



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

JAN - 9 2012

REPLY TO THE ATTENTION OF:

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

Charlie Hoffman  
President and General Manager  
Castwell Products, LLC  
7800 North Austin Avenue  
Skokie, Illinois 60077

Dear Mr. Hoffman:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves Castwell Products, LLC, Docket No. CAA-05-2012-0008. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on JAN - 9 2012.

Pursuant to paragraph 35 of the CAFO, Castwell Products, LLC, must pay the civil penalty within 30 days of FEB - 9 2012. Your check must display the case name Castwell Products, LLC, the docket number, CAA-05-2012-0008, and the billing document number, 2751203A009.

Please direct any questions regarding this case to Joseph Williams, Associate Regional Counsel, at (312) 886-6631.

Sincerely,

A handwritten signature in cursive script, appearing to read "Nathan A. Frank".

for Nathan A. Frank, P.E.  
Chief  
AECAB, IL/IN Section

Enclosure

cc: Thor Ketzback  
Bryan Cave, LLP  
161 North Clark Street  
Suite 4300  
Chicago, IL 60601-33115



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JAN - 9 2012

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY

<b>In the Matter of:</b>	)	<b>Docket No. CAA-05-2012-0008</b>
	)	
Castwell Products, LLC Skokie, Illinois	)	<b>Proceeding to Assess a Civil Penalty</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 (CAA or the Act), 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. The Complainant is the Director of the Air and Radiation Division, United States Environmental Protection Agency (EPA), Region 5.

3. The Respondent is Castwell Products, LLC, (Castwell) a limited liability corporation doing business in Illinois.

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. Section 112(d) of the Act, 42 U.S.C. § 7412(d), authorizes EPA to promulgate NESHAP regulations for particular industrial sources that emit one or more of the Hazardous Air Pollutants (HAPs) listed in Section 112(b) of the Act, 42 U.S.C. § 7412(b).

10. Section 113(a) of the CAA, 42 U.S.C. § 7413(a)(1), authorizes the Administrator to initiate an enforcement action whenever, among other things, the Administrator finds that any person has violated or is in violation of a requirement or prohibition of an applicable regulation or permit.

11. Section 502(a) of the CAA, 42 U.S.C. § 7661a(a), provides that no source may operate without a Title V permit after the effective date of any permit program approved or promulgated under Title V of the Act. EPA first promulgated regulations governing state operating permit programs on July 21, 1992. See 57 Fed. Reg. 32295; 40 C.F.R. Part 70.

12. EPA promulgated interim approval of the Illinois Title V program on March 7, 1995. See 60 Fed. Reg. 12478. EPA promulgated full approval of the Illinois Title V program

on November 30, 2001. See 40 C.F.R. Part 70, Appendix A. Illinois' Title V program became effective on this date. See 66 Fed. Reg. 62946.

13. The Illinois regulations governing the Title V permitting program are codified at 415 Illinois Compiled Statutes (ILCS) 5/39.5, and are federally enforceable pursuant to Section 113(a)(3).

14. The EPA promulgated the NESHAP for Iron and Steel Foundries Area Sources at 40 C.F.R. Part 63, Subpart ZZZZZ. These regulations apply to iron and steel foundries that are area sources of hazardous air pollutants (HAPs) listed in Section 112 (b) of the Act. The regulations became effective January 2, 2008.

15. The 40 C.F.R Part 63, Subpart ZZZZZ, applies to all new and existing iron and steel foundries that are area sources of HAPs.

16. 40 C.F.R. § 63.10880(b)(1) states that, "An affected source is existing if you commenced construction or reconstruction of the affected source before September 17, 2007."

17. 40 C.F.R. § 63.9(b)(2) states that affected sources must submit an initial notification of applicability to the Administrator within 120 days after the effective date, January 2, 2008, of Subpart ZZZZZ, or by May 1, 2008.

18. 40 C.F.R § 63.10880(f) states that, "If you own or operate an existing affected source you must determine the initial applicability of the requirements of this subpart to a small foundry or a large foundry" and "submit a written notification to the Administrator that identifies your area source as a small foundry or a large foundry no later than January 2, 2009."

19. 40 C.F.R. § 63.10881 states that if you own or operate an existing affected source you must comply with the pollution prevention management practices for metallic scrap and

binder formulations as described in § 63.10885(a) and § 63.10886, respectively, by January 2, 2009.

20. 40 C.F.R § 63.10890 (c) states that affected sources must submit notifications of semiannual compliance status according to § 63.9(h)(1)(i) by September 1 for the first half of the year in operation (January to June) and March 1 of the following year for the second half of the year (July to December).

21. The Administrator of EPA (the Administrator) may assess a civil penalty of up to \$32,500 per day of violation, up to a total of \$270,000, for violations that occurred after March 15, 2004 through January 12, 2009 and may assess a civil penalty of up to \$37,500 per day of violation, up to a total of \$295,000, for violations that occurred after January 12, 2009 under Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

22. Section 113(d)(1) of the Act 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.

23. 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 violations alleged in this CAFO from 2008 to 2010.

#### **Factual Allegations, Permit Background and Alleged Violations**

24. Castwell owns and operates an iron foundry at 7800 North Austin Avenue, Skokie, Illinois (the Facility), that emits naphthalene, phenol, biphenyl, benzene, xylene, and triethylamine, all of which are listed HAPs under the Act.

25. On January 17, 2001, the Illinois Environmental Protection Agency issued Castwell Title V permit number 031288AAD for the Facility.

26. Paragraph 5.2.6.a of permit #031288AAD states “Should this stationary source become subject to a regulation under 40 CFR Parts 60, 61, or 63, or 35 IAC after the date issued of this permit, then the owner or operator shall, in accordance with the applicable regulation(s), comply with the applicable requirements by the date(s) specified and shall certify compliance with the applicable requirements of such regulation(s) as part of the annual compliance certification, as required by 40 CFR Part 70 or 71.”

27. Paragraph 8.6.1 of permit #031288AAD states “If monitoring is required by any applicable requirements or conditions of this permit, a report summarizing the required monitoring results, as specified in the conditions of this permit, shall be submitted to the Air Compliance Section of the Illinois EPA every six months as follows [Section 39.5(7)(f) of the Act]:

<u>Monitoring Period</u>	<u>Report Due Date</u>
January – June	September 1
July – December	March 1

All instances of deviations from permit requirements must be clearly identified in such reports.

...”

28. Because the Facility is an iron foundry that emits HAPs, it meets the definition of affected source under 40 CFR § 63.10880.

29. The Facility was constructed prior to September 17, 2007 and is therefore an existing affected source under the regulation.

29. Because Castwell is an existing affected source, Castwell was required to submit an Initial Notification of Applicability by May 1, 2008, a Notification of Initial Size Classification by January 2, 2009, and a Notification of Compliance Status by January 2, 2009 pursuant to 40 C.F.R Part 63, Subpart ZZZZZ.

30. Castwell failed to submit the Initial Notification within 120 days of the effective date of the regulation, or by April 2008, and was therefore in violation of 40 C.F.R. § 63.9(b)(2) and the Act.

31. Castwell also failed to submit the Notification of Initial Size Classification of its foundry by January 2, 2009, and was therefore in violation of 40 C.F.R. § 63.10880(f) and the Act.

32. Castwell also failed to submit a Notification of Compliance Status for Management Practices for Metallic Scrap and Binder Formulations within 30 days of January 2, 2009 as specified in 40 C.F.R. § 63.10890(c), and was therefore in violation of that Section and the Act.

33. Castwell also failed to submit semi-annual compliance reports for the period from January 2, 2009 to June 30, 2010 and was therefore in violation of 40 C.F.R. 63.10890(c), Sections 5.2.6a and 8.6.1 of its Title V Permit, and the Act.

#### **Civil Penalty**

34. Based on analysis of the factors specified in Section 113(e) of the Act, 42 U.S.C. § 7413(e), the facts of this case, Castwell's high level of cooperation, and the submission of all required notifications and reports, Complainant has determined that an appropriate civil penalty to settle this action is \$50,000.



35. Within 30 days after the effective date of this CAFO, Respondent must pay a \$50,000 civil penalty by sending a cashier's or certified check payable to the "Treasurer, United States of America," to:

[for checks sent by regular U.S. Postal Service mail]

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

[for checks sent by express mail (non-U.S. Postal Service which won't deliver mail to P.O. Boxes)]

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

36. The check must note the Docket Number of this CAFO and the Billing Document number. The Docket Number and Billing Document Number will be provided with a final copy of the executed CAFO following its filing with the Regional Hearing Clerk. A transmittal letter stating Respondent's name, complete address, the case docket number, and the billing document number must accompany the payment. Respondent must send a copy of the check and transmittal letter to:

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

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

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

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

38. If Respondent does not timely pay the civil penalty, EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States' enforcement expenses for the collection action under Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

39. Pursuant to 31 C.F.R. § 901.9, 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. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue according to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). 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.

#### **General Provisions**

40. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in this CAFO and those related to EPA's March 8, 2011 Notice of Violation.

41. The CAFO does not affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

42. This CAFO does not affect Respondent's responsibility to comply with the Act and other applicable federal, state, and local laws. Except as provided in paragraph 40, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

43. This CAFO constitutes an "enforcement response" as that term is used in EPA's *Clean Air Act Stationary Source Civil Penalty Policy* to determine Respondent's "full compliance history" under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

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

45. 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.

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

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

**Castwell Products, LLC, Respondent**

December 20, 2011  
Date

Charles N. Hoffman Jr., President  
Rep. Castwell Products, LLC Skokie,  
Illinois.  
Charles N. Hoffman Jr.  
President

**United States Environmental Protection Agency, Complainant**

12/28/11  
Date

Cheryl E. Newton  
Cheryl E. Newton  
Director  
Air and Radiation Division  
U.S. Environmental Protection Agency  
Region 5

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**CONSENT AGREEMENT AND FINAL ORDER**

**In the Matter of:**

**Castwell Products, LLC, Skokie, Illinois**

**Docket No. CAA-05-2012-0008**

REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY

**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.

1-4-12

\_\_\_\_\_  
Date



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



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**Consent Agreement and Final Order**  
**In the Matter of: Castwell Products, LLC**  
**Docket No. CAA-05-2012-0008**

REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY

**Certificate of Service**

I certify that I filed the original and one copy of the Consent Agreement and Final Order (CAFO), docket number CAA-05-2012-0008 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 the second original 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:

Charlie Hoffman, President and General Manager  
Castwell Products, LLC  
7800 North Austin Avenue  
Skokie, Illinois 60077

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

Marcy Toney  
Regional Judicial Officer  
U.S. Environmental Protection Agency  
77 W. Jackson Boulevard / Mail Code C-14J  
Chicago, Illinois 60604

I also certify that I mailed a correct copy of the CAFO by first-class mail to:

Ray Pilapil, Manager  
Bureau of Air  
Compliance and Enforcement Section  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
Springfield, Illinois 62702

Thor Ketzback  
Bryan Cave, LLP  
161 North Clark Street  
Suite 4300  
Chicago, IL 60601-33115



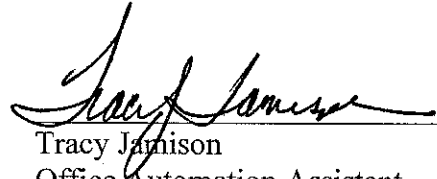


**Consent Agreement and Final Order**

**In the Matter of: Castwell Products, LLC**

**Docket No. CAA-05-2012-0008<sup>20</sup>**

On the 9<sup>th</sup> day of January 2012.



Tracy Jamison  
Office Automation Assistant  
Planning and Administration Section

CERTIFIED MAIL RECEIPT NUMBER:

7009 1680 0000 7672 8386

1891

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*[Faint handwritten signature]*

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