

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No. CAA-05-2018-0020
)	
Alliance Castings Company, LLC)	Proceeding to Assess a Civil Penalty
Alliance, Ohio,)	Under Section 113(d) of the Clean Air Act,
)	42 U.S.C. § 7413(d)
Respondent.)	
_____)	

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 Alliance Castings Company, LLC, a corporation doing business in Ohio.
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.

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. Under Section 112 of the CAA, 42 U.S.C. § 7412, EPA promulgated the NESHAP for Iron and Steel Foundries at 40 C.F.R. §§ 63.7680 through 63.7765. The NESHAP for Iron and Steel Foundries applies to each new or existing iron and steel foundry.

10. The NESHAP, at 40 C.F.R. § 63.7690(a)(7), provides that “[f]or each building or structure housing any iron and steel foundry emissions source at the iron and steel foundry, you must not discharge any fugitive emissions to the atmosphere from foundry operations that exhibit opacity greater than 20 percent (6-minute average), except for one 6-minute average per hour that does not exceed 27 percent opacity.”

11. The NESHAP, at 40 C.F.R. § 63.7710(b), provides, among other things, that “[y]ou must prepare and operate at all times according to a written operation and maintenance plan for each capture and collection system and control device for an emissions source subject to a particulate matter (PM), metal hazardous air pollutant (HAP), triethylamine (TEA), or volatile organic hazardous air pollutants (VOHAP) emissions limit in § 63.7690(a). Your operation and maintenance plan also must include procedures for igniting gases from mold vents in pouring areas and pouring stations that use a sand mold system.” 40 C.F.R. § 63.7710(b) details the elements that must be contained in the plan.

12. The NESHAP, at 40 C.F.R. § 63.7731(b), provides that “[y]ou must conduct subsequent performance tests to demonstrate compliance with the opacity limit in § 63.7690(a)(7) for your iron and steel foundry no less frequently than once every 6 months.”

13. The NESHAP, at 40 C.F.R. § 63.7732(d), provides that “[t]o determine compliance with the opacity limit in § 63.7690(a)(7) for fugitive emission from buildings or structures housing any iron and steel foundry emissions source at the iron and steel foundry, follow the procedures in paragraph (d)(1) and (2) of this section.”

14. The NESHAP, at 40 C.F.R. § 63.7732(d)(1), provides that “[u]sing a certified observer, conduct each opacity test according to the requirements in EPA Method 9 (40 C.F.R. Part 60, Appendix A) and § 63.6(h)(5)”

15. The NESHAP, at 40 C.F.R. § 63.7732(d)(2), provides that “[d]uring testing intervals when PM performance testing, if applicable, are being conducted, conduct the opacity test such [that] the opacity observations are recorded during the PM performance tests.”

16. 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 through December 6, 2013, \$37,500 per day of violation up to a total of \$320,000 for CAA violations that occurred after December 6, 2013 through November 2, 2015, and \$45,268 per day of violation up, to a total of \$362,141, for violations that occurred after November 2, 2015, under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

17. 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.

18. 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

a. Alliance Castings owns and operates a steel foundry at 1001 East Broadway Street, Alliance, Stark County, Ohio. The facility contains several emission units, including an electric arc furnace. The facility was constructed before December 23, 2002 and is thus an existing affected source under the NESHAP for Iron and Steel Foundries.

b. Alliance Castings owns or operates an "emission source" within the meaning of Section 114 (a)(1) of the CAA, 42 U.S.C. § 7414(a)(1). Therefore, Alliance Castings is subject to the information gathering authorities of Section 114(a)(1).

c. On March 24, 2015, EPA issued to Alliance Castings a notice and finding of violation alleging that it, among other things, violated the NESHAP for Iron and Steel Foundries by failing to demonstrate compliance with the building opacity limits and failing to operate its baghouse in accordance with good air pollution control practices for minimizing emissions and in accordance with its operation and maintenance plan. As a result, EPA alleged that Alliance Castings violated the NESHAP for Iron and Steel Foundries at 40 C.F.R. §§ 63.7731(b), 63.7732(d)(1), 63.6(e)(1)(i), 63.7710(b), and failed to demonstrate compliance with the limit at § 63.7690(a)(7).

d. On May 21, 2015, and subsequently thereafter, representatives of Alliance Castings and EPA discussed the March 24, 2015 notice and finding of violation and ultimately agreed on the terms of settlement in this CAFO.

Civil Penalty

19. 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 cooperation and agreement to perform a supplemental environmental project, Complainant has determined that an appropriate civil penalty to settle this action is \$64,000.

20. Within 30 days after the effective date of this CAFO, Respondent must pay a \$64,000 civil penalty by sending 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

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

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

Attn: Compliance Tracker (AE-18J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

OR R5ARDenforcement@epa.gov

Thomas Martin (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

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

23. If Respondent does not pay timely the civil penalty or any stipulated penalties due under paragraph 36, below, 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.

24. 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 attorney's 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).

Supplemental Environment Project

25. Respondent must complete a supplemental environmental project (SEP) designed to protect public health by paving three areas of the plant to control fugitive dust emissions and reduce the quantity of airborne particulate matter at and near the facility.

26. At its Alliance, Ohio facility, Respondent must complete the SEP as follows.

Within three years after the effective date of this CAFO, or within one year of startup of the facility, whichever is earlier, Alliance Castings shall pave the following three areas, as depicted in Appendix 1:

- a. Area 1 – 13,750 sq. ft. - all traffic that needs to be weighed and vehicles going into melted metal roll-up door;
 - b. Area 2 – 6,225 sq. ft. - all traffic that access the silos, the sand wing using the sand wing north door, and the foundry east door; and,
 - c. Area 3 – 5900 sq. ft. - all truck traffic that uses the turn around.
27. Respondent shall spend at least \$129,570 to pave Areas 1, 2, and 3.
28. Respondent certifies as follows:

I certify that Alliance Castings Company, LLC is not required to perform or develop the SEP by any law, regulation, order, or agreement or as injunctive relief as of the date that I am signing this CAFO. I further certify that Alliance Castings Company, LLC has not received, and is not negotiating to receive, credit for the SEP in any other enforcement action.

I certify that Alliance Castings Company, LLC is not a party to any open federal financial assistance transaction that is funding or could be used to fund the same activity as the SEP. I further certify that, to the best of my knowledge and belief after reasonable inquiry, there is no such open federal financial transaction that is funding or could be used to fund the same activity as the SEP, nor has the same activity been described in an unsuccessful federal financial assistance transaction proposal submitted to EPA within two years of the date that I am signing this CAFO (unless the project was barred from funding as statutorily ineligible). For purposes of this certification, the term "open federal financial assistance transaction" refers to a grant, cooperative agreement, loan, federally-guaranteed loan guarantee or other mechanism for providing federal financial assistance whose performance period has not expired.

29. EPA may inspect the facility at any time to monitor Respondent's compliance with this CAFO's SEP requirements.

30. Respondent must submit reports semiannually updating EPA on the status of the facility. The first such report is due at the end of the sixth month after the effective date of this CAFO.

31. Respondent shall submit a SEP completion report to EPA within 30 days of completion of the SEP. This report must contain the following information:

- a. Detailed description of the SEP as completed;
- b. Description of any operating problems and the actions taken to correct the problems;
- c. Itemized cost of goods and services used to complete the SEP documented by copies of invoices, purchase orders or cancelled checks that specifically identify and itemize the individual cost of the goods and services;
- d. Certification that Respondent has completed the SEP in compliance with this CAFO; and
- e. Description of the environmental and public health benefits resulting from the SEP (quantify the benefits and pollution reductions, if feasible).

32. Respondent shall 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 21, above.

33. In each report that Respondent submits as provided by this CAFO, it shall certify that the report is true and complete by including the following statement signed by one of its officers:

I certify that I am familiar with the information in this document and that, based on my inquiry of those individuals responsible for obtaining the information, it is true and complete to the best of my knowledge. I know that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

34. Following receipt of the SEP completion report described in paragraph 31, above, EPA will notify Respondent in writing that:

- a. It has satisfactorily completed the SEP and the SEP report;
- b. There are deficiencies in the SEP as completed or in the SEP report and EPA will give Respondent 30 days to correct the deficiencies; or
- c. It has not satisfactorily completed the SEP or the SEP report and EPA will seek stipulated penalties under paragraph 36.

35. If EPA exercises option b above, Respondent may object in writing to the deficiency notice within 10 days of receiving the notice. The parties will have 30 days from EPA's receipt of Respondent's objection to reach an agreement. If the parties cannot reach an agreement, EPA will give Respondent a written decision on its objection. Respondent shall comply with any requirement that EPA imposes in its decision. If Respondent does not complete the SEP as required by EPA's decision, Respondent shall pay stipulated penalties to the United States under paragraph 36, below.

36. If Respondent violates any requirement of this CAFO relating to the SEP, Respondent shall pay stipulated penalties to the United States as follows:

- a. Except as provided in subparagraph b, below, if Respondent fails to complete the SEP satisfactorily according to the requirements of this CAFO, including the schedule in paragraph 26, Respondent shall pay a penalty of \$60,000.
- b. If Respondent fails to complete the SEP satisfactorily, but EPA determines that Respondent made good faith and timely efforts to complete the SEP and certified, with supporting documents, that it spent at least 90 percent of the amount set forth in paragraph 27, Respondent will not be liable for any stipulated penalty under subparagraph a, above.
- c. If Respondent completed the SEP satisfactorily, as determined by EPA, but spent less than 90 percent of the amount set forth in paragraph 27, Respondent shall pay a penalty of \$6,500.
- d. If Respondent fails to submit timely the SEP completion report, Respondent shall pay penalties in the following amounts for each day after the report was due until it submits the report:

<u>Penalty per violation per day</u>	<u>Period of violation</u>
\$200	1 st through 14 th day
\$300	15 th through 30 th day
\$400	31 st day and beyond

37. EPA's determinations of whether Respondent completed the SEP satisfactorily and whether Respondent made good faith and timely efforts to complete the SEP shall bind Respondent.

38. Respondent shall pay any stipulated penalties within 15 days of receiving EPA's written demand for the penalties. Respondent shall use the method of payment specified in paragraph 20, above, and shall pay interest and nonpayment penalties on any overdue amounts.

39. Any public statement that Respondent makes referring to the SEP shall include the following language: "Alliance Castings Company, LLC undertook this project under the settlement of the United States Environmental Protection Agency's enforcement action against Alliance Castings Company, LLC for violations of the NESHAP for Iron and Steel Foundries."

40. For federal income tax purposes, Respondent will neither capitalize into inventory or basis, nor deduct any costs or expenditures incurred in performing the SEP.

General Provisions

41. Consistent with the Standing Order Authorizing E-Mail Service of Orders and Other Documents Issued by the Regional Administrator or Regional Judicial Officer under the Consolidated Rules, dated March 27, 2015, the parties consent to service of this CAFO by e-mail at the following e-mail addresses: martin.thomas@epa.gov (for Complainant), and dbattershell@alliancecastings.com (for Respondent). The parties waive their right to service by the methods specified in 40 C.F.R. § 22.6.

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

43. 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.

44. This CAFO does not affect Respondent's responsibility to comply with the CAA and other applicable federal, state and local laws. Except as provided in paragraph 42, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

45. Respondent certifies that it is complying fully with the NESHAP for Iron and Steel Foundries.

46. 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).

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

48. 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.

49. Each party agrees to bear its own costs and attorney's fees in this action.


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

Consent Agreement and Final Order
In the Matter of: Alliance Castings Company, LLC
Docket No. CAA-05-2018-0020

Alliance Castings Company, LLC, Respondent

8-13-18

Date

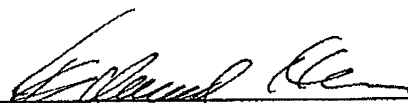


Doug Battershell, General Manager
Alliance Castings Company, LLC

Consent Agreement and Final Order
In the Matter of: Alliance Castings Company, LLC
Docket No. CAA-05-2018-0020

United States Environmental Protection Agency, Complainant

8/17/18
Date



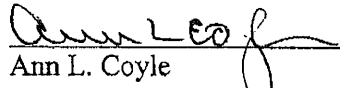
Edward Nam
Director
Air and Radiation Division
U.S. Environmental Protection Agency
Region 5

Consent Agreement and Final Order
In the Matter of: Alliance Castings Company, LLC
Docket No. CAA-05-2018-0020

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.

August 21, 2018
Date


Ann L. Coyle
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 5

Consent Agreement and Final Order
In the matter of: Alliance Castings Company, LLC
Docket Number: CAA-05-2018-0020

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number CAA 05 2018 0020, which was filed on August 23, 2018, in the following manner to the following addressees:

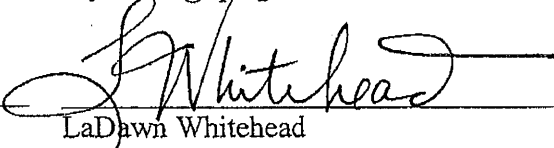
Copy by E-mail to Respondent: Doug Battershell
Alliance Castings Company, LLC
1001 East Broadway Street
Alliance, Ohio 44601
dbattershell@alliancecastings.com

Copy by E-mail to
Attorney for Complainant: Thomas Martin
martin.thomas@epa.gov

Copy by E-mail to
Attorney for Respondent: William D. Hayes
whayes@fbtlaw.com

Copy by E-mail to
Regional Judicial Officer: Ann Coyle
coyle.ann@epa.gov

Dated: August 23, 2018


LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5