

FILED

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**U.S. EPA REGION 5
HEARING CLERK**

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No. CAA-05-2025-0047
)	
All American Recycling, Inc.)	Proceeding to Assess a Civil Penalty
Aurora, Illinois,)	Under Section 113(d) of the Clean Air Act,
)	42 U.S.C. § 7413(d)
Respondent.)	
_____)	

Consent Agreement and Final Order

A. Preliminary Statement

1. This is an administrative penalty assessment proceeding 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) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. §§ 22.1(a)(2), 22.13(b) and 22.18(b).

2. Complainant is the U.S. Environmental Protection Agency (EPA). The EPA Administrator has delegated the authority to settle civil administrative penalty proceedings under Section 113(d) of the CAA to the Division Director of the Region 5 Enforcement and Compliance Assurance Division.

3. Respondent is All American Recycling Inc. (All American), a corporation doing business in Illinois. Respondent is a “person,” as defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

4. The EPA and Respondent agree that settling this action is in the public interest and consent to the entry of this Consent Agreement and Final Order (CAFO) pursuant to 40 C.F.R. § 22.18(b)(2) and (3) without the adjudication of any issues of law or fact.

5. Respondent agrees to comply with the terms of this CAFO.

B. Jurisdiction

6. The alleged violations in this CAFO are pursuant to Section 113(a)(3)(A) of the CAA.

7. The EPA and the United States Department of Justice have jointly determined that this matter, although it involves alleged violations that occurred more than one year before the initiation of this proceeding, is appropriate for an administrative penalty assessment. 42 U.S.C. § 7413(d); 40 C.F.R. § 19.4.

8. On November 12, 2021, the EPA issued to Respondent a Finding of Violation (FOV) and provided a copy of the FOV to Illinois Environmental Protection Agency, providing notice to Respondent that the EPA found Respondent committed the alleged violations described in Section E of this CAFO and providing Respondent an opportunity to confer with the EPA. On December 22, 2021, representatives of Respondent and the EPA conferred regarding the November 12, 2021 FOV.

9. The Regional Judicial Officer of Region 5 is authorized to ratify the Consent Agreement memorializing the settlement between the EPA and Respondent and to issue the attached Final Order. 40 C.F.R. §§ 22.4(b) and 22.18(b).

C. Statutory and Regulatory Background

10. In accordance with Section 608 of the CAA, 42 U.S.C. § 7671g, EPA promulgated regulations at 40 C.F.R. Part 82, Subpart F, applicable to recycling and emissions reductions of ozone depleting substances. As specified at 40 C.F.R. § 82.150(a), the purpose of the regulations is to reduce emissions of class I and class II ozone-depleting substances and their non-exempt

substitutes to the lowest achievable level during the service, maintenance, repair, and disposal of appliances.

11. Under 40 C.F.R. § 82.152, “class I” refers to an ozone-depleting substance that is listed in 40 C.F.R., Part 82, Subpart A, Appendix A.

12. Under 40 C.F.R. § 82.152, “class II” refers to an ozone-depleting substance that is listed in 40 C.F.R., Part 82, Subpart A, Appendix B.

13. Under 40 C.F.R. § 82.152, an “appliance” is any device which contains and uses a class I or class II substance or substitute as a refrigerant and which is used for household or commercial purposes, including any air conditioner, motor vehicle air conditioner (MVAC), refrigerator, chiller, or freezer. For a system with multiple circuits, each independent circuit is considered a separate appliance.

14. Under 40 C.F.R. § 82.152, a “small appliance” is any appliance that is fully manufactured, charged, and hermetically sealed in a factory with 5 pounds or less of refrigerant, including, but not limited to, refrigerators and freezers (designed for home, commercial, or consumer use), medical or industrial research refrigeration equipment, room air conditioners (including window air conditioners, portable air conditioners, and packaged terminal air heat pumps), dehumidifiers, under-the-counter ice makers, vending machines, and drinking water coolers.

15. Under 40 C.F.R. § 82.154(a), no person maintaining, servicing, repairing, or disposing of an appliance may knowingly vent or otherwise release into the environment any refrigerant or substitute from such appliances, with certain exemptions not relevant to this matter.

16. Under 40 C.F.R. § 82.155(b), the final processor—i.e., any person who takes the final step in the disposal process (including but not limited to scrap recyclers and landfill operators) of a small appliance, MVAC or MVAC-like appliance—must either:

- a. Recover any remaining refrigerant from the appliance in accordance with 40 C.F.R. § 82.155(a); or
- b. Verify using a signed statement or a contract that all refrigerant that had not leaked previously has been recovered from the appliance or shipment of appliances in accordance with 40 C.F.R. § 82.155(a). If using a signed statement, it must include the name and address of the person who recovered the refrigerant and the date the refrigerant was recovered. If using a signed contract between the supplier and the final processor, it must either state that the supplier will recover any remaining refrigerant from the appliance or shipment of appliances in accordance with 40 C.F.R. § 82.155(a) prior to delivery or verify that the refrigerant had been properly recovered prior to receipt by the supplier.

17. Under 40 C.F.R. § 82.155(b)(2)(i), it is a violation of 40 C.F.R. § Part 82, Subpart F to accept a signed statement or contract if the person receiving the statement or contract knew or had reason to know that the signed statement or contract is false.

18. Under 40 C.F.R. § 82.155(b)(2)(ii), the final processor must notify suppliers of appliances that refrigerant must be properly recovered in accordance with 40 C.F.R. § 82.155(a) before delivery of the items to the facility. The form of notification may be signs, letters to suppliers, or other equivalent means.

19. Under 40 C.F.R. § 82.155(b)(2)(iii), if all refrigerant has leaked out of the appliance, the final processor must obtain a signed statement that all the refrigerant in the appliance had leaked out prior to delivery to the final processor and recovery is not possible. “Leaked out” in this context means those situations in which the refrigerant has escaped because of system failures, accidents

or other unavoidable occurrences not caused by a person's negligence or deliberate acts such as cutting refrigerant lines.

20. Under 40 C.F.R. § 82.156(b), persons must recover refrigerant, using a recovery and/or recycling machine certified pursuant to 40 C.F.R. § 82.158, before opening a small appliance or when disposing of a small appliance, according to specified conditions.

D. Stipulated Facts

21. All American owns and/or operates the scrap metal recycling facility at 1137 Mitchell Road, Aurora, Illinois (the Facility).

22. All American owns and/or operates additional scrap metal recycling facilities at the following locations:

- a. 11900 South Cottage Grove Avenue, Chicago, IL 60628;
- b. 1705 Cottage Grove Avenue, Ford Heights, IL 60411; and
- c. 2285 New Lenox Road, Joliet, IL 60433.

23. All American is a "person" within the meaning of 40 C.F.R. § 82.152.

24. At the Facility, All American accepts for recycling and disposal small appliances that contain or once contained ozone depleting substances or substitutes.

25. The ozone depleting substances or substitutes in the small appliances All American accepts for recycling are "refrigerants" within the meaning of 40 C.F.R. § 82.152.

26. All American's recycling of small appliances constitutes "disposal" within the meaning of that term as prescribed at 40 C.F.R. § 82.152.

27. The Facility is a final processor in the disposal process for appliances, including small appliances, within the meaning of 40 C.F.R. § 82.155(b).

28. As a person that disposes of small appliances that contain or once contained refrigerant, All American is subject to Section 608 of the CAA, 42 U.S.C. § 7671g and 40 C.F.R. Part 82, Subpart F and any noncompliance constitutes a violation of the CAA and CAA regulations.

29. As a person that is subject to requirements of 42 U.S.C. § 7671g, All American is subject to the requirements of Section 114(a)(1).

30. EPA inspected the Facility on August 18, 2021.

31. At the time of the inspection, EPA inspectors observed small appliances at the Facility, including small appliances with intact refrigerant lines.

32. At the time of the inspection, EPA inspectors did not observe refrigerant recovery equipment for small appliances, and All American representatives stated that refrigerant recovery from small appliances is not done at the Facility.

33. At the time of the inspection, All American representatives could not produce verification statements from customers attesting that the small appliance had the refrigerant properly recovered prior to delivery to the Facility.

34. In 2022, Respondent began to accept verification statements and use a third-party recovery service to recover refrigerant from small appliances.

E. Allegations

35. All American failed to either recover refrigerant from small appliances, MVACs, and MVAC-like appliances during scrap recycling in accordance with 40 C.F.R. § 82.155(a) or to verify that refrigerants that had not leaked previously had been recovered at the Facility.

36. By failing to recover refrigerant from small appliances in accordance with 40 C.F.R. § 82.155(a), and by failing to verify using a signed statement or contract that refrigerant that had

not leaked previously had been recovered, All American violated 40 C.F.R. § 82.155(b) at the Aurora Facility.

F. Terms of Consent Agreement

37. For the purposes of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:

- a. admits to the jurisdictional allegations in this CAFO;
- b. neither admits nor denies the allegations stated in Section E of this CAFO;
- c. consents to the assessment of a civil penalty as stated below;
- d. consents to any conditions specified in this CAFO;
- e. waives any right to contest the allegations set forth in Section E of this CAFO;
and
- f. waives its right to appeal this CAFO.

38. For the purposes of this proceeding, Respondent:

- a. agrees this CAFO states a claim upon which relief may be granted against Respondent;
- b. acknowledges this proceeding constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement actions;
- c. waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CAFO, including any right of judicial review under Section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1);
- d. waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c);
- e. waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the Final Order accompanying the Consent Agreement; and
- f. 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 CAFO, and to seek an additional penalty for noncompliance, and agrees that federal law shall govern in any such civil action.

39. 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 Respondent's cooperation, the EPA has determined that an appropriate civil penalty to settle this action is \$133,000.

40. Respondent agrees to pay a civil penalty in the amount of \$133,000 ("Assessed Penalty") within thirty (30) days after the date the Final Order ratifying this Consent Agreement is filed with the Regional Hearing Clerk ("Filing Date").

41. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website:

<https://www.epa.gov/financial/makepayment>. For additional instructions see:

<https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

42. When making a payment, Respondent shall:

- a. Identify every payment with Respondent's name and the docket number of this CAFO, CAA-05-2025-0047,
- b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of such payment to the following person(s):

Regional Hearing Clerk (E-19J)
U.S. Environmental Protection Agency, Region 5
r5hearingclerk@epa.gov

Air Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency, Region 5
R5airenforcement@epa.gov

Ariel MacMillan-Sanchez
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
macmillansanchez.ariel@epa.gov

U.S. Environmental Protection Agency
Cincinnati Finance Center
Via electronic mail to:
CINWD_AcctsReceivable@epa.gov

“Proof of payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent’s name.

43. Interest, Charges, and Penalties on Late Payments. Pursuant to 42 U.S.C. § 7413(d)(5), 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay the full amount of the Assessed Penalty per this CAFO, the entire unpaid balance of the Assessed Penalty and all accrued interest shall become immediately owing, and the EPA is authorized to recover the following amounts.

- a. Interest. Interest begins to accrue from the Filing Date. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. Per 42 U.S.C. § 7413(d)(5), interest will be assessed pursuant to 26 U.S.C. § 6621(a)(2), that is, the IRS standard underpayment rate, equal to the Federal short-term rate plus 3 percentage points.
- b. Handling Charges. The United States’ enforcement expenses including, but not limited to, attorneys’ fees and costs of handing collection.
- c. Late Payment Penalty. A ten percent (10%) quarterly non-payment penalty.

44. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this CAFO, the EPA may take additional actions. Such actions the EPA may take include, but are not limited to, the following.

- a. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.
- b. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.

- c. Suspend or revoke Respondent's licenses or other privileges or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, per 40 C.F.R. § 13.17.
- d. Request that the Attorney General bring a civil action in the appropriate district court to enforce the Final Order and recover the full remaining balance of the Assessed Penalty, in addition to interest and the amounts described above, per 42 U.S.C. § 7413(d)(5). In any such action, the validity, amount, and appropriateness of the Assessed Penalty and Final Order shall not be subject to review.

45. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.

46. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this CAFO shall not be deductible for purposes of federal taxes.

47. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service ("IRS") annually, a completed IRS Form 1098-F ("Fines, Penalties, and Other Amounts") with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor's violation of any law or the investigation or inquiry into the payor's potential violation of any law, including amounts paid for "restitution or remediation of property" or to come "into compliance with a law." EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number ("TIN"), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide EPA with

sufficient information to enable it to fulfill these obligations, EPA herein requires, and Respondent herein agrees, that:

- a. Respondent shall complete an IRS Form W-9 (“Request for Taxpayer Identification Number and Certification”), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
- b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent’s correct TIN or that Respondent has applied and is waiting for issuance of a TIN;
- c. Respondent shall email its completed Form W-9 to EPA’s Cincinnati Finance Center at wise.milton@epa.gov, within 30 days after the Final Order ratifying this Consent Agreement is filed, and EPA recommends encrypting IRS Form W-9 email correspondence; and
- d. In the event that Respondent has certified in its completed IRS Form W-9 that it does not yet have a TIN but has applied for a TIN, Respondent shall provide EPA’s Cincinnati Finance Center with Respondent’s TIN, via email, within five (5) days of Respondent’s receipt of a TIN issued by the IRS.

48. By signing this CAFO, Respondent consents to the release of any information in this CAFO to the public and agrees this CAFO does not contain business information that is entitled to confidential treatment under 40 C.F.R. Part 2.

49. By signing this CAFO, the undersigned representative of the EPA and the undersigned representative of Respondent each certify that they are fully authorized to execute and enter into the terms and conditions of this CAFO and have the legal authority to bind the party they represent to this CAFO.

50. By signing this CAFO, Respondent certifies 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, under 18 U.S.C. § 1001, there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information.

51. Each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding, except in the case of a civil action brought by the Attorney General of the United States to recover unpaid penalties as described above.

G. Effect of Consent Agreement and Final Order

52. The parties consent to service of this CAFO by e-mail at the following e-mail addresses: MacmillanSanchez.Ariel@epa.gov (for the EPA), and mzambon@aarecycles.com, tomb@aarecycles.com, and mlarose@laroseboscology.com (for Respondent).

53. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this CAFO resolves only Respondent's liability for federal civil penalties for the violations specifically alleged in this CAFO.

54. This CAFO 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 this matter with the exception of the administrative compliance order, docket number EPA-5-25-113(a)-COE-5 issued concurrently with this CAFO.

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

56. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, authorized representatives, successors, and assigns.

57. Any violation of this CAFO may result in a civil judicial action for an injunction or civil penalties of up to \$124,426 per day per violation, or both, as provided in Section 113(b) of the CAA, 42 U.S.C. § 7413(b), and 40 C.F.R. § 19.4, 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 CAFO in an administrative, civil judicial, or criminal action.

58. Nothing in this CAFO relieves Respondent of the duty to comply with all applicable provisions of the CAA and other federal, state, or local laws or statutes, nor does it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor is it a ruling on, or determination of, any issue related to any federal, state, or local permit.

59. Nothing in this CAFO limits 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.


60. The EPA reserves the right to revoke this CAFO and settlement penalty if and to the extent that the EPA finds, after signing this CAFO, that any information provided by Respondent was materially false or inaccurate at the time such information was provided to the EPA, and to assess and collect any civil penalties permitted by statute for any violation described herein. The EPA will give Respondent written notice of its intent to revoke this CAFO, which will not be effective until received by Respondent.

H. Effective Date

61. This CAFO will be effective on the date of filing with the Regional Hearing Clerk. Upon filing, the EPA will transmit a copy of the filed CAFO to Respondent.

All American Recycling Inc., Respondent

9/15/2025
Date


Mike Zambon, President
All American Recycling Inc.

United States Environmental Protection Agency, Complainant

Carolyn Persoon
Acting Division Director
U.S. EPA Region 5 Enforcement and Compliance Assurance Division

Consent Agreement and Final Order

In the Matter of: All American Recycling, Inc.

Docket No. CAA-05-2025-0047

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.

Date

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