

**U.S. ENVIRONMENTAL PROTECTION AGENCY  
REGION 7  
11201 Renner Boulevard  
Lenexa, Kansas 66219**

Received by  
EPA Region 7  
Hearing Clerk

**In the Matter of:** )  
 )  
Sivyer Steel Castings LLC, ) **Docket No. CAA 07-2022-0087**  
 )  
**Respondent.** )  
\_\_\_\_\_ )

**CONSENT AGREEMENT**

**I. PRELIMINARY STATEMENT**

1. This is an administrative penalty assessment proceeding brought under Section 113(d) of the Clean Air Act (“CAA”), 42 U.S.C. § 7413(d), and Sections 22.13 and 22.18 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 United States Environmental Protection Agency, Region 7 (the “EPA”). On the EPA’s behalf and as delegated by the Administrator of the EPA, the Regional Administrator of Region 7, and the Director of the Enforcement and Compliance Division, the Branch Chief of the Air Branch is delegated the authority to settle civil administrative penalty proceedings under Section 113(d) of the Act.

3. Respondent is Sivyer Steel Castings LLC, licensed as a limited liability company and authorized to do business in the State of Iowa.

4. Complainant and Respondent, having agreed that settlement of this action is in the public interest, consent to the entry of this consent agreement (“Consent Agreement” or “Agreement”) and the attached final order (“Final Order” or “Order”) without adjudication of any issues of law or fact herein, and Respondent agrees to comply with the terms of this Consent Agreement and Final Order.

**II. JURISDICTION**

5. This Consent Agreement is entered into under Section 113(d) of the Act, as amended, 42 U.S.C. § 7413(d), and the Consolidated Rules, 40 C.F.R. Part 22. The alleged violations in this Consent Agreement are enforced pursuant to Section 113(a)(1)(B) and 113(a)(3)(A).

6. The Regional Judicial Officer is authorized to ratify this Consent Agreement which memorializes a settlement between Complainant and Respondent. 40 C.F.R. §§ 22.4(a) and 22.18(b).

7. The issuance of this Consent Agreement and attached Final Order simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).

### III. GOVERNING LAW

8. Section 112 of the CAA, 42 U.S.C. § 7412, authorizes the EPA to develop emissions standards which apply to specific categories of major sources and area sources of listed hazardous air pollutants. The National Emissions Standards for Hazardous Air Pollutants (NESHAPs) apply to specific sources that emit listed hazardous air pollutants. The NESHAPs are developed and implemented by EPA and are delegated to the states. However, even when delegated to the states, EPA retains the authority to implement and enforce the NESHAPs.

9. After the effective date of any emission standard, limitation, or regulation promulgated pursuant to Section 112 of the CAA, no person may operate a source in violation of such standard, limitation, or regulation. 42 U.S.C. § 7412(i)(3).

10. Pursuant to Section 112(d) of the CAA, 42 U.S.C. § 7412(d), EPA promulgated the NESHAPs for Iron and Steel Foundries. These standards are codified at 40 C.F.R. Part 63, Subpart EEEEE (§§ 63.7680 through 63.7765).

11. The regulations at 40 C.F.R. § 63.7681 state that an iron and steel foundry is subject to Subpart EEEEE if it emits or has the potential to emit any single hazardous air pollutant at a rate of 10 tons or more per year, or any combination of hazardous air pollutants at a rate of 25 tons or more per year.

12. Section 302(e) of the CAA, 42 U.S.C. § 7602(e), defines “person” as an individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency, department, or instrumentality of the United States and any officer, agent, or employee thereof.

13. Section 112(a)(1) of the CAA, 42 U.S.C. § 7412(a)(1), defines “major source” as any stationary source or group of stationary sources located in a contiguous area and under common control that emits or has the potential to emit, considering controls, in the aggregate, ten (10) tons per year or more of any single HAP or twenty-five (25) tons per year or more of any combination of HAPs.

14. Section 112(a)(3) of the CAA, 42 U.S.C. § 7412(a)(3), defines “stationary source” as any building, structure, facility, or installation which emits or may emit any air pollutant.

15. Section 113(a)(3) of the CAA provides that whenever the Administrator finds that any person has violated, or is in violation of, any requirement or prohibition of Subchapter I of the CAA, the Administrator may issue an administrative penalty order.

16. Section 113(d) of the CAA, 42 U.S.C. §7413(d), authorizes the Administrator to issue an administrative order against any person assessing a civil penalty of up to \$25,000 per day of violation whenever, on the basis of any available information, the Administrator finds that such person has violated or is violating any requirement or prohibition of the CAA referenced therein, including Section 112, and the implementing regulations. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, as amended, and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, 28 U.S.C. § 2461, and implementing regulations at 40 C.F.R. Part 19, increased these statutory maximum penalties to \$37,500 for violations that occurred before November 2, 2015, and to \$51,796 for violations that occur after November 2, 2015, and for which penalties are assessed on or after January 12, 2022.

17. Section 113(d)(2)(B) of the CAA, 42 U.S.C. § 7413(d)(2)(B), states that the Administrator may compromise, modify, or remit, with or without conditions, any administrative penalty which may be imposed under that subsection.

#### **IV. STIPULATED FACTS**

18. Respondent is, and at all times referred to herein was, a “person” as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

19. Respondent is the owner and/or operator of an iron and steel foundry as defined in 40 C.F.R. § 63.7765, located at 225 S. 33<sup>rd</sup> Street, Bettendorf, Iowa (“Respondent’s facility”).

20. Respondent’s facility is a “stationary source” as that term is defined in Section 112(a)(3) of the CAA, 42 U.S.C. § 7412(a)(3).

21. Respondent’s facility is a major air emissions source as defined at Section 112(a)(1) of the CAA, 42 U.S.C. § 7412(a)(1).

22. Because it is an iron and steel foundry that is a major source, Respondent’s facility is required to demonstrate initial and continuous compliance with the standards of 40 C.F.R. Part 63, Subpart EEEEE.

23. Respondent is subject to the Title V permitting program, 42 U.S.C. § 7661a. The Iowa Department of Natural Resources (“Iowa DNR”) issued a Title V Operating Permit for Respondent’s facility in March 2014.

24. On May 11, 2021, a duly authorized representative of EPA Region 7 conducted a CAA Inspection at Respondent’s facility. This inspection evaluated Respondent’s compliance with CAA requirements, including but not limited to 40 C.F.R. Part 63, Subpart EEEEE.

#### **V. ALLEGED VIOLATIONS OF LAW**

25. Paragraphs 1-24 are incorporated by reference herein.

26. Per 40 C.F.R. § 63.7741(b), for each negative pressure baghouse or positive pressure baghouse equipped with a stack that is applied to meet any particulate matter or total metal hazardous air pollutant emissions limitation in Subpart EEEEE, the facility is required to install, maintain and operate a bag leak detection system (“BLDS”) that meets the requirements of paragraphs (b)(1) through (7). Among other requirements, 40 C.F.R. § 63.7741(b)(3) requires that the system be equipped with an alarm that will sound when an increase in relative particulate loadings is detected over the alarm set point established in the facility’s operation and maintenance plan.

27. During the May 11, 2021, inspection, Sivyver Steel’s facility manager admitted the BLDS was not operational. Subsequent investigation revealed that the BLDS had originally failed at the end of 2019. This failure was initially reported internally on January 6, 2020.

28. Per 40 C.F.R. § 63.7740(c)(1), for each baghouse that is applied to meet any particulate matter or total metal hazardous air pollutant emissions limitation, the facility is required to monitor the pressure drop across each cell of the baghouse each day to ensure pressure drop is within the normal operating range identified in the manual.

29. During the May 11, 2021, inspection, the pressure reading for the manometer on the East Sly baghouse was observed to be 15 psi, when the normal operating range is 2psi – 8psi. During the inspection, Respondent’s facility manager noted that the manometer had been broken for weeks. Additional information submitted to EPA revealed that although some daily pressure readings were done by personnel using a hand-held device that connects to the air lines, these pressure drop readings were not conducted each day as required by 40 C.F.R. § 63.7740(c)(1).

30. Per 40 C.F.R. § 63.7743(c)(2), the facility must inspect and maintain each baghouse according to the requirements of § 63.7740(c) and record all information needed to document conformance with these requirements. The facility must also maintain records of the times the bag leak detection system alarm sounded, and for each valid alarm, the time the owner/operator initiated corrective action, the corrective action taken, and the date on which corrective action was completed.

31. Per 40 C.F.R. § 63.7752(d), the facility must keep records for each failure to meet a work practice standard in Subpart EEEEE. This includes the date, start time, and duration of each failure and the corrective actions taken to return the affected unit to its normal or usual manner of operation.

32. Based on the May 11, 2011, inspection and subsequent investigation, Respondent was not maintaining complete records for the bag leak detection system alarm and pressure drop readings and not recording which corrective actions were taken.

33. The above-listed failures to comply with the requirements of 40 C.F.R. Part 63, Subpart EEEEE at Respondent’s facility, are violations of the applicable NESHAPs and therefore of Section 112(i)(3) of the CAA, 42 U.S.C. § 7412(i)(3).

## VI. TERMS OF CONSENT AGREEMENT

34. Respondent consents to the issuance of this Consent Agreement and Final Order. In addition, for the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:

- (a) admits that the EPA has jurisdiction over the subject matter alleged in this Agreement;
- (b) neither admits nor denies the alleged violations of law stated above;
- (c) consents to the assessment of a civil penalty as stated below;
- (d) consents to the issuance of any specified compliance or corrective action order as provided herein;
- (e) consents to the conditions specified in this Agreement;
- (f) consents to any stated Permit Action;
- (g) waives any right to contest in this proceeding the alleged violations of law set forth in Section V of this Consent Agreement; and
- (h) waives its rights to appeal the Order accompanying this Agreement.

35. For the purpose of this proceeding, Respondent:

- (a) agrees that this Agreement states a claim upon which relief may be granted against Respondent;
- (b) acknowledges that this Agreement constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement actions;
- (c) waives any right of judicial review under Section 307(b)(1) of the CAA, 42 U.S.C. § 7607(b)(1);
- (d) consents to personal jurisdiction in any action to enforce this Agreement or Order, or both, in the United States District Court; and
- (e) waives any rights it may possess at law or in equity to challenge the authority of the EPA to bring a civil action in a United States District Court to compel compliance with the Agreement or Order, or both, and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action.

36. The parties consent to service of this Consent Agreement and Final Order electronically at the following e-mail addresses: *Hertzwu.Sara@epa.gov* (for Complainant) and *tmurray@sivyersteel.com* (for Respondent). Respondent understands that the CAFO will become publicly available upon filing.

#### **A. Penalty Payment**

37. EPA has considered the appropriateness of the penalty pursuant to Section 113(e)(1) of the CAA, 42 U.S.C. § 7413(e)(1) and has determined that the appropriate penalty based on the statute, the 1991 Civil Stationary Source Penalty Policy, and the January 12, 2022 Civil Inflationary Adjustment Rule is \$113,951.00. However, pursuant to the statutory requirement that EPA consider the economic impact of the penalty on Respondent's business, Respondent has demonstrated that it is unable to pay any penalty in this matter. Because of Respondent's inability to pay the penalty, Complainant conditionally agrees to resolve the claims alleged herein.

38. The provisions of this Agreement shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns. Respondent must give written notice and a copy of this Agreement to any successors in interest prior to any transfer of ownership or control of any portion of or interest in Respondent's facility. Simultaneously with such notice, Respondent shall provide written notice of such transfer, assignment, or delegation to the EPA. In the event of any such transfer, assignment, or delegation, Respondent shall not be released from the obligations or liabilities of this Agreement unless the EPA has provided written approval of the release of said obligations or liabilities.

39. By signing this Agreement, Respondent acknowledges that this Agreement and Order will be available to the public and agrees that this Agreement does not contain any confidential business information or personally identifiable information.

40. By signing this Agreement, the undersigned representative of Complainant and the undersigned representative of Respondent each certify that he or she is fully authorized to execute and enter into the terms and conditions of this Agreement and has the legal capacity to bind the party he or she represents to this Agreement.

41. By signing this Agreement, Respondent certifies that the information it has supplied concerning this matter was at the time of submission true, accurate, and complete for each such submission, response, and statement. Respondent acknowledges that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.

42. Respondent and EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective attorney's fees, costs, and disbursements incurred in this proceeding.

## **B. Conditions**

43. As a condition of settlement and in compromise of the civil penalty that EPA could otherwise impose herein, Respondent agrees to the following:

- (a) By no later than August 31, 2022, Respondent shall install the bag leak detection system at the Facility pursuant to manufacturer's specifications.
- (b) By no later than August 31, 2022, Respondent shall submit to EPA the bag leak detection system monitoring operation and maintenance plan required by 40 C.F.R. § 63.7710(b).
- (c) By no later than August 31, 2022, Respondent shall submit to EPA the compliance notification and information required by 40 C.F.R. § 63.7736(c).
- (d) For a period of six (6) months, beginning on September 31, 2022, and on the last day of every month thereafter, Respondent shall submit to EPA the information required in 40 C.F.R. § 63.7740(c)(1)-(8).
- (e) For a period of six (6) months, beginning on September 31, 2022, and on the last day of every month thereafter, Respondent shall submit to EPA the information required by 40 C.F.R. § 63.7743(c).

## **C. Certification and Submittals**

44. All documents required to be submitted to EPA by this Order shall be in accordance with Paragraph 43 of this Consent Agreement.

- (a) The submissions required by Paragraph 43 shall be made in electronic format (native format is preferred, including any original Excel file that was used to perform the relevant calculations) to:

Avery Bowers  
Enforcement Compliance Assurance Division  
Email: *bowers.avery@epa.gov*.

- (b) Respondent may assert a business confidentiality claim covering part or all of that information, but only to the extent and only in the manner described in 40 C.F.R. Part 2, Subpart B. The EPA will disclose information submitted under a confidentiality claim only as provided in 40 C.F.R. Part 2, Subpart B. If Respondent does not assert a confidentiality claim, the EPA may make the submitted information available to the public without further notice to the Respondent.

**VII. STIPULATED PENALTIES**

45. Respondent shall be liable for stipulated penalties to the United States in the amounts set forth below for failure to comply with the requirements of Paragraph 43 of this Consent Agreement. The following stipulated penalties shall accrue per violation per day:

- (a) For failure to install the BLDS as required by Paragraph 43:

<u>Penalty Per Day Per Violation</u>	<u>Period of Noncompliance</u>
\$500	1 <sup>st</sup> through 15 <sup>th</sup> Day
\$1000	15 <sup>th</sup> day and beyond

46. All penalties shall begin to accrue on the day after complete performance is due or the day a violation of the Consent Agreement deadline or other Consent Agreement requirement occurs and shall continue to accrue through the final day of the correction of the noncompliance or completion of the activity. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Consent Agreement.

47. The payment of stipulated penalties under this Consent Agreement shall not alter in any way Respondent’s obligations to comply with the provisions of this Consent Agreement.

48. Respondent shall pay stipulated penalties not more than thirty (30) days afer receipt of written demand by EPA for such penalties. The method of payment shall be in accordance with the provisions set forth below:

- (a) The payment shall identify Respondent by name and docket number CAA-07-2022-0087 and shall be by certified or cashier’s check made payable to the “United States Treasury” and sent to:

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

or by alternate payment method described at  
<http://www.epa.gov/financial/makepayment>.

- (b) A copy of the check or other information confirming payment shall be made simultaneously be emailed to the following:

Regional Hearing Clerk  
 Office of Regional Counsel  
 U.S. Environmental Protection Agency, Region 7  
 Email: [R7\\_hearing\\_clerk\\_filings@epa.gov](mailto:R7_hearing_clerk_filings@epa.gov), and to



Avery Bowers  
Enforcement and Compliance Assurance Division  
U.S. Environmental Protection Agency, Region 7  
11201 Renner Blvd.  
Lenexa, Kansas 66219  
Email: *bowers.avery@epa.gov*.

49. If Respondent fails to timely pay any portion of the stipulated penalties, the EPA may:

- (a) request the Attorney General to bring a civil action in an appropriate district court to recover: the amount assessed; interest at rates established pursuant to 26 U.S.C. § 6621(a)(2); the United States' enforcement expenses and a 10 percent quarterly nonpayment penalty, 42 U.S.C. § 7413(d)(5);
- (b) refer the debt to a credit reporting agency or a collection agency, 42 U.S.C. § 7413(d)(5), 40 C.F.R. §§ 13.13, 13.14, and 13.33;
- (c) collect the debt by administrative offset (i.e., the withholding of money payable to the United States to, or held by the United States for, a person to satisfy the debt the person owes to Government), which includes, but is not limited to, referral to the Internal Revenue Service for the offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H; and
- (d) suspend or revoke Respondent's licenses or other privileges or (ii) suspend or disqualify Respondent from doing business with the EPA or engaging in the programs the EPA sponsors or funds, 40 C.F.R. § 13.17.

50. The stipulated penalties provided for in this Consent Agreement shall be in addition to other rights, remedies, or sanctions available to the EPA for Respondents' violation of the Consent Agreement or applicable law. Where a violation of this Consent Agreement is also violation of statutory or regulatory requirements, Respondent shall be allowed a credit for any stipulated penalties paid, against any statutory penalties imposed for such violation.

### **VIII. EFFECT OF CONSENT AGREEMENT AND ATTACHED FINAL ORDER**

51. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this Consent Agreement and Final Order resolves Respondent's liability for federal civil penalties for the violations and facts specifically alleged above.

52. For the purpose of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Service Code, 26 U.S.C. § 162(f)(2)(A)(ii) and 26 C.F.R. 162-21-(b)(2), the performance of Paragraph 43 is "restitution, remediation, or required to come into compliance with the law."

53. This Agreement constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to the subject matter hereof.

54. The terms, conditions and compliance requirements of this Agreement may not be modified or amended except upon the written agreement of both parties, and approval of the Regional Judicial Officer.

55. Any violation of this Order may result in a civil judicial action for an injunction or civil penalties of up to \$109,024 per day per violation, or both, as provided in Section 113(b)(2) of the CAA, 42 U.S.C. § 7413(b)(2) and adjusted for inflation pursuant to 40 C.F.R. Part 19, as well as criminal sanctions as provided in Section 113(c) of the CAA, 42 U.S.C. § 7413(c). The EPA may use any information submitted under this Order in an administrative, civil judicial, or criminal action.

56. Nothing in this Agreement shall relieve Respondent of the duty to comply with all applicable provisions of the CAA and other federal, state, or local laws or statutes, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.

57. Nothing herein shall be construed to limit the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

## **IX. EFFECTIVE DATE**

58. Respondent and Complainant agree to issuance of the attached Final Order. Upon filing, the EPA will transmit a copy of the filed Consent Agreement to the Respondent. This Consent Agreement and attached Final Order shall become effective after execution of the Final Order by the Regional Judicial Officer on the date of filing with the Hearing Clerk.

59. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

The foregoing Consent Agreement in the Matter of Sivyer Steel Castings LLC, Docket No. CAA 07-2022-0087, is Hereby Stipulated, Agreed, and Approved for Entry.

**FOR RESPONDENT**

Sivyer Steel Castings LLC:



Signature



Date

Printed Name:

SCOTT TINSMAN

Title:

CEO

Address:

225 33<sup>RD</sup> ST BETTENDORF IA 52122

Respondent's Federal Tax Identification Number:

83-0879341

The foregoing Consent Agreement in the Matter of Sivyer Steel Castings LLC, Docket No. CAA 07-2022-0087 is Hereby Stipulated, Agreed, and Approved for Entry.

**FOR COMPLAINANT:**

U.S. Environmental Protection Agency Region 7

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DATE

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Tracey Casburn, Branch Chief  
Enforcement and Compliance Assurance Division  
U.S. EPA Region 7  
11201 Renner Boulevard  
Lenexa, Kansas 66219

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DATE

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Sara Hertz Wu  
Office of Regional Counsel  
U.S. EPA Region 7  
11201 Renner Boulevard  
Lenexa, Kansas 66219

**U.S. ENVIRONMENTAL PROTECTION AGENCY  
REGION 7  
11201 Renner Boulevard  
Lenexa, Kansas 66219**

**BEFORE THE ADMINISTRATOR**

**In the Matter of:** )  
 )  
Sivyer Steel Castings LLC, ) **Docket No. CAA 07-2022-0087**  
 )  
 **Respondent.** )  
 )  
\_\_\_\_\_ )

**FINAL ORDER**

Pursuant to 40 C.F.R. § 22.18(b) of the EPA’s Consolidated Rules of Practice and Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d), the foregoing Consent Agreement resolving this matter is hereby ratified and incorporated by reference into this Final Order.

Respondent is ORDERED to comply with all terms of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(b), the effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

**IT IS SO ORDERED,**

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Karina Borromeo  
Regional Judicial Officer  
United States Environmental Protection Agency  
Region 7

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing Consent Agreement and Final Order in the Matter of Sivyer Steel Castings LLC, Docket No. CAA 07-2022-0087, was sent this day in the following manner to the addressees:

Copy delivered to Complainant:

Sara Hertz Wu  
*hertzwu.sara@epa.gov*

Avery Bowers  
*Bowers.Avery@epa.gov*

Copy delivered to the Respondent:

Tim Murray  
*tmurray@sivyersteel.com*

Copy delivered to the Respondent's Attorney of Record:

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Regional Hearing Clerk  
U.S. Environmental Protection Agency Region 7