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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 HAWTHORNE STREET
SAN FRANCISCO, CALIFORNIA 94105**

In the Matter of:)	Docket No. CAA-09-2023-0028
)	
URS Midwest, Inc.)	CONSENT AGREEMENT AND
)	FINAL ORDER PURSUANT TO
)	40 C.F.R. §§ 22.13 AND 22.18
Respondent.)	
_____)	

I. CONSENT AGREEMENT

The United States Environmental Protection Agency, Region IX (“EPA”), and URS Midwest, Inc. (“Respondent”) agree to settle this matter and consent to the entry of this Consent Agreement and Final Order (“CAFO”), which simultaneously commences and concludes this matter in accordance with 40 C.F.R. §§ 22.13 and 22.18.

A. AUTHORITY, JURISDICTION, AND PARTIES

1. This is a civil administrative action brought under Section 113(d) of the Clean Air Act (the “Act”), 42 U.S.C. § 7413(d).
2. Complainant is the Director of the Enforcement and Compliance Assurance Division,

EPA Region IX, who has been duly delegated the authority to initiate and settle civil administrative penalty proceedings under Section 113(d) of the Act.

3. Respondent is a for hire trucking firm that owns and/or operates heavy duty diesel-fueled vehicles registered to be driven on public highways in California, among other states.

4. Pursuant to section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), EPA and the United States Department of Justice jointly determined that this matter, which involves alleged violations that occurred more than one year before the initiation of this proceeding, is appropriate for an administrative penalty assessment.

5. The regulations at issue in this action have been incorporated into the federally approved and federally enforceable California State Implementation Plan (“SIP”). In accordance with the notice requirements of Section 113(a)(1) of the Act, 42 U.S.C. § 7413(a)(1), EPA issued a Finding and Notice of Violation (“NOV”) to URS Midwest on December 22, 2021, and provided a copy of the NOV to the California Air Resources Board (“CARB”). The NOV provided notice to the Respondent and to CARB that EPA found that the Respondent committed alleged violations described in Section I.C of this CAFO and provided the Respondent an opportunity to confer with EPA.

B. STATUTORY AND REGULATORY AUTHORITY

6. Pursuant to Section 107(d) of the Act, 42 U.S.C. § 7407(d), the Administrator promulgated lists of attainment status designations for each air quality control region (“AQCR”) in every state. These lists identify the attainment status of each AQCR for each of the criteria pollutants. The attainment status designations for California AQCRs are listed at 40 C.F.R. § 81.305.

7. There are multiple AQCRs designated as nonattainment for fine particulate matter

(PM_{2.5}) and ozone in California. See 40 C.F.R. § 81.305.

8. Section 110(a) of the Act, 42 U.S.C. § 7410(a), requires that all states adopt SIPs that provide for the implementation, maintenance, and enforcement of primary and secondary air quality standards.

9. A person's failure to comply with any approved regulatory provision of a SIP renders the person in violation of an applicable implementation plan and subject to enforcement under Section 113(a)(1) of the Act. 42 U.S.C. § 7413(a)(1).

Title 13, Section 2025 of the California Code of Regulations: Truck and Bus Regulation

10. In accordance with Resolution 10-44 (December 2010), the California Air Resources Board ("CARB") adopted amendments to the "Regulation to Reduce Emissions of Diesel Particulate Matter, Oxides of Nitrogen and Other Criteria Pollutants from In-Use Heavy-Duty Diesel-Fueled Vehicles," codified at title 13, Section 2025 of the California Code of Regulations (the "Truck and Bus Regulation" or "TBR").

11. The EPA incorporated the TBR as submitted by the CARB into the California SIP, effective May 4, 2012. See 77 Fed. Reg. 20308 (April 4, 2012).

12. As stated in Section 2025(a) of the TBR, the purpose of the regulation is "to reduce emissions of diesel particulate matter (PM), oxides of nitrogen (NO_x) and other criteria pollutants from in-use diesel-fueled vehicles."

13. Pursuant to Section 2025(b) of the TBR, the TBR "applies to any person, business, ... that owns or operates, leases, or rents, affected vehicles that operate in California. Affected vehicles are those that operate on diesel-fuel, dual-fuel, or alternative diesel-fuel that are registered to be driven on public highways, were originally designed to be driven on public

highways whether or not they are registered, ... and have a gross vehicle weight rating (GVWR) greater than 14,000 pounds.”

14. Section 2025(d)(17) of the TBR defines “Diesel Particulate Filter” (“DPF”) as “an emission control technology that reduces diesel particulate matter emissions by directing the exhaust through a filter that physically captures particles but permits gases to flow through....”

15. Section 2025(d)(18) of the TBR defines “Diesel Particulate Matter (PM)” as “the particles found in the exhaust of diesel-fueled compression ignition engines....”

16. Section 2025(d)(28) of the TBR defines “Fleet” as “one or more vehicles, owned by a person, business, or government agency, traveling in California and subject to this regulation....”

17. Section 2025(d)(29) of the TBR defines “Fleet Owner” as either the person registered as the owner or lessee of a vehicle by the California Department of Motor Vehicles (DMV), or its equivalent in another state, province, or country; as evidenced on the vehicle registration document carried in the vehicle.”

18. Section 2025(d)(42) of the TBR defines “Motor Carrier” as “the same as defined in California Vehicle Code Section 408 for fleets other than those that are comprised entirely of school buses....”

19. Section 408 of the California Vehicle Code defines “Motor Carrier” as “the registered owner, lessee, licensee, or bailee of any vehicle set forth in Section 34500, who operates or directs the operation of any such vehicle on either a for-hire or not-for-hire basis.”

20. Section 2025(d)(47) of the TBR defines “Person” as “an individual, corporation, business trust, estate, trust, partnership, Limited Liability Company, association, joint venture, government, governmental subdivision, agency, or instrumentality, public corporation, or any

other legal or commercial entity.”

21. Section 2025(g) of the TBR requires Fleet Owners to comply with the following compliance schedule for all vehicles in the Fleet with a GVWR greater than 26,000 pounds:

- Vehicles with an engine model year of 2000 through 2004 must be equipped with a DPF by January 1, 2013.
- Vehicles with an engine model year of 2005 through 2006 must be equipped with a DPF by January 1, 2014.

22. Section 2025(x)(2) of the TBR provides that “[a]ny in-state or out-of-state motor carrier, California broker, or any California resident who operates or directs the operation of any vehicle subject to this regulation shall verify that each hired or dispatched vehicle is in compliance with the regulation and comply with the record keeping requirements of section 2025(s)(4).”

23. Section 2025(x)(3) of the TBR provides that “[c]ompliance may be accomplished by keeping at the business location, a copy of the Certificate of Reported Compliance with the In-Use On-Road Diesel Vehicle Regulation for each fleet, or in the vehicle.”

C. ALLEGATIONS

24. At all times relevant to this CAFO, URS Midwest was a “Person” as that term is defined under Section 2025(d)(47) of the TBR.

25. At all times relevant to this CAFO, URS Midwest was a person or business that owned and/or operated diesel-fueled vehicles that have a GVWR greater than 14,000 pounds and are registered to be driven on public highways in California, among other states.

26. At all times relevant to this CAFO, the TBR applied to Respondent.

27. At all times relevant to this CAFO, URS Midwest was a “Fleet Owner” of a “Fleet” of

vehicles as those terms are defined under Section 2025(d)(28) and (29), respectively, of the TBR.

28. At all times relevant to this CAFO, URS Midwest was a “Motor Carrier” as that term is defined under Section 2025(d)(42) of the TBR.

29. Respondent violated section 2025(g) of the TBR as a Fleet Owner by operating in California during 2017 and 2018 two (2) diesel-fueled vehicles above 26,000 pounds GVWR with an engine model year of 2004 that were not equipped with DPFs after the compliance deadline of January 1, 2013.

30. Respondent violated section 2025(g) of the TBR as a Fleet Owner by operating in California during 2017 – 2019 six (6) vehicles above 26,000 pounds GVWR with an engine model year of 2006 that were not equipped with DPFs after the compliance deadline of January 1, 2014.

31. Within the period of January 1, 2017, to May 20, 2021, Respondent hired or dispatched two hundred sixty-eight (268) vehicles subject to the TBR and failed to verify that each hired or dispatched vehicle was in compliance with the TBR.

32. Within the period of January 1, 2017, to May 20, 2021, Respondent violated Section 2025(x)(2) of the TBR by failing to verify that each of the two hundred sixty-eight (268) vehicles subject to the TBR that URS Midwest hired or dispatched was in compliance with the TBR.

D. RESPONDENT’S ADMISSIONS

33. In accordance with 40 C.F.R. § 22.18(b)(2) and for the purpose of this proceeding, Respondent: (i) admits that EPA has jurisdiction over the subject matter alleged in this CAFO and over Respondent; (ii) neither admits nor denies the specific factual allegations contained in

Section I.C of this CAFO; (iii) consents to the assessment of the civil administrative penalty under Section I.E of this CAFO; (iv) waives any right to contest the allegations set forth in Section I.C of this CAFO; and (v) waives the right to appeal the proposed final order contained in this CAFO.

E. CIVIL ADMINISTRATIVE PENALTY

34. Respondent agrees to the assessment of a penalty in the amount of ONE HUNDRED TWENTY THOUSAND DOLLARS (\$120,000) as final settlement of the civil claims against Respondent arising under the Act as alleged in Section I.C of this CAFO.

35. Respondent shall pay the assessed penalty no later than thirty (30) days from the effective date in this CAFO. Payment shall be made by cashier's or certified check payable to the "Treasurer, United States of America," or be paid by one of the other methods listed below:

- a. Respondent may pay online through the Department of the Treasury website at www.pay.gov. In the Search Public Form field, enter SFO 1.1, click EPA Miscellaneous Payments – Cincinnati Finance Center, and complete the SFO Form Number 1.1.
- b. Respondent may also pay the civil penalty using any method, or combination of methods, provided on the following website:
<https://www.epa.gov/financial/additional-instructions-making-payments-epa>

36. If any clarification regarding a particular method of payment remittance is needed, please contact the EPA Cincinnati Finance Center at 513-487-2091. The payment shall be accompanied by a transmittal letter identifying the case name, the case docket number, and this CAFO. Concurrent with delivery of the payment of the penalty, Respondent shall send a copy

of the check or notification that the payment has been made by one of the other methods listed above, including proof of the date payment was made, and transmittal letter to the following addresses:

Regional Hearing Clerk
Office of Regional Counsel (ORC-1)
U.S. Environmental Protection Agency, Region IX
R9HearingClerk@epa.gov

Daniel Haskell
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region IX
Haskell.Daniel@epa.gov

37. Payment of the above civil administrative penalty shall not be used by Respondent or any other person as a tax deduction from Respondent's federal, state, or local taxes.

38. If Respondent fails to pay the assessed civil administrative penalty as specified in Paragraph 34, then Respondent shall pay to EPA the stipulated penalty of ONE THOUSAND DOLLARS (\$1,000.00) for each day the default continues, in addition to the assessed penalty upon written demand by EPA. In addition, failure to pay the civil administrative penalty by the deadline specified in Paragraph 35 may lead to any or all of the following actions:

- a. The debt being referred to a credit reporting agency, a collection agency, or to the Department of Justice for filing of a collection action in the appropriate United States District Court. 40 C.F.R. §§ 13.13, 13.14, and 13.33. In any such collection action, the validity, amount, and appropriateness of the assessed penalty and of this CAFO shall not be subject to review.
- b. The debt being collected by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but

is not limited to, referral to the Internal Revenue Service for offset against income tax refunds. 40 C.F.R. Part 13, Subparts C and H.

- c. EPA may (i) suspend or revoke Respondent's licenses or other privileges; or (ii) suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds. 40 C.F.R. § 13.17.
- d. In accordance with the Debt Collection Act of 1982 and 40 C.F.R. Part 13 interest, penalties charges, and administrative costs will be assessed against the outstanding amount that Respondent owes to EPA for Respondent's failure to pay the civil administrative penalty by the deadline specified in Paragraph 35. Interest will be assessed at an annual rate that is equal to the rate of current value of funds to the United States Treasury (i.e., the Treasury tax and loan account rate) as prescribed and published by the Secretary of the Treasury in the Federal Register and the Treasury Fiscal Requirements Manual Bulletins. 40 C.F.R. § 13.11(a)(1). Penalty charges will be assessed monthly at a rate of 6% per annum. 40 C.F.R. § 13.11(c). Administrative costs for handling and collecting Respondent's overdue debt will be based on either actual or average cost incurred, and will include both direct and indirect costs. 40 C.F.R. § 13.11(b). In addition, if this matter is referred to another department or agency (e.g., the Department of Justice, the Internal Revenue Service), that department or agency may assess its own administrative costs, in addition to EPA's administrative costs, for handling and collecting Respondent's overdue debt.

F. CERTIFICATION OF COMPLIANCE

- 39. In executing this CAFO, Respondent certifies that, to its knowledge, it is currently in

compliance with the TBR.

G. RETENTION OF RIGHTS

40. In accordance with 40 C.F.R. § 22.18(c), this CAFO only resolves Respondent's liability for federal civil penalties for the violations and facts specifically alleged in Section I.C of the CAFO. Nothing in this CAFO is intended to or shall be construed to resolve (i) any civil liability for violations of any provision of any federal, state, or local law, statute, regulation, rule, ordinance, or permit not specifically alleged in Section I.C of the CAFO; or (ii) any criminal liability. EPA specifically reserves any and all authorities, rights, and remedies available to it (including, but not limited to, injunctive or other equitable relief or criminal sanctions) to address any violation of this CAFO or any violation not specifically alleged in Section I.C of the CAFO.

41. This CAFO does not exempt, relieve, modify, or affect in any way Respondent's duty to comply with all applicable federal, state, and local laws, regulations, rules, ordinances, and permits.

H. ATTORNEY'S FEES AND COSTS

42. Each party shall bear its own attorneys' fees, costs, and disbursements incurred in this Proceeding.

I. EFFECTIVE DATE

43. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CAFO shall be effective on the date that the final order contained in this CAFO, having been approved and issued by either the Regional Judicial Officer or Regional Administrator, is filed.

J. BINDING EFFECT

44. The undersigned representative of Complainant and the undersigned representative of

Respondent each certifies that he or she is fully authorized to enter into the terms and conditions of this CAFO and to bind the party he or she represents to this CAFO.

45. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns.

FOR RESPONDENT, URS MIDWEST, INC.:

02/15/2023

DATE



Name: Mark Anderson

Title: President & CEO

FOR COMPLAINANT, EPA REGION IX:

AMY MILLER-
BOWEN

Digitally signed by AMY
MILLER-BOWEN
Date: 2023.03.06
16:15:45 -08'00'

DATE

Amy C. Miller-Bowen
Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region IX

II. FINAL ORDER

Complainant and Respondent, URS Midwest, Inc., having entered into the foregoing Consent Agreement,

IT IS HEREBY ORDERED that this CAFO (Docket No. CAA-09-2023-0028) be entered, and that Respondent shall pay a civil administrative penalty in the amount of ONE HUNDRED TWENTY THOUSAND DOLLARS (\$120,000) and comply with the terms and conditions set forth in the Consent Agreement. This Consent Agreement and Final Order shall become effective upon filing.

Steven L. Jawgiel
Regional Judicial Officer
U.S. Environmental Protection Agency, Region IX

CERTIFICATE OF SERVICE

I hereby certify that that the fully executed Consent Agreement and Final Order in the matter of URS Midwest, Inc. (CAA-09-2023-0028) was filed with the Regional Hearing Clerk, Region IX, and that copies were sent via electronic mail to:

RESPONDENT

Mark Anderson
President & CEO URS Midwest, Inc.
10701 Middlebelt Rd
Romulus, MI 48174
MAnderson@unitedroad.com

COMPLAINANT

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