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

OCT - 1 2015

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Luke Wyatt
Roane Metals Group
284 Cardiff Valley Road
Rockwood, Tennessee 37854

Dear Mr. Wyatt:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves the case *Roane Metals Group, LLC* and case docket no. CAA-04-2016-1574. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on October 1, 2015.

Pursuant to paragraph 24 of the CAFO, Roane Metals Group, LLC must pay the civil penalty within 30 days of the date the CAFO was filed. Your check must display the case name and case docket number CAA-04-2016-1574.

Please direct any questions regarding this case to Nicole Wood-Chi, Associate Regional Counsel, at 312-886-0664 or wood.nicole@epa.gov.

Sincerely,

Sara Breneman

Sara J. Breneman
Chief
Air Enforcement and Compliance Assurance Branch

Enclosure

cc: Ann Coyle, Regional Judicial Officer/C-14J
Regional Hearing Clerk/E-19J
Nicole Wood-Chi/C-14J
LeAnn Mynatt, Baker Donelson

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:	)	**Docket No.** CAA-04-2016-1574
	)	
Roane Metals Group, LLC	)	**Proceeding to Assess a Civil Penalty**
Rockwood, Tennessee,	)	**Under Section 113(d) of the Clean Air Act,**
	)	**42 U.S.C. § 7413(d)**
Respondent.	)	
	)	

REGIONAL HEARING CLERK
RECEIVED
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U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 5

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 Roane Metals Group, LLC (Roane), a company 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. Roane owns and operates a scrap metal recycling facility at 284 Cardiff Valley Road, Rockwood, Tennessee (the Facility).

17. Roane is a company organized and doing business in Tennessee.

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

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

21. On May 6, 2014, EPA inspected the Facility to assess Roane's compliance with the CAA. During the May 6, 2014, inspection, a Roane representative stated that:

a. Roane accepts cars, motor vehicle air conditioners (MVACs), white goods, room air conditioning units, and small appliances, including refrigerators and freezers;

b. Roane purchases room air conditioning units and small appliances, including refrigerators, from two local recycling facilities; and cars, MVACs, and small appliances from peddlers;

c. Roane does not verify whether refrigerant was properly recovered from small appliances and room air conditioning units it purchases from the two recycling facilities; and

d. Roane does not recover refrigerant but uses signed statements when vehicles, MVACs, room air conditioning units, and small appliances, including refrigerators, are purchased from transactional customers.

20. Roane has accepted small appliances and 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 small appliances and MVACs and/or MVAC-like appliances.

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

22. On October 22, 2014, Roane and EPA discussed the Finding of Violation.

Civil Penalty

23. 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, Complainant has determined that an appropriate civil penalty to settle this action is $37,500.00.

24. Within 30 days after the effective date of this CAFO, Respondent must pay a $37,500.00 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 casher'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.

25. 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

Nicole Wood-Chi (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

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

27. 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.

28. 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).

General Provisions

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

30. 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.

31. 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 29, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

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

33. 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).

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

35. 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.

36. Respondent agrees to bear its own costs and attorney's fees in this action.

37. This CAFO constitutes the entire agreement between Respondent and the EPA for federal civil penalties for the violations alleged in this CAFO.

Roane Metals Group, LLC, Respondent

COUNSEL FOR RESPONDENT

Date: 9/24/15

Mary LeAnn Mynatt
Shareholder
Baker, Donelson, Bearman, Caldwell & Berkowitz, PC
265 Brookview Centre Way, Suite 600
Knoxville, Tennessee 37919

United States Environmental Protection Agency, Complainant

9/29/15

Date

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

Consent Agreement and Final Order
In the Matter of: Roane Metals Group, LLC
Docket No. CAA-04-2016-1574

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.

9-30-2015
Date

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

In the matter of: Roane Metals Group, LLC
Docket Number: CAA-04-2016-1574

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 October 1, 2015, this day in the following manner to the addressees:

Copy by certified mail
return-receipt requested:

Luke Wyatt
Roane Metals Group
284 Cardiff Valley Road
Rockwood, Tennessee 37854

Copy by e-mail to
Complainant:

Nicole Wood-Chi
wood.nicole@epa.gov

Copy by e-mail to
Respondent's counsel:

LeAnn Mynatt
lmynatt@bakerdonelson.com

Copy by e-mail to
Regional Judicial Officer:

Ann Coyle
coyle.ann@epa.gov

Dated: October 1, 2015 L W Whitehead

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

CERTIFIED MAIL RECEIPT NUMBER(S): 7011 1150 0000 2640 4277