

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1 – NEW ENGLAND**

IN THE MATTER OF)	
)	
)	
City Auto Parts, Incorporated,)	Docket No. CAA-01-2020-0018
Connecticut Scrap, LLC,)	Docket No. CAA-01-2020-0019
Nichols Auto Parts, Inc.,)	Docket No. CAA-01-2020-0021
Ross Recycling, Inc.,)	Docket No. CAA-01-2020-0022
Yerrington’s Auto Salvage, Inc., and)	Docket No. CAA-01-2020-0023
Exeter Scrap Metal, LLC)	Docket No. CAA-01-2020-0039
)	
Respondents)	
)	
Proceedings under Section 113 of the)	CONSENT AGREEMENT
Clean Air Act)	AND FINAL ORDER
)	
)	

This Consent Agreement and Final Order (“CAFO”) is issued under the authority granted to the United States Environmental Protection Agency (“EPA”) by Section 113(d) of the Clean Air Act (“CAA” or “Act”), 42 U.S.C. § 7413(d), and in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits* (“Rules of Practice”), 40 C.F.R. Part 22.

I. PRELIMINARY STATEMENT

1. EPA initiated these proceedings against City Auto Parts, Incorporated; Connecticut Scrap, LLC; Exeter Scrap Metal, LLC; Nichols Auto Parts, Inc.; Ross Recycling, Inc.; and Yerrington’s Auto Salvage, Inc. (“Respondents”) pursuant to Section 113(d) of the Act, 42 U.S.C. § 7413(d), by filing administrative complaints against Respondents on December 19, 2019 (except for Exeter Scrap Metal, LLC), and against Exeter Scrap Metal, LLC on February 6,

2020 (the “Complaints”).¹

2. The complete factual and jurisdictional basis for proposing the assessment of the civil penalties is set forth in the Complaints and is incorporated herein by reference.

3. The provisions of this CAFO shall apply to and be binding upon EPA and upon Respondents, and their officers, directors, successors, and assigns.

4. The effective date of this CAFO shall be the date it is filed with the Regional Hearing Clerk, in accordance with 40 C.F.R. § 22.31(b).

II. CONSENT AGREEMENT

5. Before any hearing and without adjudication of any issue of fact or law, EPA and Respondents agree that settlement of these matters is in the public interest, and that entry of this CAFO without further litigation is the most appropriate means of resolving this matter. EPA and Respondents agree to resolve the violations alleged in the six separate Complaints captioned above through this single CAFO.

6. Respondents stipulate that EPA has jurisdiction over the subject matter alleged in the Complaints. Respondents waive any defenses they might have as to jurisdiction and venue.

7. Respondents hereby waive their right to contest any issue of law or fact set forth in the Complaints, as well as their right to appeal this CAFO.

8. Without admitting or denying the specific factual and legal allegations contained in the Complaints, Respondents consent to the terms and issuance of this CAFO and consent for the purposes of settlement to the payment of the civil penalties set forth herein. Respondents consent to be jointly and severally liable for all payments and obligations required hereunder.

¹ EPA originally filed a Complaint against Exeter Scrap Metal, Inc. on December 19, 2019 (CAA-01-2020-0020) and withdrew the action without prejudice on January 16, 2020. EPA filed a new Complaint against Exeter Scrap Metal, LLC on February 6, 2020 (CAA-01-2020-0039).

9. By signing this CAFO, Respondents certify that each Respondent is currently in compliance with the *Regulations for the Protection of Stratospheric Ozone - Recycling and Emission Reduction*, promulgated at 40 C.F.R. Part 82, Subpart F ("Subpart F").

10. By signing this CAFO, Respondents certify under penalty of law that (i) COVID-19 has negatively impacted the financial health of Respondents resulting in numerous employee layoffs and a significant decline in operational net revenue such that if it were not for monies from the PPP Loan Program the business would have had to have been shut down for an indefinite amount of time; (ii) the financial information provided to EPA is to the best of Respondents' knowledge and belief, true, accurate, and complete; and (iii) the signatory below is authorized and empowered to act on behalf of Respondents.

11. The Civil Penalty that EPA has assessed in this CAFO is based upon the certification contained in the prior Paragraph and the financial information that Respondents have provided to EPA. Notwithstanding any other provision of this CAFO, EPA reserves, and this CAFO is without prejudice to, the right to reinstitute or reopen this action, or to commence a new action seeking relief other than as provided in this CAFO, if the financial information Respondents have provided to EPA or the certification provided in the prior Paragraph, is false or, in any material respect, inaccurate.

III. CIVIL PENALTIES

12. Civil Penalties: Taking into account the particular facts and circumstances of this matter, with specific reference to the penalty factors set forth in Section 113(e)(1) of the CAA, 42 U.S.C. § 7413(e)(1), EPA has determined that it is fair and proper to assess civil penalties for the violations alleged in the Complaints in the aggregate amount of One Hundred, Sixty Thousand dollars (\$160,000), plus interest.

13. Respondents shall be jointly and severally liable to pay the civil penalties in the aggregate amount of One Hundred, Sixty Thousand dollars (\$160,000), together with interest, in installments, as described as follows:

TABLE OF INSTALLMENT PAMENTS

Base Penalty Payment	Calculated Interest	Total Payment Amount	Due Date of Payment After Effective Date
\$20,000	\$800.00	\$20,800.00	60 Days after the Effective Date (“ED”)
\$5,000	\$350.00	\$5,350.00	90 Days after the ED
\$5,000	\$1,012.50	\$6,012.50	180 Days after the ED
\$5,000	\$975.00	\$5,975.00	270 Days after the ED
\$5,000	\$937.50	\$5,937.50	360 Days after the ED
\$15,000	\$900.00	\$15,900.00	450 Days after the ED
\$15,000	\$787.50	\$15,787.50	540 Days after the ED
\$15,000	\$675.00	\$15,675.00	630 Days after the ED
\$15,000	\$562.50	\$15,562.50	720 Days after the ED
\$15,000	\$450.00	\$15,450.00	810 Days after the ED
\$15,000	\$337.50	\$15,337.50	900 Days after the ED
\$15,000	\$225.00	\$15,225.00	990 Days after the ED
\$15,000	\$112.50	\$15,112.50	1080 Days after the ED

IV. PENALTY PAYMENT TERMS

14. Beginning sixty (60) days after the effective date of this CAFO, Respondents shall pay the civil penalties set forth in Paragraph 12, in installments as described in Paragraph 13, by submitting a bank, cashier's, or certified check, to the order of the "Treasurer, United States of America." The check should be sent via regular mail payable to:

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

or, Respondents may make payment via express mail to:

U.S. Bank
Government Lockbox 979077
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

Respondents shall provide the following notation ("*In re Connecticut Scrap, LLC, et al., EPA Docket Nos. CAA-01-2020-0018, 19, 21, 22, 23, and 39*") on the check and in an accompanying cover letter, and shall simultaneously provide copies of the check and cover letter to:

Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 1
5 Post Office Square
Suite 100 (ORA4-1)
Boston, MA 02109-3912

and

John W. Kilborn
Senior Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
Via email: Kilborn.john@epa.gov

15. Except with the written approval of EPA to make a late payment, if Respondents

fail to make any payment by the required due date, the total penalty amount, including all remaining scheduled payments, plus all accrued interest, shall become due and payable immediately to the United States upon such failure. Interest shall continue to accrue on any unpaid amounts until the total amount due has been received by the United States. Respondents shall be jointly and severally liable for such amounts regardless of whether EPA has notified Respondents of their failure to pay or made a demand for payment. All payments to the United States under this Paragraph shall be made by bank, cashier's, or certified check as described in Paragraph 14.

16. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim.

17. In the event that any portion of the civil penalty amount described in Paragraph 12 is not paid when due without demand, pursuant to Section 113(d)(5) of the CAA, Respondents will be subject to an action to compel payment, plus interest, enforcement expenses, and a nonpayment penalty. Interest will be assessed on the civil penalty if it is not paid when due, unless waived by written approval of EPA. In that event, interest will accrue from the due date at the "underpayment rate" established pursuant to 26 U.S.C § 6621(a)(2). In the event that a penalty is not paid when due, an additional charge will be assessed to cover the United States' enforcement expenses, including attorney's fees and collection costs as provided in 42 U.S.C. § 7413(d). In addition, a quarterly nonpayment penalty will be assessed for each quarter during which the failure to pay the penalty persists. Such nonpayment penalty shall be 10 percent of the aggregate amount of Respondents' outstanding civil penalties and nonpayment penalties hereunder accrued as of the beginning of such quarter. In any such collection action, the

validity, amount, and appropriateness of the penalty shall not be subject to review.

V. GENERAL PROVISIONS

18. This CAFO shall not be construed to be a ruling on or a determination of any issue related to any federal, state, or local permit.

19. The civil penalties provided under this CAFO, and any interest, nonpayment penalties, and charges described in this CAFO, shall represent penalties assessed by EPA within the meaning of 26 U.S.C. § 162(f) and are not tax deductible for purposes of federal, state or local law. Accordingly, Respondents agree to treat all payments made pursuant to this CAFO as penalties within the meaning of 26 C.F.R. § 1.162-21, and further agree not to use these payments in any way as, or in furtherance of, a tax deduction under federal, state or local law.

20. This CAFO constitutes a settlement by EPA of all claims for federal civil penalties pursuant to Section 113 of the CAA for the violations alleged in the Complaints. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to federal laws and regulations administered by EPA for matters not addressed in this CAFO, and it is the responsibility of Respondents to comply with all applicable provisions of federal, state, or local law. EPA reserves all its other criminal and civil enforcement authorities, including the authority to seek injunctive relief and the authority to respond to conditions that may present an imminent and substantial endangerment to public health, welfare, or the environment.

21. Nothing in this CAFO shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondents' violation of this CAFO or of the statutes and regulations upon which it is based, the certification provided herein, or for Respondents' violation of any applicable provision of

law.

22. Except as described in Paragraph 17, the parties shall bear their own costs and fees in this action, including attorney's fees, and specifically waive any right to recover such costs from the other party pursuant to the Equal Access to Justice Act, 5 U.S.C § 504, or other applicable laws.

23. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party or parties represented to enter into the terms and conditions of this CAFO and to execute and legally bind that party to it.

24. The parties agree that Respondents and EPA may execute this CAFO by electronic signature. To ensure the validity of these signatures and legal enforceability of this CAFO, EPA electronic signatures will comply with the Agency's 2018 Electronic Signature Policy and Electronic Signature Procedure. Respondents' signature will also comply with all applicable Connecticut e-signature policies and laws, including the EPA regulations at 40 C.F.R. Part 3, which defines a "valid electronic signature" to mean "an electronic signature on an electronic document that has been created with an electronic signature device that the identified signatory is uniquely entitled to use for signing that document, where this device has not been compromised, and where the signatory is an individual who is authorized to sign the document by virtue of his or her legal status and/or his or her relationship to the entity on whose behalf the signature is executed." 40 C.F.R. § 3.3. At a minimum, all electronically signed documents must be reproducible in a human-intelligible form and clearly indicate: (i) that the document was electronically signed; (ii) the unique identity of the individual who signed the document and their intent to sign; and (iii) the date and time it was signed. Once the CAFO is signed by a party, the document must be locked to prevent any further alteration of the

document. Respondents may deliver electronically signed documents by email to the EPA at Kilborn.john@epa.gov.

After EPA's receipt of the electronically signed CAFO from Respondents, EPA may electronically sign the CAFO and file and serve copies of the executed CAFO in accordance with the EPA Region 1 Regional Judicial Officer's Standard Operating Procedures dated March 24, 2020. An electronically signed CAFO delivered by email or in hard copy shall be deemed an original document, which shall be stored and managed in accordance with Federal recordkeeping requirements. EPA and Respondents acknowledge that electronic signatures carry the legal effect, validity, or enforceability of handwritten signatures. Therefore, the parties shall not deny the legal effect, validity, or enforceability of records containing electronic signatures that they transmit and receive on the ground that such records, including the signature(s), are in electronic form.

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FOR CITY AUTO PARTS, INCORPORATED

Name: David Waddington
Title:

Date

9/25/20

FOR CONNECTICUT SCRAP, LLC

Name: David Waddington
Title:

Date

9/25/20

FOR EXETER SCRAP METAL, LLC

Name: David Waddington
Title:

Date

9/25/20

FOR NICHOLS AUTO PARTS, INC.

Name: David Waddington
Title:

Date

9/25/20

FOR ROSS RECYCLING, INC.

Name: David Waddington
Title:

Date

9/25/20

FOR YERRINGTON'S AUTO SALVAGE, INC.

Name: David Waddington
Title:

Date

9/25/20

FOR UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Karen McGuire, Director
Enforcement and Compliance Assurance Division
U.S. EPA, Region 1

Date

John W. Kilborn, Senior Enforcement Counsel
Office of Regional Counsel
U.S. EPA, Region 1

Date

FINAL ORDER

Pursuant to 40 C.F.R. § 22.18(b) and (c) of EPA’s Consolidated Rules of Practice, the foregoing Consent Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified. Respondents are ordered to pay the civil penalties specified in the Consent Agreement in the manner specified. The terms of the Consent Agreement will become effective on the date it is filed with the Regional Hearing Clerk.

LeAnne Jensen
Regional Judicial Officer
U.S. EPA, Region 1

Date