

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

2011 SEP 28 PM 12:32  
REGIONAL HEARING CLERK  
EPA REGION III PHILA, PA

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In the Matter of:

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FINAL ORDER

Baltimore Auto Recycling, Inc.,

Docket No. CAA-III-11-009

Corrected

Respondent.

CAH -03 - 2011 - 0314

NOW, THEREFORE, pursuant to 40 C.F.R. Part 22, Subpart C, § 22.18(b)(2) and (3), and Subpart G, § 22.31, it is hereby ORDERED that:

I. GENERAL PROVISIONS

1. This proceeding is governed by the Consolidated Rules of Practice, 40 C.F.R. Part 22. The provisions of 40 C.F.R. Part 22, §§ 22.18(b)(2) and (3) and 22.31 govern the process of concluding this proceeding by final order.
2. The undersigned ratifies and incorporates by reference into this final order the consent agreement executed by the parties in this proceeding.
3. This final order constitutes the final Agency action in this proceeding as to Respondent BAR.
4. Nothing in this final order is intended to, or shall be construed to, operate in any way to resolve any criminal liability of Respondent. Nothing in this final order shall be construed to limit the authority of EPA to undertake action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health or welfare, or the environment.
5. As provided in the aforementioned consent agreement, this final order resolves only Respondent BAR's civil penalty liability for the violation of 40 C.F.R. § 82.162(c) referenced in the consent agreement.
6. This final order does not waive, extinguish or otherwise affect Respondent BAR's obligations to comply with all applicable provisions of the federal Clean Air Act (CAA), 42 U.S.C. §§ 7401-7671q, and regulations promulgated thereunder.

7. This final order is effective upon filing with the Regional Hearing Clerk.

**II. CIVIL PENALTY**

1. A civil penalty in the amount of thirty-three thousand nine hundred and ninety-one dollars (\$33,991) is assessed against Respondent BAR.

2. Payment by Respondent BAR of the civil penalty amount set forth in Paragraph 1 immediately above shall be made by either cashier's check, certified check, or electronic wire transfer, in the following manner:

a. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, *i.e.*, CAA-III-11-009;

b. All checks shall be made payable to **United States Treasury**;

c. All payments made by check and sent by regular mail shall be addressed to:

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

Contact: Eric Volck (513-487-2105)

d. All payments made by check and sent by overnight delivery service shall be addressed for delivery to:

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

Contact: (314-418-1028)

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e. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance  
US EPA, MS-NWD  
26 W. M.L. King Drive  
Cincinnati, OH 45268-0001

f. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York  
ABA = 021030004  
Account No. = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, NY 10045

Field Tag 4200 of the Fedwire message should read:  
D 68010727 Environmental Protection Agency

g. All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX / Cashlink ACH Receiver  
ABA = 051036706  
Account No.: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 - Checking

Physical location of U.S. Treasury facility:  
5700 Rivertech Court  
Riverdale, MD 20737  
Contact: John Schmid (202-874-7026) or REX (1-866-234-5681)



penalty order in accordance with [Section 113(d) of the CAA]...”.

4. Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), provides, in pertinent part, that “...The Administrator may issue an administrative order against any person assessing a civil administrative 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...any... requirement...of [various provisions of the CAA, including Section 608 of the CAA], including, but not limited to, a requirement...of any rule...promulgated...under [those provisions]...”.

### III. GENERAL PROVISIONS

1. This proceeding is governed by the Consolidated Rules, 40 C.F.R. Part 22. As provided in 40 C.F.R. Part 22, § 22.18(b)(1), EPA encourages settlement of a proceeding at any time if the settlement is consistent with the provisions and objectives of the CAA and applicable regulations. 40 C.F.R. § 22.13 provides that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a consent agreement and final order. In the event a settlement is reached, the provisions of 40 C.F.R. Part 22, § 22.18(b)(2) and (3), and (c), govern the process of effectuating the settlement and concluding the proceeding.

2. Any and all terms and conditions of this settlement are recorded herein.

3. For the purpose of this proceeding, Respondent BAR admits the jurisdictional allegations set forth in this consent agreement.

4. For the purpose of concluding this proceeding, Respondent BAR waives any right to contest the finding of violation of 40 C.F.R. § 82.162(c) in this consent agreement and in the accompanying proposed final order, and waives any right to appeal the proposed final order. Respondent BAR consents to the issuance of the proposed final order.

5. The parties agree to bear their own costs and attorneys fees.

### IV. SETTLEMENT

1. The civil penalty noted below for the above-referenced CAA violation was determined in accordance with 1) Section 113(e) of the CAA, 42 U.S.C. § 7413(e), and 2) EPA's Clean Air Act Stationary Source Civil Penalty Policy, dated October 25, 1991 (CAA penalty policy), as modified, including Appendix X thereto (for certain violations of 40 C.F.R. Part 82, Subpart F), as issued on June 1, 1994. Relevant modifications to the CAA penalty policy since its issuance on October 25, 1991 include modifications, dated May 9, 1997, September 21, 2004, and December 29, 2008, to implement the Civil Monetary Penalty Inflation Rule (40 C.F.R. Part 19), pursuant to the Debt

Collection Improvement Act of 1996 (inflation modifications). These inflation modifications essentially increased penalty policy amounts by 10%, 17.23%, and 9.83%, respectively.

2. To develop the CAA penalty, EPA took into account the CAA penalty policy, as supplemented and modified, and the particular facts and circumstances of this case.

3. For the purpose of this proceeding, Respondent BAR consents to the assessment of a civil penalty of thirty-three thousand nine hundred and ninety-one dollars (\$33,991) against it for the violation of 40 C.F.R. § 82.162(c) referenced above. Respondent BAR agrees to pay the full amount of this civil penalty in accordance with the proposed final order accompanying this consent agreement.

4. Full payment of the civil penalty provided for herein shall only resolve Respondent BAR's civil penalty liability for the violation of 40 C.F.R. § 82.162(c) referenced above. Nothing in this consent agreement is intended to, or shall be construed to, operate in any way to resolve any criminal liability of Respondent. Nothing in this consent agreement shall be construed to limit the authority of EPA to undertake action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health or welfare, or the environment.

5. Respondent BAR certifies that, as of the time of its execution of this consent agreement, it is in compliance with all applicable requirements of 40 C.F.R. Part 82, Subpart F. On and after the date of Respondent BAR's execution of this consent agreement, Respondent BAR shall maintain compliance with all applicable requirements of 40 C.F.R. Part 82, Subpart F.

6. The undersigned representative of Respondent BAR certifies that he is fully authorized by that Respondent to execute this consent agreement and to legally bind that Respondent to its terms and conditions.

Date: 8/31/11

Joseph J. Duff, President  
Joseph J. Duff, President  
Baltimore Auto Recycling, Inc.

Date: 9/16/11

Diana Esher  
Diana Esher, Director  
Air Protection Division  
U.S. EPA - Region III