



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

SEP 25 2014

REPLY TO THE ATTENTION OF:

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

John Miller, Manager  
Allied Iron & Steel Company  
2900 West Clarke Street  
Peoria, Illinois 62201

Re: Consent Agreement and Final Order for Allied Iron and Steel Company of Peoria, Illinois

Dear Mr. Miller:

Enclosed is a countersigned and file-stamped Consent Agreement and Final Order (CAFO) which resolves Allied Iron and Steel Company, Docket No. CAA-05-2014-0052. As indicated by the filing stamp on the first page the document, we filed the CAFO with the Regional Hearing Clerk on SEP 25 2014.

Pursuant to paragraph 27 of the CAFO, Allied Iron and Steel Company must pay the civil penalty within 30 days of SEP 25 2014. Your check or electronic funds transfer must display the case name and case docket number CAA-05-2014-0052.

Please direct any questions regarding this case to Louise Gross, Associate Regional Counsel, at (312) 886-6844.

Sincerely,

A handwritten signature in cursive script that reads "Sarah Marshall".

Sarah Marshall, Chief  
Air Enforcement and Compliance Assurance Branch (MI/WI)

Enclosure

cc: Regional Hearing Clerk/E-19J  
Ann Coyle, Regional Judicial Officer/C-14J  
Louise Gross/C-14J  
Eric Jones/Illinois Environmental Protection Agency

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5



In the Matter of: ) Docket No. CAA-05-2014-0052  
)  
Allied Iron & Steel Company ) Proceeding to Assess a Civil Penalty  
Peoria, Illinois ) Under Section 113(d) of the Clean Air Act,  
) 42 U.S.C. § 7413(d)  
Allied. )  
\_\_\_\_\_ )

**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 (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. Allied, Allied Iron & Steel Company (Allied) is a company 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. Allied 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. Allied admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Allied 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 and motor vehicle air conditioners (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 are used then 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 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 defines "person" to include any individual or legal entity, including an individual or corporation.

12. 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.

13. EPA's regulations for the protection of stratospheric ozone, recycling, and emissions reduction define motor vehicle air conditioners (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.

14. 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.

15. 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**

16. Allied owns and operates a scrap metal recycling facility at 2900 W. Clarke St., Peoria, Illinois (the Facility).

17. Allied is a company organized and doing business in Illinois.

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

19. On March 28-29, 2012, EPA inspected the Facility to assess Allied's compliance with the CAA. During this inspection, Allied provided EPA with a blank weight ticket issued to its customers for each load. These weight tickets contain a section where the customer may indicate whether there were small appliances or MVACs, in the load, and that the refrigerant had either previously leaked or been properly recovered. The weight tickets did not, however, include the name and address of the person who recovered the refrigerant, the date the refrigerant was recovered or any other information about the refrigerant recovery.

20. On June 7, 2012, under Section 114 of the CAA, 42 U.S.C. § 7414, EPA sent a Request for Information to Allied seeking information about the Facility's compliance with the CAA. On July 10 and August 23, 2012, EPA received responses from Allied.

21. In its July 10, 2012, response, Allied stated that it accepts small appliances and MVACs that had previously contained refrigerant for recycling at the Facility, and that it had accepted small appliances and MVACs for recycling within the past 12 months. It estimated that it receives approximately 100 to 125 "uncrushed" small appliances and MVACs per year. It did

not indicate the number of “crushed” small appliances and MVACs, principally crushed automobiles, which it receives.

22. In its August 23, 2012 response, Allied provided copies of 20 recent load tickets related to small appliances and MVACs where the customer indicated the refrigerant had been properly recovered. These tickets, however, failed to include the name and address of the person who recovered the refrigerant, the date the refrigerant was recovered or any other information about the refrigerant recovery.

23. Allied is a person who takes the final step in the disposal process of small appliances and is subject to the requirements of 40 C.F.R. Part 82, Subpart F.

24. Allied has accepted small appliance components and MVACs without recovering refrigerant. Allied has not obtained verification statements or contracts that met the requirements of 40 C.F.R. § 82.156(f) for these small appliances and MVACs.

25. On September 14, 2012, EPA issued to Allied a Finding of Violation alleging that Allied has violated 40 C.F.R. § 82.156(f), because it neither recovered refrigerant from small appliances and MVACs nor obtained proper verification statements before accepting small appliances and MVACs.

26. On October 24, 2013, Allied conferred with EPA concerning the alleged violations referenced in paragraph 25.

#### **Civil Penalty**

27. Based on an analysis of the factors specified in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), the facts of this case and Allied’s cooperation with EPA, Complainant has determined that an appropriate civil penalty to settle this action is \$14,871.

28. Within 30 days after the effective date of this CAFO, Allied must pay the \$14,871 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

For checks sent by express mail (non-U.S. Postal Service which won't 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 Allied's name, the docket number of this CAFO, and the billing document number.

29. Allied must send a notice of payment that states Allied's name, the docket number of this CAFO, and the billing document number 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

Louise Gross (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

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

31. If Allied does not timely pay the entire payment as set forth in paragraph 27 above, the entire unpaid balance of the civil penalty shall become due and owing upon written notice by EPA to Allied of the delinquency. 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.

32. Allied 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). Allied 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, Allied 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**

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

34. 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.

35. This CAFO does not affect Allied's responsibility to comply with the CAA and other applicable federal, state and local laws. Except as provided in paragraph 33, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

36. Allied has signed an Administrative Consent Order to be issued under Section 113(a) of the CAA, 42 U.S.C. § 7413(a), in which it has agreed to take specific actions in order to achieve and maintain compliance with 40 C.F.R. § 82.156(f).

37. This CAFO constitutes an "enforcement response," as that term is used in EPA's Clean Air Act Stationary Civil Penalty Policy, to determine Allied's "full compliance history" under Section 113(e) of the CAA, 42 U.S.C. § 7413(e).

38. 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.

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

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

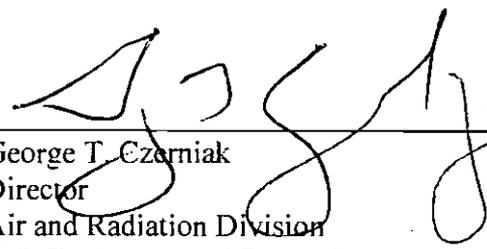
**Allied Iron & Steel Company, Respondent**

9-12-14  
Date

  
\_\_\_\_\_  
John Miller  
Manager  
Allied Iron & Steel Company

**United States Environmental Protection Agency, Complainant**

9/19/14  
Date

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

**Consent Agreement and Final Order**  
**In the Matter of: Allied Iron & Steel Company**  
**Docket No. CAA-05-2014-0052**

**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.

9-22-2014  
Date

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

**Consent Agreement and Final Order**

**In the Matter of:** Allied Iron and Steel Company of Peoria, Illinois

**Docket No.** CAA-05-2014-0052

**Certificate of Service**

I certify that I filed the original and one copy of the Consent Agreement and Final Order (CAFO), docket number CAA 05 2014 0052 with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, Illinois 60604, and that I mailed a second original copy by first-class, postage prepaid, certified mail, return receipt requested, by placing it in the custody of the United States Postal Service addressed as follows:

John Miller, Manager  
Allied Iron & Steel Company  
2900 West Clarke Street  
Peoria, Illinois 62201

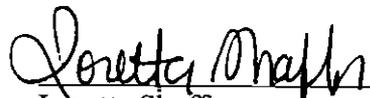
I also certify that I delivered a copy of the ACO and CAFO by intra-office mail, addressed as follows:

Ann Coyle  
Regional Judicial Officer (C-14J)  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

I also certify that I mailed a correct copy of the CAFO by first-class mail to:

Eric Jones, Manager  
Bureau of Air, Compliance and Enforcement Section  
Illinois Environmental Protection Agency  
P.O. Box 19506  
Springfield, Illinois 62794

On the 25 day of September 2014.

  
Loretta Shaffer  
Administrative Program Assistant  
Planning and Administration Section

CERTIFIED MAIL RECEIPT NUMBER:

7009168000076762373