

**UNITED STATES  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.**

<b>In the matter of:</b>	<b>:</b>	<b>U.S. EPA Docket No.</b>
	<b>:</b>	<b>CAA-HQ-2024-8443</b>
	<b>:</b>	
<b>USA Wholesale Lubricant, Inc.</b>	<b>:</b>	
<b>Respondent</b>	<b>:</b>	
	<b>:</b>	
	<b>:</b>	
	<b>:</b>	

**MOTION FOR DEFAULT**

**Table of Contents**

Introduction.....	2
Jurisdiction.....	2
Service of Process .....	4
Factual Background: The EPA’s Hydrofluorocarbon Allowance Program .....	11
Default has Occurred in this Matter.....	12
Request for a Civil Penalty .....	14
Legal Grounds for the Requested Civil Penalty .....	15
Factual Grounds for the Requested Civil Penalty.....	17
ORDER.....	26
CERTIFICATE OF SERVICE .....	28
Appendix.....	Enclosed

## **Introduction**

1. By this Motion for Default (“Motion”), the Director of the United States Environmental Protection Agency’s (“EPA”) Air Enforcement Division (“Complainant”) requests that the Presiding Officer find that default has occurred in this matter based on respondent USA Wholesale Lubricant, Inc.’s (“USA Wholesale” or “Respondent”) failure to answer the Complaint and Notice of Opportunity for Hearing filed on April 8, 2024 (“Complaint”) or the subsequent Amended Complaint and Notice of Opportunity for Hearing filed on April 15, 2024 (“Amended Complaint”), and requests that the Presiding Officer issue a default order requiring USA Wholesale to pay a civil penalty.
2. Issuance of the default order requested here would resolve all outstanding issues and claims in this proceeding and would therefore constitute an initial decision under the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits,” 40 C.F.R. Part 22 (“Consolidated Rules of Practice”). 40 C.F.R. § 22.17(c).
3. This Motion explains how default has occurred in this matter, states the factual and legal grounds for ordering Respondent to pay a civil penalty of \$351,725, and requests that the Presiding Officer issue a default order akin to the proposed Order at the close of this Motion.

## **Jurisdiction**

4. This action is brought under Section 113(d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(d), and the Consolidated Rules of Practice.
5. Complainant is the Director, Mary E. Greene, of the Air Enforcement Division, Office of Civil Enforcement, Office of Enforcement and Compliance Assurance, EPA, who is authorized by lawful delegation from the Administrator of the EPA to institute civil administrative penalty assessment proceedings under Section 113(d) of the CAA, 42 U.S.C. § 7413(d). EPA Delegation

7-6-A (Aug. 4, 1994); Office of Enforcement and Compliance Assurance Redelelegation 7-6-A (September 11, 2015); Office of Civil Enforcement Redelelegation 7-6-A (September 11, 2015).

6. The CAA authorizes the EPA to assess civil penalties for violations of Section 113(d) of the Act. CAA § 113(d), 42 U.S.C. § 7513(d). The Administrator of the EPA may issue an administrative penalty order assessing a civil administrative penalty in cases where the first alleged date of violation occurred no more than twelve months prior to initiating the administrative action. Additionally, the Administrator and the United States Department of Justice Attorney General may jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action. *See* CAA § 113(d)(1), 42 U.S.C. § 7413(d)(1).
7. The Administrator of the EPA may administratively assess a civil penalty of up to \$57,617 per day of violation with a maximum of \$460,926 for violations that occurred after November 2, 2015, and penalties are assessed on or after December 27, 2023. CAA § 113(d)(1), 42 U.S.C. § 7413(d)(1); 40 C.F.R. § 19.4 Table 1. The Administrator and the United States Department of Justice Attorney General may jointly determine that a matter involving a higher penalty than \$460,926 is appropriate for an administrative penalty action. CAA § 113(d)(1), 42 U.S.C. § 7413(d)(1); 40 C.F.R. § 19.4 Table 1.
8. The EPA and the United States Department of Justice Attorney General jointly determined that although this matter involves alleged violations that occurred more than one year before the initiation of this proceeding, it is appropriate for an administrative penalty assessment. 42 U.S.C. § 7413(d).
9. Pursuant to 40 C.F.R. § 22.1(a)(2), the Consolidated Rules of Practice govern administrative adjudicatory proceedings for the assessment of any administrative civil penalty under Section 113(d) of the CAA, 42 U.S.C. § 7413(d).

### Service of Process

10. The CAA authorizes the EPA to assess civil penalties for violations of Section 113(d) of the Act. CAA § 113(d), 42 U.S.C. § 7413(d). Such an assessment “shall be assessed by the Administrator by an order made after opportunity for a hearing on the record.” 42 U.S.C. § 7413(d)(2). “Before issuing such an order, the Administrator shall give written notice to the person to be assessed an administrative penalty of the Administrator’s proposal to issue such order and provide such person an opportunity to request such a hearing on the order, within 30 days of the date the notice is received by such person.” *Id.*
11. The EPA issues these orders and provides these notices and opportunities to request a hearing by following the Consolidated Rules of Practice. 40 C.F.R. §§ 22.1(a)(2), 22.34.
12. Penalty assessment proceedings initiated at EPA Headquarters are commenced by filing with the Hearing Clerk a complaint conforming to 40 C.F.R. § 22.14. *Id.* §§ 22.3, 22.13(a).
13. Complainant commenced this proceeding by filing the Complaint with the Hearing Clerk on April 8, 2024.
14. “Complainant shall serve on respondent [to an administrative penalty assessment proceeding], or a representative authorized to receive service on the respondent’s behalf, a copy of the signed original of the complaint, together with a copy of [the Consolidated Rules].” *Id.* § 22.5(b)(1)(i).
15. “Where respondent is a domestic or foreign corporation . . . complainant shall serve an officer, partner, a managing or general agent, or any other person authorized by appointment or by Federal or State law to receive service of process.” *Id.* § 22.5(b)(1)(ii)(A).
16. “Service shall be made personally, by certified mail with return receipt requested, or by any reliable commercial delivery service that provides written verification of delivery.”  
*Id.* § 22.5(b)(1)(i).
17. “Service of the complaint is complete when the return receipt is signed.” *Id.* § 22.7(c).

18. “*Person* includes any individual, partnership, association, corporation, and any trustee, assignee, receiver or legal successor thereof; any organized group of persons whether incorporated or not . . . .” *Id.* § 22.3(a).
19. The Consolidated Rules of Practice contemplate that “a corporation may designate under Federal or State law either an individual or an entity such as a corporation as its agent for service of process.” *In re Peace Indus. Group (USA) Inc.*, CAA Appeal No. 16-01, 2016 EPA App. LEXIS 56 at \*34 (EAB Dec. 22, 2016) (Final Decision) (citing 40 C.F.R. § 22.3(a)). Thus, Complainant “may serve a corporation by sending the complaint . . . to the respondent's agent for service of process, typically by mailing it to the address of record designated for that purpose.” *Id.* at 35 (citing *In re Jonway Motorcycle (USA) Co., Ltd.*, CAA Appeal No. 14-03, at 8 n.13, 2014 EPA App. LEXIS 45 (EAB Nov. 14, 2014) (Default Order and Final Decision)).
20. “[I]n serving a corporation, if EPA properly addresses and mails the complaint by certified mail, and an individual at that address signs the return receipt, service is complete.” *Id.* at 39.
21. “Proof of service of the complaint must be made by affidavit of the person making personal service, or by properly executed receipt.” 40 C.F.R. § 22.5(b)(1)(iii).
22. USA Wholesale is a general corporation incorporated in the State of California and is registered with the California Department of the Secretary of State (“CA Secretary of State”) as an entity whose status is “active.”<sup>1</sup> Maher Fateh is listed as the registered agent for USA Wholesale. App. 1-2.
23. Under California law (a) Any domestic or foreign corporation, before it may be designated as the agent for the purpose of service of process of any entity pursuant to any law which refers to this section, shall file a certificate executed in the name of the corporation by an officer thereof stating all of the following: (1) The complete street address of its office or offices in this state, wherein

---

<sup>1</sup> California Secretary of State, bizfile Online, Business Search, <https://bizfileonline.sos.ca.gov/search/business>; (follow “search” hyperlink, then in “search by name or file number” search for “USA Wholesale Lubricant, Inc.”); *see also* App. 3-4.

any entity designating it as such agent may be served with process (2) The name of each person employed by it at each such office to whom it authorizes the delivery of a copy of any such process (3) Its consent that delivery thereof to any such person at the office where the person is employed shall constitute delivery of any such copy to it, as such agent. Cal Corp Code § 1505.

24. Delivery by hand of a copy of any process against the corporation (a) to any natural person designated by it as agent or (b), if a corporate agent has been designated, to any person named in the latest certificate of the corporate agent filed pursuant to Section 1505 at the office of such corporate agent shall constitute valid service on the corporation. Cal Corp Code § 1701.
25. According to the “Corporation: Statement of Information” filed with the California Secretary of State in 2023, USA Wholesale’s Registered Agent is Maher Fateh and its principal office, as well as its registered mailing address, is 339 Educational Park Drive, San Jose, California 95133. App. 1-2. Maher Fateh is listed as the Chief Executive Officer, Secretary, Chief Financial Officer, and the Registered Agent. *Id.*
26. Under the Consolidated Rules of Practice, a complainant shall serve a complaint on “a managing or general agent, or any other person authorized by appointment or by Federal or State law to receive service of process.” 40 C.F.R. § 22.5(b)(1)(ii)(A).
27. On April 8, 2024, a copy of the Complaint and Notice of Opportunity for Hearing, The Consolidated Rules of Practice at 40 C.F.R. Part 22, The Office of Administrative Law Office’s Standing Order Authorizing Electronic Filing In Proceedings Before The Office Of Administrative Law Judges (Aug. 11, 2014), and The Office of Administrative Law Judge’s Revised Order Urging Electronic Filing And Service (June 22, 2023) (“Accompanying Documents”) were sent to 2242 Quimby Road Bldg. F, Unit A, San Jose, CA 95122-1331 (“Importer of Record Address”). The Importer of Record Address is listed for USA Wholesale and its Registered Agent on USA Wholesale’s website and in the entry information for Customs Entry Number AY0-0118760-0 for USA Wholesale’s June 5, 2022 importation of HFC-134a. *See*

Amended Complaint ¶ 29; App. 5. Delivery by the United States Postal Service (USPS), with return receipt requested was utilized, tracking number 9589071052701305071877. These documents were delivered and signed for on April 9, 2024. The return receipt was never returned to the Complainant, so the Complainant is unable to confirm who signed for the package.

28. On April 11, 2024, Complainant also sent the Complaint and Accompanying Documents via Federal Express (“FedEx”) Standard Overnight Service with Signature Requested to the Importer of Record Address, tracking number 273309106166. This copy was delivered and signed for by “A.Adel” on April 12, 2024. App. 6. However, USA Wholesale’s filed address with the State of California’s Office of the Secretary of State is 339 Educational Park Dr., San Jose, CA 95133 (“Principal Address”). App. 1-2.
29. As the Complaint package was sent to Importer of Record Address and not the Principal Address, Complainant decided, in an abundance of caution, to send the Complaint Package, along with the Amended Complaint, to Respondent’s Principal Address. On April 15, 2024, after filing the Amended Complaint, Complainant sent a copy of the Complaint, Amended Complaint, and Accompanying Documents to Maher Fateh, at the Importer of Record Address. Delivery by the USPS, with return receipt requested was utilized, tracking number 9589071052701305072997. USPS failed to deliver this parcel and the package was returned to sender.
30. On April 15, 2024, Complainant also sent a copy of the Complaint, Amended Complaint, and Accompanying Documents to Maher Fateh, at the Importer of Record Address via FedEx Standard Overnight Service with Signature Requested, tracking number 775966641068. FedEx attempted to deliver this package three times: on April 16, 2024, April 17, 2024, and April 18, 2024. The package was returned to sender on April 23, 2024.
31. Furthermore, on April 16, 2024, Complainant sent the Complaint, the Amended Complaint, and the Accompanying Documents to Maher Fateh at USA Wholesale's filed address with the State of California’s Office of the Secretary of State: 339 Educational Park Dr, San Jose, CA 95133, the

Principal Address. App. 1-2. Delivery by FedEx Standard Overnight Service with Signature Requested was utilized, tracking number 273495145412. FedEx attempted to deliver this package on April 17, 2024, April 18, 2024, April 19, 2024, and April 22, 2024. The package was then refused by someone at the Principal Address on April 23, 2024 and the package was sent back to sender on April 24, 2024.

32. On April 22, 2024, Complainant sent a copy of the Complaint, the Amended Complaint, and the Accompanying Documents to the address for USA Wholesale's Agent for Service of Process, Advanta Accountancy, which was listed with the State of California's Office of the Secretary of State in 2021. App. 8-9. Delivery by FedEx Standard Overnight Service with Signature Requested was utilized, tracking number 273732460469. FedEx attempted to deliver the package on April 23, 2024, but no recipient was available. On April 24, 2024, FedEx delivered the package to Advanta Accountancy. App. 9. Complainant was then notified by Advanta Accountancy that they were no longer USA Wholesale's Agent for Service of Process. App. 10-11. USA Wholesale's most recent 2023 state filing indicated that Maher Fateh is the current listed Agent for Service of Process. App. 1-2.
33. After the April 23, 2024 delivery to Advanta Accountancy, Complainant hired a process server to personally serve Maher Fateh, at USA Wholesale's Principal Address, the Complaint, the Amended Complaint, and the Accompanying Documents. The process server served USA Wholesale on July 11, 2024 at USA Wholesale's Principal Address of 339 Education Park Drive, San Jose, CA 95133. App. 12. The Affidavit of Service stated that the Recipient was "Susan A" at the Principal Address. *Id.*
34. Service on a corporation "does not require that the named addressee be the person who signs the return receipt," as the Rules only require that it be "properly executed" under 40 C.F.R. § 22.5(b)(1)(iii) and does not require "restricted delivery" to the specific person. *In re Peace Indus. Group (USA), Inc.*, at \*36. Service is proper under the Rules of Practice where a secretary



employed by the corporation signs the return receipt. *See id.* at \*37 (citing *In re Katzson Bros., Inc.*, 2 E.A.D. 134, 135 (1986), *rev'd on other grounds, Katzson Bros., Inc. v. United States Environmental Protection Agency*, 839 F.2d 1396, 1399-1400 (10th Cir. 1988) (approving of the Rules regarding service of a corporation under 40 C.F.R. § 22.5(b)(1)).

35. Consequently, service of the Amended Complaint was complete on July 11, 2024. 40 C.F.R. § 22.7(c); *see In re Peace Indus. Group (USA)*, at \*43 (service complete when an individual at registered address signs for delivery of complaint). Proof of service was made by filing of the properly executed receipts with the Hearing Clerk via the Office of Administrative Law Judge's Electronic Filing System on July 18, 2024.

**TABLE A: MAILINGS BY COMPLAINANT**

	Date Sent	Addressee	Contents	Mail Result
A	Apr. 8, 2024	Maher Fateh, CEO USA Wholesale Lubricant, Inc. 2242 Quimby Road Bldg. F, Unit A San Jose, CA 95122-1331 Courtesy Email Sent to: maherfateh73@gmail.com	Two separately addressed and sealed envelopes, each with a copy of the Complaint, a copy of the Consolidated Rules of Practice at 40 C.F.R. Part 22, The Office of Administrative Law Office's Standing Order Authorizing Electronic Filing In Proceedings Before The Office Of Administrative Law Judges (Aug. 11, 2014), and The Office of Administrative Law Judge's Revised Order Urging Electronic Filing And Service (June 22, 2023).	Delivered and signed for on April 9, 2024. USPS return receipt was never received by the EPA.
B	Apr. 11, 2024	Maher Fateh, CEO USA Wholesale Lubricant, Inc. 2242 Quimby Road Bldg. F, Unit A San Jose, CA 95122-1331		Delivered by USPS and signed for by "A. Adel" on April 12, 2024.
C	Apr. 15, 2024	Maher Fateh, CEO USA Wholesale Lubricant, Inc. 2242 Quimby Road Bldg. F, Unit A San Jose, CA 95122-1331 Courtesy Email Sent to: maherfateh73@gmail.com	Two separately addressed and sealed envelopes, each with a copy of the Complaint, a copy of the Amended Complaint, a copy of the Consolidated Rules of Practice at 40 C.F.R. Part 22, The Office of	USPS failed to deliver and package was returned to sender (though never received by the EPA).

D	Apr. 15, 2024	<p>Maher Fateh, CEO  USA Wholesale Lubricant, Inc.  2242 Quimby Road Bldg. F, Unit A  San Jose, CA 95122-1331</p>	<p>Administrative Law Office's Standing Order Authorizing Electronic Filing In Proceedings Before The Office Of Administrative Law Judges (Aug. 11, 2014), and The Office of Administrative Law Judge's Revised Order Urging Electronic Filing And Service (June 22, 2023).</p>	<p>FedEx attempted to deliver three times and package was returned to sender on April 23, 2024 (never received).</p>
E	Apr. 16, 2024	<p>Maher Fateh, CEO  USA Wholesale Lubricant, Inc.  339 Educational Park Dr  San Jose, CA 95133</p>	<p>One sealed envelope, with a copy of the Complaint, a copy of the Amended Complaint, a copy of the Consolidated Rules of Practice at 40 C.F.R. Part 22, The Office of Administrative Law Office's Standing Order Authorizing Electronic Filing In Proceedings Before The Office Of Administrative Law Judges (Aug. 11, 2014), and The Office of Administrative Law Judge's Revised Order Urging Electronic Filing And Service (June 22, 2023).</p>	<p>Fedex attempted to deliver, but package was refused by recipient and sent back to sender on April 24, 2024 (never received).</p>
F	Apr. 22, 2024	<p>Advanta Accountancy Inc.  1633 Old Bayshore Hwy, Suite 280  Burlingame, CA 94010</p>	<p>One sealed envelope, with a copy of the Complaint, a copy of the Amended Complaint, a copy of the Consolidated Rules of Practice at 40 C.F.R. Part 22, The Office of Administrative Law Office's Standing Order Authorizing Electronic Filing In Proceedings Before The Office Of Administrative Law Judges (Aug. 11, 2014), and The Office of Administrative Law Judge's Revised Order Urging Electronic Filing And Service (June 22, 2023).</p>	<p>FedEx delivered and package was signed for on April 24, 2024</p>

G	July 11, 2024	Maher Fateh, CEO USA Wholesale Lubricant, Inc. 339 Educational Park Dr San Jose, CA 95133	One sealed envelope, with a copy of the Complaint, a copy of the Amended Complaint, a copy of the Consolidated Rules of Practice at 40 C.F.R. Part 22, The Office of Administrative Law Office’s Standing Order Authorizing Electronic Filing In Proceedings Before The Office Of Administrative Law Judges (Aug. 11, 2014), and The Office of Administrative Law Judge’s Revised Order Urging Electronic Filing And Service (June 22, 2023).	Process Server served on July 11, 2024. Signed affidavit by Process Server received on July 17, 2024.
---	---------------	---	---	---

### **Factual Background: The EPA’s Hydrofluorocarbon Allowance Program**

36. The American Innovation and Manufacturing (“AIM”) Act, enacted by Congress in 2020, authorizes the EPA to phase down the production and consumption of Hydrofluorocarbons (“HFCs”) by 85 percent in a stepwise manner by 2036 through an allowance allocation and trading program.
37. The HFC Allocation Rule implements the congressional directive to phase down HFCs. 40 C.F.R. Part 84. It prohibits, starting on January 1, 2022, any person from importing “bulk regulated substances, except [b]y expending, at the time of import, consumption or application-specific allowances in a quantity equal to the exchange value weighted equivalent of the regulated substances imported . . . .” 40 C.F.R. § 84.5(b)(1)(i) (2022)<sup>2</sup>. In order to protect the program’s integrity, ensure mandated reductions of HFCs, and maintain a level playing field for regulated companies, the EPA pursues enforcement actions against entities that seek to import or produce HFCs without the required allowances, that submit false or misleading information, or that fail to report required information under the AIM Act and its implementing regulations.

---

<sup>2</sup> The regulations at 40 C.F.R. § 84 Subpart A were subsequently changed after the alleged violations in the Complaint took place. If a version of the regulations was different in 2022 from the current version of the regulations, it is cited as “2022” in the Complaint, Amended Complaint, and this Motion for Default. *See also* Complaint ¶ 16 n.1; Amended Complaint ¶ 16 n.1.

### **Default has Occurred in this Matter**

38. As detailed in this section, default has occurred based on USA Wholesale's failure to file an answer to the Amended Complaint.
39. The Amended Complaint in this case alleges that USA Wholesale imported bulk regulated substances without expending allowances in violation of the AIM Act and associated regulations, 40 C.F.R. Part 84, Subpart A. Amended Complaint ¶¶ 26-38.
40. The Amended Complaint also alleges that USA Wholesale violated 40 C.F.R. § 84.31(c)(7) (2022) by failing to submit advance notification reports for HFCs imported by the Respondent (see Amended Complaint ¶ 29) no later than 14 days prior to importation and that USA Wholesale violated 40 C.F.R. § 84.31(c)(1) by failing to submit a report to the EPA that describes the regulated substances imported during the second quarter of 2022 within 45 days after the end of the second quarter. Amended Complaint ¶¶ 39-45.
41. "Where respondent: Contests any material facts upon which the complaint is based; contends that the proposed penalty . . . is inappropriate . . . or contends that it is entitled to judgment as a matter of law, it shall file an original and one copy of a written answer to the complaint with the [Hearing Clerk] within 30 days after service of the complaint." 40 C.F.R. § 22.15(a).
42. "The complainant may amend the complaint once as a matter of right at any time before the answer is filed. Otherwise the complainant may amend the complaint only upon motion granted by the Presiding Officer. Respondent shall have 20 additional days from the date of service of the amended complaint to file its answer." 40 C.F.R. § 22.14(c).
43. The Consolidated Rules of Practice authorize a default order in 40 C.F.R. § 22.17. Section 22.17 reads, in pertinent part, as follows:
  - a. "A party may be found to be in default: after motion, upon failure to file a timely answer to the complaint . . . Default by respondent constitutes, for purposes of the pending

proceeding only, an admission of all facts alleged in the complaint and a waiver of respondent's right to contest such factual allegations.” *Id.* § 22.17(a).

- b. “A motion for default may seek resolution of all or part of the proceeding. Where the motion requests the assessment of a penalty or the imposition of other relief against a defaulting party, the movant must specify the penalty or other relief sought and state the legal and factual grounds for the relief requested.” *Id.* § 22.17(b).
- c. “When the Presiding Officer finds that default has occurred, he shall issue a default order against the defaulting party as to any or all parts of the proceeding unless the record shows good cause why a default order should not be issued. If the order resolves all outstanding issues and claims in the proceeding, it shall constitute the initial decision under these Consolidated Rules of Practice. The relief proposed in the complaint or the motion for default shall be ordered unless the requested relief is clearly inconsistent with the record of the proceeding or the Act.” *Id.* § 22.17(c).
- d. “Any penalty assessed in the default order shall become due and payable by respondent without further proceedings 30 days after the default order becomes final under [40 C.F.R.] § 22.27(c).” *Id.* § 22.17(d).

- 44. Complainant commenced this penalty assessment proceeding in accordance with 40 C.F.R. §§ 22.3, 22.13(a), and 22.14, when it filed the Complaint with the Hearing Clerk on April 8, 2024.
- 45. Service of the Amended Complaint was complete on July 11, 2024. 40 C.F.R. § 22.7(c); *see Peace Indus. Group*, at \*43 (service complete when an individual at registered address signs for delivery of complaint). Proof of service was made by filing of the affidavit of the person who made personal service at the Respondent’s registered address with the Hearing Clerk on July 18, 2024.
- 46. USA Wholesale has not filed an answer to the Amended Complaint as of the date of this Motion and Complainant has not received one. An answer was due 30 days after service of the

Complaint. 40 C.F.R. § 22.15(a). However, because Complainant filed an Amended Complaint, USA Wholesale had an additional 20 days to file an answer after service was completed. *See* 40 C.F.R. § 22.14(c). Here, service was completed on July 11, 2024. Consequently, any answer was due no later than August 30, 2024.

47. The facts above provide the Presiding Officer with an ample basis to find that default has occurred based on USA Wholesale’s failure to file a timely answer to the Amended Complaint. 40 C.F.R. § 22.17(a). Complainant therefore moves the Presiding Officer to find that default has occurred, and consequently issue a default order akin to the Proposed Order at the close of this Motion.

#### **Request for a Civil Penalty**

48. “Where the motion [for a default order] requests the assessment of a penalty or the imposition of other relief against a defaulting party, the movant must specify the penalty or other relief sought and state the legal and factual grounds for the relief requested.” 40 C.F.R. § 22.17(b).
49. The Consolidated Rules of Practice authorize assessment of a penalty in the event of a default. *Id.* § 22.27(b). Section 22.27(b) reads, in pertinent part, “If the respondent has defaulted, the Presiding Officer shall not assess a penalty greater than that proposed by complainant in the . . . motion for default . . . .”
50. “The relief proposed in the complaint or the motion for default shall be ordered unless the requested relief is clearly inconsistent with the record of the proceeding or the Act.” *Id.* § 22.17(c).
51. This Motion specifies the penalties sought and the legal and factual grounds for these penalties. *See id.* § 22.17(b). The requested relief is consistent with the record of this proceeding and the CAA, so the Presiding Officer shall order the relief requested. *See id.* § 22.17(c). Issuance of the Default Order requested here would resolve all outstanding issues and claims in this proceeding

and would therefore constitute an initial decision. *See id.* The penalties assessed by this initial decision would become due and payable by Respondent without further proceedings 30 days after such decision becomes a final order under 40 C.F.R. §§ 22.27(c), 22.17(c) and (d).

52. Here, Complainant's requested relief, based on the information available as of the date of this filing, is a civil penalty of \$351,725. The remainder of this section states the legal and factual grounds for this request.

### **Legal Grounds for the Requested Civil Penalty**

53. In determining the amount of the civil penalty in this matter, the CAA requires that the EPA take into account certain penalty factors, namely "the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence (including evidence other than the applicable test method), payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, and the seriousness of the violation." CAA § 113(e), 42 U.S.C. § 7413(e)(1).
54. Complainant uses a penalty policy that incorporates these statutory factors and is used to calculate civil penalties for specific cases. "Clean Air Act: Stationary Source Civil Penalty Policy: October 25, 1991" <https://www.epa.gov/sites/default/files/documents/penpol.pdf> (last visited on November 6, 2024) ("1991 Penalty Policy"). Complainant also uses an appendix to the 1991 Penalty Policy, which calculates civil penalties for certain illegal importation of bulk regulated substances: "Interim Penalty Policy Applicable To Certain Illegal Imports Of Bulk Regulated Substances Under 40 C.F.R. Part 84: Phasedown Of Hydrofluorocarbons, Appendix XII to the October 25, 1991 Clean Air Act Stationary Source Penalty Policy" ("HFC Penalty Policy.") <https://www.epa.gov/system/files/documents/2023-04/interimhfcpenaltypolicyforbulkimports.pdf> (last visited on November 6, 2024)

55. The 1991 Penalty Policy and HFC Penalty Policy apply to violations of the CAA, including violations of the prohibition against a person importing bulk regulated substances (certain HFCs) without expending allowances in violation of the AIM Act and associated regulations, 40 C.F.R. Part 84, Subpart A (HFC Allocation Regulations). *See* HFC Penalty Policy at 2.
56. Civil penalties are calculated under the 1991 Penalty Policy and the HFC Penalty Policy as follows. In accordance with the general practice that the EPA follows when calculating civil penalties under the CAA, as discussed in the 1991 Penalty Policy, the *preliminary deterrence amount* of penalties assessed is the sum of an *economic benefit component* and a *gravity component*. *See* 1991 Penalty Policy at 4. Then, the 1991 Penalty Policy requires the calculation of the *initial penalty target figure*. *See id.* at 3. This figure is the preliminary deterrence amount, but with the gravity component adjusted to reflect the violator’s degree of willfulness or negligence, degree of cooperation or non-cooperation, history of noncompliance, and environmental damage. *Id.* at 15.
57. The 1991 Penalty Policy and the HFC Penalty Policy identify three main types of economic benefit that a violator may enjoy as a result of its noncompliance: benefits from delayed costs; benefits from avoided costs; and benefits not related to cost savings, such as competitive advantage. 1991 Penalty Policy at 4 and HFC Penalty Policy at 2.
58. The CAA directs the EPA to “take into consideration” inter alia “the economic impact of the penalty on the business.” *See, e.g.,* CAA § 113(e)(1), 42 U.S.C. § 7413(e)(1). The 1991 Penalty Policy also references considering a violator’s “ability to pay.” 1991 Penalty Policy at 20. The EPA has the burden of proof to show that it considered each of the CAA statutory factors. Environmental Protection Agency Guidance on Evaluating a Violator’s Ability to Pay a Civil Penalty in an Administrative Enforcement Action (Jun. 29, 2015) (“ATP Policy”) at 2-3 (citing *In re New Waterbury Ltd.*, 5 E.A.D. at 538) available at <https://www.epa.gov/sites/production/files/2015-06/documents/atp-penalty-evaluate-2015.pdf>



(last visited November 6, 2024). The EPA does not need to “introduce specific evidence as part of its prima facie case to show that a respondent has the ability to pay a penalty.” ATP Policy at 3 (citing *In re New Waterbury Ltd.*, 5 E.A.D. at 541). Rather, the EPA must show that it considered each statutory factor and that the recommended penalty is supported by its analysis of those factors. *Id.* (citing *In re New Waterbury Ltd.*, 5 E.A.D. at 538). Furthermore, where the EPA has limited information about the respondent’s financial condition when the complaint is filed, “a respondent’s ability to pay may be *presumed* until it is put at issue by a respondent.” *Id.* at 3-4 (citing *In re New Waterbury Ltd.*, 5 E.A.D. at 541).

59. For purposes of this Motion, the facts alleged in the Amended Complaint are deemed to be admitted because default has occurred. 40 C.F.R. § 22.17(a). Based upon the information available to the EPA, the Amended Complaint alleges that USA Wholesale: (Count 1) did not possess or expend any allowances when importing bulk regulated substances, in violation of 40 C.F.R. § 84.5(b)(1) (2022); (Count 2) violated 40 C.F.R. § 84.31(c)(7) (2022) by failing to submit advance notification reports for the bulk regulated substances no later than 14 days prior to importation; and (Count 3) violated 40 C.F.R. § 84.31(c)(1) by failing to submit a report to the EPA that describes the bulk regulated substances imported during the second quarter of 2022 within 45 days after June 30, 2022. *See* Amended Complaint ¶¶ 26-45. Pursuant to the 1991 Penalty Policy and the HFC Penalty Policy, Complainant proposes a total civil penalty of \$351,725.

### **Factual Grounds for the Requested Civil Penalty**

60. The requested civil penalty here is \$351,725. Below is a narrative description of how the EPA calculated this penalty amount.<sup>3</sup>

### **Economic Benefit**

---

<sup>3</sup> See App. 13 for a chart that summarizes how the EPA calculated the penalty for USA Wholesale.

61. The EPA considered and calculated the economic benefit to USA Wholesale for the aforementioned violations.
62. The economic benefit in this matter is based on the benefit that USA Wholesale gained due to its failure to submit a quarterly report to the EPA disclosing its intent to import the HFCs. The EPA has not included an economic benefit component in the penalty calculation for USA Wholesale's importation of HFCs without allowances or its late filing of the report required by 40 C.F.R. § 84.31(c)(7) (2022) because the EPA's calculated the economic benefit to USA Wholesale is *de minimis* for those violations. App. 14.
63. On or about June 5, 2022, according to Customs Entry Number AY0-0118760-0, Respondent imported approximately 15,640 kg of HFC-134a, contained in containers for the transportation of that substance, through the port of San Francisco, California ("Subject HFCs"). *See* Amended Complaint ¶ 29. Complainant does not have information on USA Wholesale's actual cost savings from failing to submit the required quarterly report required by 40 C.F.R. § 84.31(c)(1). Therefore, the EPA estimates that the cost for hiring a consultant to collect the necessary information, prepare the report, and submit the quarterly report to the EPA is \$150 per hour. The EPA believes this is a reasonable and conservative cost approximation. Estimating an average of five hours for the consultant's work to submit the report equates to a total cost of \$750. This is deemed an avoided cost, since USA Wholesale still has not submitted this report. The EPA used its Benefit of Noncompliance ("BEN") computer model to estimate the economic benefit using its cost estimate and determined that USA Wholesale would have accumulated \$663 in interest from not expending the \$750 to hire a consultant to prepare and submit the quarterly report due August 14, 2022 for the import of the Subject HFCs.<sup>4</sup> App. 15.

---

<sup>4</sup> More information on the EPA's Penalty and Financial models can be found at <https://www.epa.gov/enforcement/penalty-and-financial-models> (last visited November 6, 2024). The BEN (2024.0.0) model calculates a violator's economic benefit of noncompliance from delaying or avoiding pollution control expenditures. The model requires the date the violation occurred, the date of compliance, the costs of compliance and the year the costs were estimated, and the date the penalty will be paid.

64. The total estimated economic benefit to USA Wholesale is \$663. Complainant believes its estimated economic benefit is reasonable and conservative.

### **Gravity**

65. The total penalty is calculated using both the 1991 Penalty Policy and the HFC Penalty Policy, because each policy applies to different violations applicable in this motion.
66. The 1991 Penalty Policy is used to calculate the gravity portion of the penalty for violations pertaining to reporting regulations, while the HFC Penalty Policy is used to calculate the gravity portion of the penalty for violations pertaining to the illegal import of bulk HFCs.
67. The HFC Penalty Policy yields a gravity-based penalty of \$39,904 for the importation of the Subject HFCs and the 1991 Penalty Policy yields a gravity-based penalty of \$111,961 for the reporting violations, for a total gravity-penalty of \$151,865 before applying further gravity-based adjustment factors such as the size of violator adjustment, degree of willfulness or negligence, degree of cooperation, history of noncompliance, or environmental damage. *See* 1991 Penalty Policy at 15-19 and HFC Penalty Policy at 6.

#### *Gravity Penalty Calculation for the Importation of Subject HFCs*

68. The HFC Penalty Policy's gravity component reflects "1) the importance of the violated provision to the regulatory scheme; 2) the actual or possible harm to the environment from excess emissions (including the amount of the pollutant, the sensitivity of the environment, and the duration of the violation); and 3) the size of violator." HFC Penalty Policy at 3.
69. To calculate the portion of the gravity corresponding to the importance to the regulatory scheme, the HFC Penalty Policy assesses a base dollar amount against all violators based on the size of the imported HFCs. Using Table 1 of the HFC Penalty Policy, and the mass of 15,640 kg of the Subject HFCs imported by USA Wholesale, the base penalty is \$25,000 for this violation. *Id.* at 4.

70. To account for actual or possible harm to the environment from excess emissions, the HFC Penalty Policy assesses a penalty based on the quantity (kilograms) of HFCs imported and their exchange value, or EV (a measure of the HFCs' impact on global warming). *Id.* at 4. The EPA developed EV multipliers by dividing the EV for each HFC by 1500. *Id.* The HFC Penalty Policy instructs case teams to multiply the quantity of each HFC by the EV multiplier for that HFC, found in Table 2. *Id.* at 5. The Subject HFCs consist of HFC-134a which has an EV of 1,430 and therefore an EV multiplier of 0.953. *See id.* at 5; *see also* 40 C.F.R. Part 84 Appendix A. Multiplying 15,640 kg by 0.953 yields \$14,904 as the penalty amount to be added to the base penalty for actual or possible harm to the environment.
71. Thus, using the HFC Penalty Policy, the gravity-based penalty for the for the importation of HFCs comes out to \$39,904. This figure comes from the base penalty figure of \$25,000 + environmental harm factor of \$14,904 = \$39,904. After adjusting for an inflation factor of 1.01933, per 40 C.F.R. § 19.4 Table 1, the calculated penalty for USA Wholesale's failure to possess and expend allowances at the time of import, as required by 40 C.F.R. § 84.5(b)(1) (2022), is \$40,675.

#### Reporting Violations Penalty Calculation

72. In addition to the violations with penalty calculations covered by the HFC Penalty Policy, USA Wholesale violated two reporting regulations that are addressed by the 1991 Penalty Policy.
73. On or about June 5, 2022, USA Wholesale imported 15,640 kg of HFC-134a into the Port of San Francisco. Amended Complaint ¶ 29. USA Wholesale filed an advance notification report for the import of the Subject HFCs on or about June 2, 2022, three (3) days prior to importation. Amended Complaint ¶ 42. A person importing a regulated substance, or their agent, must include the information required in 40 C.F.R. §§ 84.31(c)(7)(i) - (xvi) (2022) no later than 14 days before importation via a Customs and Border Protection-authorized electronic data interchange system as required by 40 C.F.R. § 84.31(c)(7) (2022). Therefore, USA Wholesale was 11 days late in filing

their report. To calculate a penalty for reporting violations under the 1991 Penalty Policy, case teams must first look to the length of time the violation covered. Here, the length of time for which this provision was violated by USA Wholesale falls between zero and one month, which results in a \$5,000 penalty for length of time. 1991 Penalty Policy at 11-12. The 1991 Penalty Policy also includes an “importance to the regulatory scheme” penalty factor for a “late report or notice.” *Id.* at 12. There is a \$5,000 penalty for late reporting or notice. *Id.* The length of time penalty of \$5,000 + the importance to the regulatory provision of \$5,000 equals \$10,000. After adjusting for an inflation factor of 2.23924, per 40 C.F.R. § 19.4 Table 1, the calculated penalty for USA Wholesale’s failure to timely submit the information required by 40 C.F.R. § 84.31(c)(7) (2022) is \$22,392.

74. USA Wholesale also failed to submit a report to the EPA that describes the regulated substances imported during the second quarter of 2022 within 45 days after the end of the second quarter, as required under 40 C.F.R. § 84.31(c)(1). Amended Complaint ¶ 44. The quarterly report that USA Wholesale failed to submit to the EPA was due within 45 days of June 30, 2022. *See* 40 C.F.R. § 84.31(c)(1). As of the date of the filing of the Complaint, the quarterly report was 19 months late, and as of the date of this filing has still not been submitted. 45 days from June 30, 2022 is August 14, 2022. Between August 14, 2022 and April 8, 2024 (the date the Complaint was filed) is 19 months and 25 days. Per the 1991 Penalty Policy, the penalty corresponding to a 19-month length of time is \$25,000. 1991 Penalty Policy at 12. The 1991 Penalty Policy further adjusts the penalty with an “importance to regulatory scheme” factor, assigning \$15,000 for failure to submit a required report. *Id.* The length of time penalty of \$25,000 plus the importance to regulatory scheme factor of \$15,000 equals \$40,000. After adjusting for an inflation factor of 2.23924, per 40 C.F.R. § 19.4 Table 1, the calculated penalty for USA Wholesale’s failure to timely submit the information required by 40 C.F.R. § 84.31(c)(1) is \$89,569.

75. Thus, the total gravity penalty under the 1991 Penalty Policy for USA Wholesale’s reporting violations is \$111,961. This figure comes from the calculated penalty for the late report required by 40 C.F.R. § 84.31(c)(7) (2022) of \$22,392 + calculated penalty for the violation of 40 C.F.R. § 84.31(c)(1) of \$89,569.

*Size of Violator Adjustment*

76. Combining the gravity components from the HFC Penalty Policy (\$40,675) and the 1991 Penalty Policy (\$111,961) results in a total gravity component of the penalty of \$152,636 before additional adjustments.
77. To account for the size of violator adjustment, the EPA applied a size of violator adjustment using USA Wholesale’s estimated gross revenue, as directed in the HFC Penalty Policy. *See* HFC Penalty Policy at 6.<sup>5</sup>
78. To calculate the size of violator adjustment under the HFC Penalty Policy, the business’ gross revenue is multiplied by 0.75 percent (i.e., 0.0075). *Id.* Case teams have the discretion to cap the adjustment at 50% of the total gravity component. *Id.*
79. The EPA obtained several business reports using Lexis Nexis and other search tools in an effort to estimate USA Wholesale’s annual sales and gross revenue. *See* App. 17-39. Three reports run which cover different timeframes (Experian Commercial Credit Scores (May 2024), Experian Report (July 2023), and Data Axle Report (January 2021)) indicate that USA Wholesale’s annual sales are approximately \$32,006,000.<sup>6</sup> App. 16-21, 24-28. The EPA has used this information to

---

<sup>5</sup> The Complainant chose to use the method for calculating size of violator from the HFC Penalty Policy because “[T]he factors used in the body of the 1991 Policy — net worth (corporations) and net current assets (partnerships and sole proprietorships) — were developed for big businesses that owned stationary source industrial facilities. Violators of 40 C.F.R. § 84.5(b) may include large corporations; however, violators may also include entities whose net worth or net current assets are difficult to ascertain, such as various forms of partnerships, proprietorships, and individuals. Thus, this Interim Policy directs case teams to use gross revenue, a benchmark that is reasonably attainable from different types of potential violators, in determining the size of the violator factor.” *See* HFC Penalty Policy at 6.

<sup>6</sup> The Experian Commercial Credit Scores report from May 14, 2024 (App. 24-28) states that USA Wholesale has an “Estimated Annual Sales” of “+32,006,000” and an “Estimated Statistical Sales” of \$25 million to \$74.9 million. The Experian Report generated on 7/17/2023 (App. 19-21) stated that USA Wholesale had a “Sales Volume” of “\$20-\$50 million” and a “Location Annual Sales” of \$32,006,000. The Data Axle – Reference Solutions report (App. 16-18), states that

estimate that USA Wholesale has an annual gross revenue of at least \$32,006,000. Without capping the size of violator adjustment, the size of violator portion would be 0.75% of 32,006,000, or \$240,045. Complainant elected to cap the size of violator component. Total gravity is \$152,636 (see Paragraph 76), thus the size of violator component is capped at \$152,636 (50% of the total gravity). The total gravity is thus adjusted by the size of violator adjustment by an additional \$152,636, totaling \$305,272.

#### *Gravity Adjustment*

80. Under both the HFC Penalty Policy and the 1991 Penalty Policy, the gravity component of the penalty may be adjusted to account for willfulness and/or negligence, degree of cooperation/non-cooperation, history of noncompliance, or environmental damage. 1991 Penalty Policy at 16-19 and HFC Penalty Policy at 7. In this case, the EPA increased the gravity portion of the penalty (*i.e.*, \$305,272) by 15% to reflect USA Wholesale’s refusal to engage with the EPA. This 15% upward adjustment represents USA Wholesale’s non-cooperation and results in an initial penalty target figure of  $\$305,272 * 1.15 = \$351,062$ . Complainant made no further adjustments for willfulness or negligence, degree of cooperation, history of noncompliance, or environmental damage.
81. Combining the total gravity component of \$351,062 from Paragraph 80 and the economic benefit of \$663 from Paragraph 64 results in the total proposed penalty of \$351,725.
82. As also discussed in Paragraph 58, the EPA will generally not request penalties that are clearly beyond the means of the violator. 1991 Penalty Policy at 20. The EPA will consider the ability to

---

USA Wholesale has a “Location Sales Volume” of \$32,006,000, which was “Last Updated On” January, 2021. See App. 19. The EPA chose to rely on the data from these three reports, which provide a gross revenue of \$32,006,000, because all three reports run for different timeframes corroborate that figure. The EPA ran 6 reports total, with the other three reports not corroborating any single number for annual sales or gross revenue. The three other reports are summarized here: The Dun & Bradstreet Duns Market Identifiers Plus report (App. 22-23), states that USA Wholesale had an estimated annual sales and revenue of \$37,784 as of May, 2024. The OneStop Report generated on August 28, 2024 (App. 29-38) states that USA Wholesale had sales of \$109,690. The zoominfo report from July 2024 (App. 39) states that USA Wholesale had revenue of “\$5M-\$10M” and also states that USA Wholesale’s revenue was \$9,376,000.

pay a penalty in adjusting the preliminary deterrence amount, both gravity component and economic benefit. *Id.* at 20. However, the 1991 Penalty Policy provides that the litigation team should assess this factor after commencement of negotiations only if the source raises it as an issue and only if the source provides the necessary financial information to evaluate the source's claim. *Id.*

83. Furthermore, the burden to demonstrate inability to pay, as with the burden of demonstrating the presence of any other mitigating circumstances, rests on the respondent. *Id.* at 21.
84. USA Wholesale has not engaged with the EPA in this matter, with the exception of one email response on January 25, 2024 which did not provide substantive information.
85. The EPA has limited information on USA Wholesale's financial health. According to three financial reports, USA Wholesale has annual sales of \$32,006,000. App. 16-21, 24-28. Given this information, the penalty assessed in this case is not expected to affect USA Wholesale's ability to continue in business.
86. Given the limited amount of information on USA Wholesale's financial situation, Complainant believes it has met its duty to consider ability to pay and that no adjustment for ability to pay is warranted. Complainant respectfully asserts that the burden of proving limited ability to pay has shifted to USA Wholesale and to date USA Wholesale has not attempted to meet its burden.
87. Therefore, as detailed in this section, by this Motion, Complainant requests that the Presiding Officer issue a default order requiring: Respondent pay a civil penalty of \$351,725. This amount is consistent with the record of the proceeding and the Act. 40 C.F.R. § 22.17(c). Accordingly, the Consolidated Rules of Practice direct that the Presiding Officer order this requested relief. *Id.*



Respectfully Submitted,

11/6/2024

---

Date

---

Conner Kingsley, Attorney-Advisor  
Air Enforcement Division  
Office of Civil Enforcement  
Office of Enforcement and Compliance Assurance  
1200 Pennsylvania Ave., N.W.  
William J. Clinton Federal Building  
Room 1111B, Mailcode 2242A  
Washington, DC 20460  
(202) 564-9033  
kingsley.conner@epa.gov

Conner Kingsley is authorized to receive service relating to this proceeding.

**UNITED STATES  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.**

<b>In the matter of:</b>	<b>:</b>	<b>U.S. EPA Docket No.</b>
	<b>:</b>	<b>CAA-HQ-2024-8443</b>
	<b>:</b>	
<b>USA Wholesale Lubricant, Inc.</b>	<b>:</b>	
<b>Respondent</b>	<b>:</b>	
	<b>:</b>	
	<b>:</b>	
	<b>:</b>	
	<b>:</b>	

**ORDER**

Pursuant to section 113 of the Clean Air Act, 42 U.S.C. § 7413 and the Consolidated Rules of Practice at 40 C.F.R. §§ 22.17 and 22.27:

1. Complainant's Motion for a Default Order is hereby GRANTED.
2. Respondent USA Wholesale Lubricant, Inc. is ordered to pay a civil penalty in the amount of \$351,725 in the manner directed below.
3. This Order constitutes an Initial Decision as provided in 40 C.F.R. §§ 22.17(c) and 22.27(a). This Initial Decision shall become a Final Order 30 days after its service upon the Complainant and Respondent unless a party appeals or moves to set aside this Initial Decision, or unless the Environmental Appeals Board elects to review this Initial Decision on its own initiative.
4. Within 30 days after this Order becomes final, Respondent shall pay the above-stated civil penalty as follows: use any method, or combination of methods, provided on the website <https://www.epa.gov/financial/makepayment>; identify each and every payment with "Docket No. CAA-HQ-2024-8443"; and, within 24 hours of payment, send proof of payment ("proof of payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to the EPA requirements, in the amount due, and identified with "Docket No. CAA-HQ-2024-8443") to both the EPA Office of Administrative Law Judges and the Complainant, as follows:
  - a. The EPA Office of Administrative Law Judges: If by USPS (except Express Mail), send to:

Office of Administrative Law Judges  
U.S. Environmental Protection Agency  
Attn: Mary Angeles, Headquarters Hearing Clerk  
Mail Code 1900R, WJC East Mailroom 1309  
1200 Pennsylvania Avenue NW  
Washington, DC 20460

- b. Complainant: If by USPS (except Express Mail), send to:

Conner Kingsley  
U.S. EPA, Air Enforcement Division  
1200 Pennsylvania Ave., NW  
Mailcode 2242A  
Washington, DC 20460

If by email, send to:

Conner Kingsley  
[kingsley.conner@epa.gov](mailto:kingsley.conner@epa.gov)

5. If Respondent fails to timely pay any portion of the penalty ordered, the EPA may:
- a. request the Attorney General to bring a civil action in an appropriate district court to recover: the amount assessed; interest at rates established pursuant to 26 U.S.C. § 6621(a)(2); the United States' enforcement expenses; and a 10 percent quarterly nonpayment penalty, 42 U.S.C. § 7413(d)(5);
  - b. refer the debt to a credit reporting agency or a collection agency, 42 U.S.C. § 7413(d)(5), 40 C.F.R. §§ 13.13, 13.14, and 13.33;
  - c. collect the debt 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; and
  - d. suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with the EPA or engaging in programs the EPA sponsors or funds, 40 C.F.R. § 13.17.

It is so ordered.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
[Name]  
[Title]

**UNITED STATES  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.**

<hr/>	:	<b>U.S. EPA Docket No.</b>
<b>In the matter of:</b>	:	<b>CAA-HQ-2024-8443</b>
	:	
<b>USA Wholesale Lubricant, Inc.</b>	:	
<b>Respondent</b>	:	
<hr/>	:	

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing **Motion for Default** in the matter of USA Wholesale Lubricant, Inc., Docket No. **CAA-HQ-2024-8443** was filed with the Hearing Clerk via the Office of Administrative Law Judge's Electronic Filing System. I further certify that on the date set forth below, I caused to be served a true and correct copy of the **Motion for Default**; to the following person, by courier with Signature Requested, at the following addresses:

Maher Fateh, CEO  
USA Wholesale Lubricant, Inc.  
339 Educational Park Dr.  
San Jose, CA 95133  
Courtesy Email Sent to: [maherfateh73@gmail.com](mailto:maherfateh73@gmail.com)

---

[*digitally signed and dated*]  
Conner Kingsley, Attorney-Advisor  
Air Enforcement Division  
Office of Civil Enforcement  
Office of Enforcement and Compliance Assurance  
1200 Pennsylvania Ave., N.W.  
William J. Clinton Federal Building  
Room 1111B, Mailcode 2242A  
Washington, DC 20460  
(202) 564-9033  
[kingsley.conner@epa.gov](mailto:kingsley.conner@epa.gov)