



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

JUN 17 2014

Mr. Lawrence Steinberg, Esq.
700 South Federal Hwy, Suite 200
Boca Raton, Florida 33432

Re: Consent Agreement and Final Order
In the Matter of Ventron Management, LLC.
Docket No. CAA-04-2014-1511(b)

Dear Mr. Steinberg:

Enclosed please find a copy of the ratified Consent Agreement and Final Order (CAFO) in the above-referenced matter. The original CAFO has been filed with the Regional Hearing Clerk as directed in Section 22.5(a) of the Consolidated Rules of Practice, as amended. Please refer to Section V (Final Order), for the terms and instructions regarding Ventron Management, LLC.'s final payment on the penalty due. Any questions regarding the processing of Ventron Management, LLC.'s penalty may be directed to Ms. Heather Russell, Financial Management Office, at (513) 487-2044.

If you have any other questions, please contact Adam Dilts, Associate Regional Counsel, at (404) 562-9581 or Jason Dressler of the South Air Enforcement Section at (404) 562-9208.

Sincerely,

A handwritten signature in cursive script that reads "Beverly A. Spagg".

Beverly A. Spagg
Chief
Air and EPCRA Enforcement Branch

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

IN THE MATTER OF:)
)
Ventron Management, LLC.)
)
Boca Raton, Florida)
)
Respondent.)
_____)

Docket No. CAA-04-2014-15110

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CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action/Jurisdictional Statements

1. This is a civil penalty proceeding pursuant to Section 113(d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(d), and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), codified at Title 40 Code of Federal Regulations (40 C.F.R.) Part 22, for alleged violations of Section 608 of the CAA, as amended, 42 U.S.C. § 7671g.
2. Complainant is the Director of the Air, Pesticides and Toxics Management Division, Region 4, United States Environmental Protection Agency (EPA). Respondent is Ventron Management, LLC., a limited liability company in the State of Florida engaged in the management of multifamily properties (hereinafter, "Respondent").
3. The authority to take action under Section 113(d) of CAA, 42 U.S.C. § 7413(d), is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under the CAA to the Regional Administrators by EPA Delegation 7-6-A. The Regional Administrator, Region 4, has re-delegated this authority to the Director, Air, Pesticides, and Toxics Management Division, by EPA Region 4 Delegation 7-6-A. Pursuant to that delegation, the Director of the Air, Pesticides and Toxics Management Division has the authority to commence an enforcement action as the Complainant in this matter, and has the authority to sign consent agreements memorializing settlements between EPA and Respondent.
4. Consistent with Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), the requisite joint determination has been made by EPA and the United States Department of Justice that this matter is appropriate for an administrative penalty action.
5. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18, and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter,

and in accordance with 40 C.F.R. § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

6. Respondent is a “person” as defined in CAA § 302(e), 42 U.S.C. § 7602(e).

II. Statutory and Regulatory Background

7. Section 608(a) of the CAA, 42 U.S.C. § 7671g(a), requires the Administrator to promulgate regulations establishing standards and requirements regarding the use and disposal of class I and class II substances during service, repair, or disposal of appliances. The implementing regulations for Section 608 of the CAA are set forth at 40 C.F.R. Part 82, Subpart F.
8. Pursuant to 40 C.F.R. § 82.152, “appliance” means any device which contains and uses a refrigerant and which is used for household or commercial purposes, including any air conditioner, refrigerator, chiller, or freezer.
9. Pursuant to 40 C.F.R. § 82.152, “opening” an appliance means any service, maintenance, repair, or disposal of an appliance that would release refrigerant from the appliance to the atmosphere unless the refrigerant was recovered previously from the appliance.
10. Pursuant to 40 C.F.R. § 82.152, “technician” means any person who performs maintenance, service, or repair, that could be reasonably expected to release refrigerants from appliances, except for motor vehicle air conditioners (MVACs), into the atmosphere. Technician also means any person who performs disposal of appliances, except for small appliances, MVACs, and MVAC-like appliances that could be reasonably expected to release refrigerants from the appliances into the atmosphere. Performing maintenance, service, repair, or disposal could be reasonably expected to release refrigerants only if the activity is reasonably expected to violate the integrity of the refrigerant circuit. Activities reasonably expected to violate the integrity of the refrigerant circuit include activities such as attaching and detaching hoses and gauges to and from the appliance to add or remove refrigerant or to measure pressure and adding refrigerant to and removing refrigerant from the appliance. Technician includes but is not limited to installers, contractor employees, in-house service personnel, and in some cases owners and/or operators.
11. Section 608(c) of the CAA, 42 U.S.C. § 7671g(c), prohibits any person maintaining, servicing, repairing, or disposing of an appliance from knowingly venting or otherwise knowingly releasing or disposing of any class I or class II substance used as a refrigerant in such appliance, or any substitute substance for a class I or class II substance used as a refrigerant in such appliance, in a manner which permits the substance to enter the environment.
12. Pursuant to Section 608 of the CAA, 40 C.F.R. § 82.154(a), prohibits persons maintaining, servicing, repairing, or disposing of appliances from knowingly venting or otherwise

releasing into the environment any refrigerant or non-exempt substitute from such appliances.

13. Pursuant to Section 608 of the CAA, 40 C.F.R. § 82.154(b) prohibits persons from opening appliances for maintenance, service, repair, or disposal without using certified recovery equipment and observing the required practices set forth in 40 C.F.R. § 82.156.
14. Pursuant to Section 608 of the CAA, 40 C.F.R. § 82.161 requires technicians to be certified by an approved technician certification program.
15. Pursuant to Section 608 of the CAA, 40 C.F.R. § 82.162 requires persons maintaining, servicing, repairing, or disposing of appliances to certify to the Administrator that such person has acquired certified recovery or recycling equipment and is complying with the applicable requirements of 40 C.F.R. Part 82, Subpart F. Such certification is to be made no later than August 12, 1993, or within 20 days of commencing business for those persons not in business at the time of promulgation. The owner or lessee of the recovery or recycling equipment may perform this certification for his or her employees.
16. Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413 (d), and 40 C.F.R. Part 19, EPA may assess a penalty of not more than \$37,500 per day for each violation that occurred after January 12, 2009.

III. Factual Allegations

17. Respondent operates, but does not own, the Windwood Oaks Apartments located at 202 Windwood Oaks Drive, Tampa, Florida 33613. At times relevant to this action, Respondent, for and on behalf of the owner, managed the employed technicians at the Windwood Oaks Apartments who performed maintenance, service, repair, or disposal activities involving appliances that contain refrigerants.
18. On June 23, 2009, agents from the EPA Region 4 Criminal Investigation Division (CID) investigated a complaint regarding the release of refrigerant into the atmosphere at the Windwood Oaks Apartments. While at the apartment complex, the CID agents observed refrigerant being released from an air conditioning unit into a bucket of water, and the bucket subsequently being dumped out by a maintenance employee. The CID agents took photographs of their observations and conducted interviews of three apartment complex employees. The CID referred the case, including its report, interviews, and photographs to the EPA Region 4 Air & EPCRA Enforcement Branch on October 18, 2010.
19. Respondent violated Section 608(c) of the CAA, 42 U.S.C. § 7671g(c), and 40 C.F.R. § 82.154(a) by knowingly releasing a class I or class II substance used as a refrigerant from an appliance into the environment.
20. Respondent violated 40 C.F.R. § 82.154(b) by opening an appliance for maintenance, service, repair, or disposal without using certified recovery equipment and observing the

required practices set forth in 40 C.F.R. § 82.156.

21. On August 1, 2011, the EPA Region 4 Air, Pesticides, and Toxics Management Division issued a letter to Respondent pursuant to Section 114(a) of the CAA, 42 U.S.C. § 7414(a) (Information Request), for the purpose of determining Respondent's compliance status with Section 608 of the CAA, 42 U.S.C. § 7671g, and the requirements set forth at 40 C.F.R. Part 82, Subpart F.
22. On September 15, 2011, Respondent submitted a response to the Information Request, including documents regarding the maintenance, service, repair, or disposal of appliances containing refrigerant at the Windwood Oaks Apartments, documents regarding the persons engaged in such activities, and technician certification documents. Upon review of these documents, EPA Region 4 determined that three technicians did not have a certification from an approved EPA technician certification program and had engaged in the maintenance, service, repair, or disposal of appliances since January 2011, in violation of 40 C.F.R. § 82.161.
23. In response to the Information Request, on January 14, 2012, Respondent submitted a certification to EPA Region 4, pursuant to 40 C.F.R. § 82.162, for the recovery equipment located at the Windwood Oaks Apartments. Respondent's certification is dated January 12, 2012, and is the only such certification that was provided to the EPA. Respondent violated 40 C.F.R. § 82.162 by not making a timely certification of its recovery equipment to EPA Region 4.

IV. Consent Agreement

24. As provided in 40 C.F.R. § 22.18(b)(2), for the purposes of this CAFO, Respondent admits the jurisdictional allegations in paragraphs 1 through 16 set out above, but neither admits nor denies the factual allegations in paragraphs 17 through 23 above.
25. As provided in 40 C.F.R. § 22.18(b)(2), for the purposes of this CAFO, Respondent waives any rights to contest the allegations listed above and its right to appeal the proposed final order accompanying this consent agreement. Accordingly, Respondent waives its right to a hearing on the allegations contained herein and waives any right to judicial review of the CAFO pursuant to Section 307 of the CAA, 42 U.S.C. § 7607.
26. As provided in 40 C.F.R. § 22.18(b)(2), Respondent consents to the assessment of the civil penalty set forth in this CAFO.
27. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all the relevant requirements of Section 608 of the CAA, 42 U.S.C. § 7671g, and the implementing regulations at 40 C.F.R. Part 82, Subpart F.
28. As provided in 40 C.F.R. § 22.18(b)(2), compliance with this CAFO shall resolve Respondent's liability for Federal civil penalties for the violations alleged herein. This

CAFO shall not in any case affect the right of the EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

29. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of the CAA.
30. Respondent waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CAFO, including any right of judicial review under Section 307 of the CAA, 42 U.S.C. § 7607.
31. The following individual is authorized to receive service for EPA in this proceeding:

Jason Dressler
Air & EPCRA Enforcement Branch
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303-8960
(404) 562-9208

V. Final Order

32. Respondent shall pay a civil penalty of **ONE THOUSAND FIVE HUNDRED DOLLARS (\$1,500)**.
33. Respondent shall pay the penalty specified in paragraph 32 **within 30 days** of the effective date of the CAFO by forwarding a cashier's or certified check payable to: "Treasurer, United States of America." **The Respondent shall note on the face of the check the Respondent's name and the Docket Number associated with this CAFO (Ventron Management, LLC., Docket Number CAA-04-2014-1511(b)).** The payment shall be sent by one of the following methods below.

United States Postal Service using the following address:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Other delivery service (e.g., Federal Express, United Parcel Service, DHL, etc.) using the following address:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, Missouri 63197-9000

Alternatively, Respondent shall make payment by wire transfer. **The wire transfer shall reference the name of the Respondent and the Docket Number of the CAFO (Ventron Management, LLC., Docket Number CAA-04-2014-1511(b)).** The wire transfer shall be directed to the Federal Reserve Bank of New York, as described below.

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 68010727
SWIFT address: FRNYUS33
33 Liberty St.
New York, NY 10045
Field Tag 4200 of the Fedwire message should read:
“D 68010727 Environmental Protection Agency”

34. At the time of the payment, Respondent shall send a separate copy of the check or send a copy of the wire transfer authorization form and transaction record, and a written statement that payment has been made in accordance with this CAFO, to the following persons at the following addresses:

Regional Hearing Clerk
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960;

Jason Dressler
Air & EPCRA Enforcement Branch
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960; and

Saundi Wilson (OEA)
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960.

35. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty referenced in paragraph 32, from the effective date of this CAFO, if payment is not made by the date required. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 4 C.F.R. § 102.13(c) and/or 40 C.F.R. § 13.11(a). A

the debt that remains delinquent more than ninety (90) days after payment is due.

36. The penalty described in paragraph 32 shall represent civil penalties assessed by Complainant within the meaning of section 162(f) of the Internal Revenue Code, 26 U.S.C. § 162(f), and is not a tax-deductible expenditure for purposes of federal law. Therefore, for the purposes of State and Federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.
37. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
38. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state, or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.
39. This CAFO shall be binding upon the Respondent, its successors and assigns.
40. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally binds that party to this CAFO.

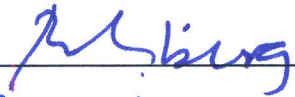
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VI. Effective Date


41. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

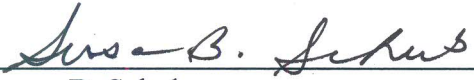
Ventron Management, LLC.

By:  Date: May 28, 2014
Name: Ronald Eisenberg
Title: Manager

U.S. Environmental Protection Agency

By:  Date: 6.12.14
Beverly H. Banister
Director
Air, Pesticides & Toxics Management Division
EPA Region 4

APPROVED AND SO ORDERED this 17 day of June, 2014.


Susan B. Schub
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing
Consent Agreement and Final Order, In the Matter of Ventron Management, LLC.

Docket No. CAA-04-2014-1511(b), on the parties listed below in the manner indicated:

Complainant/Designee Authorized to Receive Service (Via EPA's internal mail)

Saundi Wilson
US EPA, Region 4
Atlanta Federal Center
61 Forsyth Street
Atlanta, Georgia 30303

Jason Dressler
Air & EPCRA Enforcement Branch
US EPA, Region 4
Atlanta Federal Center
61 Forsyth Street
Atlanta, Georgia 30303

**Respondent/Representative Authorized to Receive Service (Via Certified Mail -
Return Receipt Requested)**

Mr. Lawrence Steinberg, Esq.
700 South Federal Hwy, Suite 200
Boca Raton, Florida 33432

Date 6-17-14



Patricia A. Bullock, Regional Hearing Clerk
United States Environmental Protection Agency, Region 4
Atlanta Federal Center
61 Forsyth Street
Atlanta, GA 30303
(404) 562-9511