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

MAR 10 2016

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Carl M. Adelman
Adelman's Truck and Equipment Corp.
d/b/a Adelman's Resource Solutions
3051 East 106th Street
Chicago, Illinois 60617

Dear Mr. Adelman:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves Adelman's Truck and Equipment Corp. d/b/a Adelman's Resource Solutions, case docket no. **CAA-05-2016-0017**. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on March 10, 2016.

Pursuant to paragraph 28 of the CAFO, Adelman's Truck and Equipment Corp. d/b/a Adelman's Resource Solutions must pay the civil penalty of $15,000 within 30 days.

Please direct any questions regarding this case to Christine Liszewski, Office of Regional Counsel, (312) 886-4670.

Sincerely,

Nathan Frank
Chief
Air Enforcement and Compliance Assurance Section (IL/IN)

Enclosure

cc: Regional Judicial Officer/C-14J
Regional Hearing Clerk/E-19J
Christine Liszewski/C-14J
Yasmine Keppner-Bauman, IEPA

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:	)	**Docket No. CAA-05-2016-0017**
	)	
Adelman's Truck and Equipment Corp. d/b/a Adelman's Resource Solutions Chicago, Illinois,	)	**Proceeding to Assess a Civil Penalty Under Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d)**
	)	
Respondent.	)	

REGIONAL HEARING CLERK
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MAR 10 2016
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 Adelman's Truck and Equipment Corp. d/b/a Adelman's Resource Solutions (Adelman's), a corporation doing business in Illinois.

4. Where the parties 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. The parties 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 (MVACs) 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. Section 608(c)(1) of the CAA, 42 U.S.C. § 7671g(c)(1), provides that effective July 1, 1992, it shall be unlawful for any person, in the course of maintaining, servicing, repairing, or disposing of an appliance or industrial process refrigeration, to knowingly vent or otherwise knowingly release or dispose of any class I or class II substance used as a refrigerant in such appliance (or industrial process refrigeration) in a manner which permits such substance to enter the environment.

11. Section 608(c)(2) of the CAA, 42 U.S.C. § 7671g(c)(2), provides that effective 5 years after November 15, 1990, it shall be unlawful for any person maintaining, servicing, repairing, or disposing of an appliance or industrial process refrigeration to knowingly vent or otherwise knowingly release or dispose of any substitute substance for a class I or class II substance unless the Administrator determines that venting, releasing, or disposing of such substance does not pose a threat to the environment.

12. Effective July 13, 1993, persons who take the final step in the disposal process (including but not limited to scrap recyclers) of small appliances and MVACs must either recover the refrigerant in accordance with specific procedures or verify with signed statements 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 or MVAC 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).

13. Effective June 13, 2005, no person maintaining, servicing, repairing, or disposing of appliances may knowingly vent or otherwise release into the environment any refrigerant or substitute from such appliances. Several substitutes, not applicable to this action, are excluded from this prohibition. *See* 40 C.F.R. § 82.154(a)(1).

14. 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 after January 12, 2009, through December 6, 2013; and may issue assess a civil penalty of up to $37,500 per day of violation up to a total of $320,000 for violations occurring 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.

15. Section 113(d)(1) limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and the Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

16. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

Factual Allegations and Alleged Violations

17. Adelman's owns and operates an end-of-life truck recycling facility at 3051 East 106th Street, Chicago, Illinois (the Facility).

18. Adelman's is a corporation organized and doing business in Illinois.

19. Adelman's is a "person," as defined by 40 C.F.R. § 82.152.

20. Adelman's is a person who takes the final step in the disposal process of MVACs and is subject to the requirements of 40 C.F.R. Part 82, Subpart F.

21. On March 11, 2014, EPA inspected the Facility to assess Adelman's compliance with the CAA. During this inspection, EPA observed wrecked trucks, semi cabs and some appliance components. Adelman's did not produce verification statements during the inspection and stated it did not recover refrigerant at the time of the inspection.

22. On June 27, 2014, EPA issued a Request for Information under Section 114 of the CAA to Adelman's. Adelman's submitted a response on July 31, 2014.

23. On July 28, 2014, EPA collected information from the Chicago Police Department regarding stolen vehicles found at Adelman's Facility.

24. Based on the March 11, 2014 inspection, the records collected on July 28, 2014 from the Chicago Police Department and Adelman's July 31, 2014 response to EPA's CAA Section 114 Information Request, Adelman's accepted MVACs without either recovering refrigerant or obtaining verification statements in violation of 40 C.F.R. § 82.156(f) from January 1, 2011 through April 8, 2014.

25. Based on the March 11, 2014 inspection, the records collected on July 28, 2014 from the Chicago Police Department and Adelman's July 31, 2014 response to EPA's CAA Section 114 Information Request, Adelman's knowingly vented or otherwise released into the environment refrigerant or substitute from MVACs in violation of 40 C.F.R. § 82.154(a)(1) from January 1, 2011 through April 8, 2014.

26. On August 11, 2014, EPA issued a Finding of Violation to Adelman's.

27. On September 18, 2014, Adelman's and EPA discussed the Finding of Violation.

Civil Penalty

28. 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, cooperation and limited financial ability to pay a civil penalty, Complainant has determined that an appropriate civil penalty to settle this action is $15,000.

29. Within 30 days after the effective date of this CAFO, Respondent must pay a $15,000 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

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

30. 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

Christine Liszewski(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

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

32. 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.

33. 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 attorneys 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

34. Consistent with the "Standing Order Authorizing E-Mail Service of Order and Other Documents Issued by the Regional Administrator or Regional Judicial Officer Under the Consolidated Rules," dated March 27, 2015, the parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: liszewski.chrstine@epa.gov (for Complainant), and sgrossmark@tresslerllp.com (for Respondent). The parties waive their right to service by the methods specified in 40 C.F.R. § 22.6.

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

36. The effect of the settlement described in paragraph 28, above, is conditioned upon the accuracy of Respondent's representations to EPA, as memorialized in Respondent's letters dated March 10, 2015, September 22, 2015, and November 11, 2015 and enclosed financial statements and tax returns.

37. 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.

38. 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 35, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

39. Respondent certifies that it is complying fully with 40 C.F.R. Part 82, Subpart F.

40. 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).

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

42. 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.

43. Each party agrees to bear its own costs and attorneys fees in this action.

44. This CAFO constitutes the entire agreement between the parties.

Adelman's Truck and Equipment Corp. d/b/a Adelman's Resource Solutions, Respondent

2/18/2016
Date

Carl M. Adelman
President
Adelman's Truck and Equipment Corp.
d/b/a Adelman's Resource Solutions

United States Environmental Protection Agency, Complainant

3/2/16
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: Adelman's Truck and Equipment Corp. d/b/a Adelman's Resource Solutions
Docket No. CAA-05-2016-0017

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, 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.

March 7, 2016
Date

Robert A. Kaplan
Acting Regional Administrator
U.S. Environmental Protection Agency
Region 5

Consent Agreement and Final Order
In the matter of: Adelman's Truck and Equipment Corp. d/b/a Adelman's Resource Solutions
Docket Number: **CAA-05-2016-0017**

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number **CAA-05-2016-0017**, which was filed on March 10, 2016 in the following manner to the following addressees:

Copy by Certified Mail to Respondent:	Carl M. Adelman Adelman's Truck and Equipment Corp. d/b/a Adelman's Resource Solutions 3051 East 106th Street Chicago, Illinois 60617
Copy by E-mail to Attorney for Complainant:	Christine Liszewski liszewski.chrstine@epa.gov
Copy by E-mail to Attorney for Respondent:	Steve Grossmark sgrossmark@tresslerllp.com
Copy by E-mail to Regional Judicial Officer:	Ann Coyle coyle.ann@epa.gov

Dated: March 10, 2016 LaDawn Whitehead

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

CERTIFIED MAIL RECEIPT NUMBER(S): 7011 1150 0000 2640 6639