



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

SEP 25 2015

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ali Gholizadeh, Partner/Owner
4 Lane Auto Salvage, Inc.
400 W. Trinity Lane
Nashville, Tennessee 37207-4942

Dear Mr. Gholizadeh:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves case docket number **CAA-04-2015-1588**. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on *September 25, 2015*.

Pursuant to paragraph 25 of the CAFO, 4 Lane Auto Salvage, Inc., must pay the civil penalty in within 30 days of the date the CAFO was filed. Your check must display the case docket number **CAA-04-2015-1588**.

Please direct any questions regarding this case to Jose DeLeon, Associate Regional Counsel, (312) 353-7456.

Sincerely,

Sara Breneman

Sara Breneman, Chief
Air Enforcement and Compliance Assurance Branch

Enclosure

cc: Regional Judicial Officer/C-14J
Regional Hearing Clerk
Jose DeLeon/C-14J
Chris Moran, Tennessee Department of Environment & Conservation

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:) Docket No. CAA-04-2015-1588
)
4 Lane Auto Salvage, Inc.) Proceeding to Assess a Civil Penalty
Nashville, Tennessee,) 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 4 Lane Auto Salvage, Inc. (4 Lane), a corporation, doing business in Tennessee.

4. Where the Respondent and EPA 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. Respondent and EPA 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. Subchapter VI of the Act, 42 U.S.C. § 7671 et seq., provides for the protection of stratospheric ozone. Section 608(b) of the Act, 42 U.S.C. § 7671g(b) provides EPA with the authority to regulate the safe disposal of Class I and II substances. Class I and II substances include refrigerants containing chlorofluorocarbons (CFCs) and hydrochlorofluorocarbons (HCFCs). EPA promulgated such regulations covering the safe disposal of CFCs and HCFCs from small appliances and motor vehicle air conditioners at 58 Fed. Reg. 28660 (May 14, 1993). These regulations for protection of the stratospheric ozone, recycling and emissions reduction are found in 40 C.F.R. Part 82, Subpart F.

10. Effective July 13, 1993, persons who take the final step in the disposal process (including but not limited to scrap recyclers) of small appliances, motor vehicle air conditioners (MVACs), and MVAC-like appliances must either recover any remaining refrigerant in accordance with specific procedures or verify, including the use of signed statements or contracts, that the refrigerant was properly recovered prior to receipt of the small appliance or MVAC. See 40 C.F.R. § 82.156(f). If verification statements or contracts are used, the scrap recycler must notify the suppliers of the small appliance, MVAC, or MVAC-like appliance of the

need to properly recover the refrigerant. See 40 C.F.R. § 82.156(f)(3). The scrap recycler must keep verification statements and contracts on-site for a minimum of three years. See 40 C.F.R. § 82.166(i) and (m).

11. EPA's regulations for the protection of the stratospheric ozone, recycling and emissions reduction define "person" to include any individual or legal entity, including an individual or corporation. See 40 C.F.R. § 82.152.

12. EPA's regulations for the protection of stratospheric ozone, recycling and emissions reduction define "disposal" as "the process leading to and including: (1) the discharge, deposit, dumping or placing of any discarded appliance into or on any land or water; (2) the disassembly of any appliance for discharge, deposit, dumping or placing of its discarded component parts into or on any land or water; or (3) the disassembly of any appliance for reuse of its component parts." See 40 C.F.R. § 82.152.

13. EPA's regulations for the protection of the stratospheric ozone, recycling and emissions reduction define a "small appliance" as any appliance that is fully manufactured, charged, and hermetically sealed in a factory with five pounds or less of a Class I or Class II substance used as a 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 and packaged terminal air heat pumps), dehumidifiers, under the counter ice makers, vending machines, and drinking water coolers. See 40 C.F.R. § 82.152.

14. EPA's regulations for the protection of stratospheric ozone, recycling and emissions reduction define "MVACs" as mechanical vapor compression refrigeration equipment

used to cool the driver's or passenger's compartment of any motor vehicle. See 40 C.F.R. §§ 82.32 and 82.152.

15. 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 violations that occurred between January 12, 2009, and December 6, 2013, and up to a total of \$320,000 for violations that occurred after December 6, 2013, under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

Factual Allegations and Alleged Violations

16. 4 Lane owns and operates a scrap metal recycling facility at 400 W. Trinity Lane, Nashville, Tennessee (the Facility).

17. 4 Lane is a corporation organized and doing business in Tennessee.

18. 4 Lane is a "person," as defined by 40 C.F.R. § 82.152.

19. 4 Lane is a person who takes the final step in the disposal process of MVACs and/or MVAC-like appliances and is subject to the requirements of 40 C.F.R. Part 82, Subpart F.

20. On May 5, 2014, EPA inspected the Facility to assess 4 Lane's compliance with the CAA. During this inspection, EPA observed motor vehicles at the Facility that were accepted for disposal as scrap metal.

- a. 4 Lane accepts MVAC or MVAC-like appliance components such as radiators, condensers and compressors; and,
- b. 4 Lane does not have contracts with or require written statements from its suppliers verifying that refrigerant had been properly recovered prior to the delivery of MVACs or MVAC-like appliances to the Facility.

21. 4 Lane has accepted MVACs and/or MVAC-like appliances without either recovering refrigerant or obtaining verification statements that met the requirements of 40 C.F.R. § 82.156(f) for these MVACs and/or MVAC-like appliances.

22. On September 15, 2014, EPA issued to 4 Lane a Finding of Violation alleging that it has violated 40 C.F.R. § 82.156(f) because it did not recover refrigerant from MVACs or MVAC-like appliances or did not obtain proper verification statements.

23. On October 14, 2014, 4 Lane and EPA discussed the Finding of Violation.

Civil Penalty

24. 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 other factors such as cooperation, prompt return to compliance, Complainant has determined that an appropriate civil penalty to settle this action is \$ 2,125.

25. Within 30 days after the effective date of this CAFO, Respondent must pay a \$ 2,215 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

Or, for checks sent by express mail (non-U.S. Postal Service will not deliver mail to P.O. Boxes), sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

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

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

26. 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-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

Jose DeLeon (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

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

28. If Respondent does not pay timely the civil penalty, 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.

29. 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

30. Respondent must complete a supplemental environmental project (SEP) designed to protect the environment and public health by reducing energy use and, as a result, reducing the emissions of harmful air pollutants.

31. Respondent must complete the SEP by providing partial funding for the Energy Conservation and Indoor Air Quality Improvement Project at a school in the Metropolitan Nashville Public Schools based in Nashville, Tennessee included as Attachment A. The Metropolitan Nashville Public Schools will be responsible for selecting the equipment and installing it on the school grounds.

32. Respondent must provide at least \$ 6,375 towards the purchase of the equipment.

33. Respondent certifies as follows:

I certify that 4 Lane Auto Salvage, Inc. 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 All Star Recycling, Inc. has not received, and is not negotiating to receive, credit for the SEP in any other enforcement action.

I certify that 4 Lane Auto Salvage, Inc. 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.

34. Respondent must submit a SEP completion report to EPA by February 29, 2015.

This report must contain the following information:

- a. Documentation that a payment was made by 4 Lane to the Metropolitan Nashville Public Schools; and

35. Statement from the Metropolitan Nashville Public Schools certifying that the money was received and has been put towards the Energy Conservation and Indoor Air Quality Improvement Project.

36. Respondent must 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 26, above.

37. In each report that Respondent submits as provided by this CAFO, it must 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.

38. Following receipt of the SEP completion report described in paragraph 40, above, EPA must 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 43.

39. 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 will comply with any requirement that EPA imposes in its decision. If Respondent does not complete the SEP as required by EPA's decision, Respondent will pay stipulated penalties to the United States under paragraph 43, below.

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

- a. Except as provided in subparagraph b, below, if Respondent did not complete the SEP satisfactorily according to the requirements of this CAFO, Respondent must pay a penalty of \$15,000.
- b. If Respondent did not submit timely the SEP completion report, Respondent must 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>
\$50	1 st through 14 th day
\$75	15 th through 30 th day
\$100	31 st day and beyond

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

42. Respondent must pay any stipulated penalties within 15 days of receiving EPA's written demand for the penalties. Respondent will use the method of payment specified in paragraph 28, above, and will pay interest and nonpayment penalties on any overdue amounts.

43. Any public statement that Respondent makes referring to the SEP must include the following language: "4 Lane Auto Salvage, Inc. undertook this project under the settlement of the United States Environmental Protection Agency's enforcement action against 4 Lane Auto Salvage, Inc. for violations of the Clean Air Act."

44. 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

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

46. 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.

47. 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 32, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

48. Respondent certifies that it is complying fully with 40 C.F.R. §§ 82.156(f) and 82.166(i).

49. 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).

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

51. 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.

52. Respondent agrees to bear its own costs and attorney’s fees in this action.

53. This CAFO constitutes the entire agreement between Respondent and the EPA.

4 Lane Auto Salvage, Inc., Respondent

8/29/15
Date

8/29/15

Ali Gholizadeh
Ali Gholizadeh

Ali Gholizadeh
Partner/Owner
4 Lane Auto Salvage, Inc.

United States Environmental Protection Agency, Complainant

Date

9/11/15

George T. Czerniak
Director
Air and Radiation Division
U.S. Environmental Protection Agency
Region 5

Consent Agreement and Final Order

In the Matter of: 4 Lane Auto Salvage, Inc.

Docket No. CAA-04-2015-1588

Final Order

This Consent Agreement and Final Order, as agreed to by Respondent and EPA, 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.

23 September 2015

Date



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

**Consent Agreement and Final Order
In the Matter of: 4 Lane Auto Salvage, Inc.**

Attachment A
Supplemental Environmental Project
Energy Conservation and Indoor Air Quality Improvement Project

Metropolitan Nashville Public Schools will complete an Energy Conservation and Indoor Air Quality Improvement Project at Taylor Stratton Elementary School. The project will consist of the installation of an energy management system and associated controls and sensors combined with the LED lighting.

The following products were proposed:

Install 1 Autani, LLC manager appliances with Energy Center software (This premise based appliance provides active local and, via an internet connection, remote monitoring and control of connected devices.)

Installation of 30 LED fixtures to replace the existing fluorescent lighting in three classrooms. The new fixtures will be controlled by (3) Autani, LLC WRC fixture controls (The installation of the new lighting with controls will utilize 36% less energy than the current installation.)

Install (3) sets of monitored differential pressure probes across the filter section of three HVAC units. (Through the installation of these probes and monitoring via this Autani, LLC EnergyCenter software, the particulate buildup on the filter can be measured, predicting when the filter should be changed, thus improving indoor air quality.)

Install (3) Autani, LLC StatCenter T32P wireless thermostats (These devices will provide limited local control and will be monitored and controlled by the Autani, LLC EnergyCenter software, enabling dynamic scheduling for increased energy savings.)

The Metropolitan Nashville Public Schools contact for this project is the following:

Mr. Ken Murdock
Director of Planning and Construction
615.259.8530
ken.murdock@mnps.org

In the Matter of: 4 Lane Auto Salvage, Inc.
Docket Number: CAA-04-2015-1588

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, which was filed on September 25, 2015, this day in the following manner to the addressees:

Copy by Certified Mail
Return-Receipt Requested:

Ali Gholizadeh, Partner/Owner
4 Lane Auto Salvage, Inc.
400 W. Trinity Lane
Nashville, Tennessee 37207-4942

Copy by E-mail to
Complainant:

Jose DeLeon
Deleon.jose@epa.gov

Copy by E-mail to
Regional Judicial Officer:

Ann Coyle
Coyle.ann@epa.gov

Dated:

September 25, 2015 

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

CERTIFIED MAIL RECEIPT NUMBER(S):

7011 1150 0000 2640 4505