

18. The effective date of this CAFO shall be the day it is filed with the Regional Hearing Clerk.

19. This CAFO shall terminate when Respondent satisfies all of the terms and conditions of this CAFO.

Attachment A

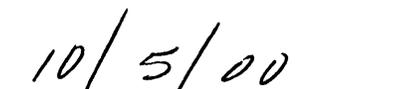
1. Respondent is required to pay to the "Treasurer, United States of America" its first payment of \$7,026.25 by December 1, 2000.
2. Respondent is required to pay to the "Treasurer, United States of America" its second payment of \$8,080.19 ($\$7,026.25 + \$1,053.94$ (5% interest per annum on the past year balance of \$21,078.75) by December 1, 2001.
3. Respondent is required to pay to the "Treasurer, United States of America" its third payment of \$7,728.88 ($\$7,026.25 + \702.63 (5% interest per annum on the past year balance of \$14,052.50) by December 1, 2002.
4. Respondent is required to pay to the "Treasurer, United States of America" its fourth payment of \$7,377.56 ($\$7,026.25 + \351.31 (5% interest per annum on the past year balance of \$7,026.25) by December 1, 2003.

**In The Matter of : Praefke Brake & Supply Corp.
Docket No. CAA-5-2000-07.
Consent Agreement and Final Order.**

Praefke Brake & Supply Corp.
West Bend, Wisconsin.
Respondent.



Gordon Praekfe
President

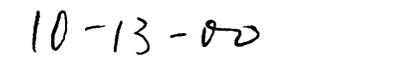


Date

Region 5
U.S. Environmental Protection Agency
Complainant



Bharat Mathur, Director
Air & Radiation Division



Date

**In The Matter of : Praefke Brake & Supply Corp.
Docket No. CAA-5-2000-07.
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FINAL ORDER

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby ordered to comply with all of the terms and conditions of the Consent Agreement upon the filing of this Consent Agreement and Final Order with the Regional Hearing Clerk.



Francis X. Lyons
Regional Administrator
United States Environmental Protection Agency
Region 5

10/17/00

Date

CERTIFICATE OF SERVICE

I, Shanee Rucker, certify that I hand delivered an original of the Consent Agreement and Final Order (CAFO), docket number CAA-5-2000-07 to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed an original CAFO by first-class, postage prepaid, certified mail, return receipt requested, to Praefke Brake & Supply Corporation's Counsel by placing it in the custody of the United States Postal Service addressed as follows:

Ms. Jennifer Drury Buzecky
Whyte Hirschboeck Dudeck, S.C.
111 East Wisconsin Avenue
Suite 2100
Milwaukee, Wisconsin 53202-4894

cc: Lakshmi Sridharan, Regional Leader
Wisconsin Department of Natural Resources
Southeast Region
2300 North Dr. Martin Luther King Jr. Drive
P.O. Box 12435
Milwaukee, Wisconsin 53212

Honorable Carl C. Charneski
Administrative Law Judge
Office of Administrative Law Judges (1900L)
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

on the 19th day of October, 2000.



Shanee Rucker
AECAS (MI/WI)

CERTIFIED MAIL RECEIPT NUMBER: 70993400 0000 95925929