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

JUL - 6 2015

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

John Ignacio, General Manager
Music City Pick-A-Part, LLC
922 Lebanon Pike
Nashville, Tennessee 37210

Dear Mr. Ignacio:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves case docket number. CAA-04-2015-1512. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on JUL - 6 2015.

Pursuant to paragraph 29 of the CAFO, Music City Pick-A-Part, LLC must pay the civil penalty within 30 days of the date the CAFO was filed. Your check must display the case docket number CAA-04-2015-1512

Please direct any questions regarding this case to Jose de Leon, Associate Regional Counsel, (312) 353-7456.

Sincerely,

Sara Breneman

Sara Breneman, Chief
Air Enforcement and Compliance Assurance Branch

Enclosure

cc: Regional Judicial Officer
Jose de Leon/C-14J
Chris Moran, Tennessee Department of Environment & Conservation

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U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 5

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

In the Matter of:	)	**Docket No.** CAA-04-2015-1512
	)	
Music City Pick-A-Part, LLC	)	**Proceeding to Assess a Civil Penalty**
Nashville, Tennessee,	)	**Under Section 113(d) of the Clean Air Act,**
	)	**42 U.S.C. § 7413(d)**
Respondent.	)	
	)	

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, Pesticides, and Toxics Management Division, U.S. Environmental Protection Agency (EPA), Region 4.

3. Respondent is Music City Pick-A-Part, LLC (Music City), a corporation 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 by 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. EPA's regulations for the protection of the stratospheric ozone, recycling and emissions reduction prohibit a person disposing of appliances, MVACs, or MVAC-like appliances from knowingly venting or otherwise releasing into the environment any refrigerant or substitute from such appliances. See 40 C.F.R. § 82.154(a)(1).

16. 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

17. Music City owns and operates a scrap metal recycling facility at 922 Lebanon Pike, Nashville, Tennessee (the Facility).

18. Music City is a corporation organized and doing business in Tennessee.

19. Music City is a "person," as defined by 40 C.F.R. § 82.152.

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

21. On May 5, 2014, EPA inspected the Facility to assess Music City's compliance with the CAA. During this inspection, a Music City representative stated that Music City owns and operates refrigerant recovery equipment at the Facility, but that the equipment is not used on appliances. The representative further stated that Music City does not collect verification

statements from its vendors or suppliers verifying that refrigerant had been properly recovered prior to the delivery of small appliances to its Facility, nor does it have contracts in place addressing the proper recovery of refrigerant from appliances.

22. Also during the May 5, 2014, inspection, a Music City representative stated that refrigerant is only removed from MVACs before crushing, allowing for the possible venting of refrigerant while the vehicle is on the lot.

23. Music City has accepted small appliances without either recovering refrigerant or obtaining verification statements that met the requirements of 40 C.F.R. § 82.156(f).

24. Music City's practice of allowing customers to remove auto parts from vehicles prior to ensuring that all refrigerant has been removed from the MVAC allows for venting of refrigerant to the atmosphere and violates 40 C.F.R. § 82.154(a)(1).

25. On September 15, 2014, EPA issued to Music City a Finding of Violation alleging that it had violated 40 C.F.R. §§ 82.156(f) and 82.154(a)(1) as described in paragraphs 16 and 17, above.

26. On October 14, 2014, representatives from Music City and EPA discussed the alleged violations in the Finding of Violation.

27. Following the October 14, 2014, discussions and subsequent correspondence with EPA, Music City developed and implemented procedures across the Facility, which have brought Music City into compliance with applicable EPA regulations set forth at 40 C.F.R. §§ 82.156 and 82.154.

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; Music City's cooperation and prompt return to

compliance; and Music City's financial circumstances, Complainant has determined that an appropriate civil penalty to settle this action is $2,500.

29. Within 30 days after the effective date of this CAFO, Respondent must pay a $2,500 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 cashier'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.

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 & Radiation Division
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

Jose de Leon (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

Patricia Bullock
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street SW
Atlanta, Georgia 30303

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 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

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

35. 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.

36. 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 34, above,

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

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

38. 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).

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

40. 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.

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

42. This CAFO constitutes the entire agreement between Respondent and the EPA.

Music City Pick-A-Part, LLC, Respondent

4-10-15
Date

Gregory Guinn
Owner
Music City Pick-A-Part, LLC

United States Environmental Protection Agency, Complainant

4/24/15
Date

Beverly H. Banister
Director
Air, Pesticides, and Toxics Management Division
U.S. Environmental Protection Agency, Region 4

Consent Agreement and Final Order
In the Matter of: Music City Pick-A-Part, LLC
Docket No.

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.

5/1/2015
Date

Carol F. Baschon
Acting Regional Judicial Officer
U.S. Environmental Protection Agency
Region 4

In the Matter of: Music City Pick-A-Part, LLC
Docket Number:

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 July 6, 2015, this day in the following manner to the addressees:

Copy by Certified Mail
Return-Receipt Requested:

John Ignacio, General Manager
Music City Pick-A-Part, LLC
922 Lebanon Pike
Nashville, Tennessee 37210

Copy by E-mail to
Complainant:

Jose de Leon
deleon.jose@epa.gov

Copy by E-mail to
Acting Regional Judicial Officer:

Carol F. Baschon
baschon.carol@epa.gov

Dated: July 7, 2015

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

CERTIFIED MAIL RECEIPT NUMBER(S): 7011 1150 0000 2640 4727