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

JUN 28 2001

REPLY TO THE ATTENTION OF

(AE-17J)

CERTIFIED MAIL RETURN RECEIPT REQUESTED

Steve Habhab, Owner
Grand River & Power Shell
32340 Grand River
Farmington, Michigan 48336

RE: Grand River & Power Shell
Farmington, Michigan

Dear Mr. Habhab:

Enclosed is an Administrative Compliance Order pursuant to Sections 113(a) and 114 of the Clean Air Act (Act), 42 U.S.C. §§ 7413(a) and 7414, respectively. The United States Environmental Protection Agency (U.S. EPA) has evidence that you violated Section 609(c) of the Act, 42 U.S.C. § 7671g, and provisions of 40 C.F.R. Part 82, Subpart B, the Stratospheric Ozone Regulations, in connection with your servicing of motor vehicle air conditioning (MVAC) equipment at 32340 Grand River, Farmington, Michigan.

The attached Order requires that:

(1) You maintain compliance with Section 609(c) of the Act and 40 C.F.R. Part 82, Subpart B, in connection with your servicing of MVAC equipment; and

(2) You submit to U.S. EPA, within 30 business days, a signed letter of intent to comply with the Order.

Pursuant to Section 113 of the Act, 42 U.S.C. § 7413, any violation of this Compliance Order could subject you to penalties of up to $27,500 per day for each violation.

Recycled/Recyclable • Printed with Vegetable Oil Based Inks on 50% Recycled Paper (20% Postconsumer)

We look forward to your prompt attention to this Order. If you would like to discuss the attached Order, please contact either Joseph Cardile at (312) 886-0243 or Alan Walts at (312) 353-8894.

Sincerely yours,

Cheryl Newton, Acting Director
Air and Radiation Division

cc: Timothy McGarry, Enforcement Unit Supervisor
Air Quality Division
Michigan Department of Environmental Quality

Lisa Scarpelli
S.E. Michigan District Headquarters

Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:	)	
	)	
Grand River & Power Shell	)	**Administrative Order**
Farmington, Michigan	)	
	)	**EPA-5-01-113(a)-MI-09**
Proceeding Under Sections 113(a)(3) and 114(a)(1) of the Clean Air Act, 42 U.S.C. §§ 7413(a)(3) and 7414(a)(1)	)	

Administrative Order

1. The Director of the Air and Radiation Division, United States Environmental Protection Agency (U.S. EPA), Region 5, is issuing this Order to Grand River & Power Shell (Respondent) under Sections 113(a)(3) and 114(a)(1) of the Clean Air Act (Act), 42 U.S.C. §§ 7413(a)(3) and 7414(a)(1).

Statutory and Regulatory Background

2. The Administrator of U.S. EPA may promulgate regulations establishing standards and requirements regarding the servicing of motor vehicle air conditioners (MVACs) under Section 609 of the Act, 42 U.S.C. § 7671h.

3. Under Section 609 of the Act, the Administrator promulgated the regulations at 40 C.F.R. Part 82, Subpart B, Sections 82.30 through 82.42 (MVAC regulations).

4. Section 609(d) of the Act, 42 U.S.C. § 7671h(d), requires in part that each person performing service on motor vehicle air conditioners for consideration shall certify to the Administrator that such person has acquired, and is properly using, approved refrigerant recycling equipment in service on motor vehicle air conditioners involving refrigerant and that each individual authorized by such person to perform such service is properly trained and certified.

5. 40 C.F.R. § 82.34(a) requires, effective August 13, 1992, that no person repairing or servicing motor vehicles for consideration may perform any service on a motor vehicle air conditioner involving the refrigerant for such air conditioner (1) Without properly using equipment approved pursuant to

§ 82.36; and (2) Unless such person has been properly trained and certified by a technician certification program approved by the Administrator pursuant to §82.40.

6. 40 C.F.R. § 82.42(a) requires that, on or before January 1, 1993, each person performing service on motor vehicle air conditioners for consideration shall certify to the Administrator that such person has acquired, and is properly using, approved refrigerant recycling equipment in service on motor vehicle air conditioners involving refrigerant and that each individual authorized by such person to perform such service is properly trained and certified.

7. Under Section 113(a)(3)(B) of the Act, 42 U.S.C. § 7413(a)(3)(B), the Administrator of U.S. EPA may issue an Order requiring compliance to any person who has violated or is violating the MVAC regulations. The Administrator has delegated this authority to the Director of the Air and Radiation Division.

8. The Administrator of U.S. EPA may require any person who is subject to any requirement of the Act to provide information necessary to determine compliance with the Act, under Section 114(a)(1) of the Act, 42 U.S.C. § 7414 (a)(1). The Administrator has delegated this authority to the Director of the Air and Radiation Division.

Findings

9. Respondent owns and operates a facility at 32340 Grand River, Farmington, Michigan (the facility).

10. Respondent performs service on motor vehicle air conditioners for consideration at the facility. Therefore, Respondent is subject to 40 C.F.R. § 82.34(a)(1) and § 82.42(a).

11. Respondent is "subject to any requirement" within the meaning of Section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1). Therefore, Respondent is subject to the requirements of Section 114(a)(1).

12. On July 3, 2000, authorized representatives of the Administrator (the inspectors) conducted a compliance inspection of Respondent's facility in order to determine Respondent's compliance with Section 609 of the Act.

13. During the inspection, Respondent's representative, Mr. Steve Habhab, was asked to provide copies of the following documents: copies of all technician certifications and a copy of

the facility's recovery equipment certification.

14. During the inspection, Mr. Habhab supplied the inspectors with a State-issued motor vehicle mechanic certificate for Roy Brown in lieu of a proper technician certification. U.S. EPA received a copy of the facility's recovery equipment certification on August 4, 2000.

15. On October 31, 2000, U.S. EPA issued a Notice of Intent to File Civil Administrative Complaint to Respondent.

16. Respondent was given an opportunity to present supporting documentation to show why U.S. EPA should not institute administrative proceedings to assess civil penalties and to show cause why the proposed penalty should be reduced.

17. As of the date of this Order, U.S. EPA has not received a copy of a proper technician certification for Mr. Roy Brown as required by 40 C.F.R. § 82.34(a)(2).

18. On the basis of these facts, U.S. EPA finds that Respondent is in violation of Section 609(d) of the Act, 42 U.S.C. § 7671h(d), and the implementing regulation at 40 C.F.R. § 82.34(a)(2).

IT IS HEREBY ORDERED THAT:

19. Respondent shall maintain compliance with Section 609(c) of the Act, 42 U.S.C. § 7671g, and the MVAC Regulations at 40 C.F.R., Part 82, Subparts B and G.

20. Respondent shall ensure that only technicians who are certified as required by 40 C.F.R. § 82.34(a)(2) will perform service on MVACs. Respondent shall certify to U.S. EPA that it will not permit Roy Brown or any other employee to perform service on MVACs until such person has received technician certification as required by 40 C.F.R. § 82.34(a)(2). Respondent shall include such certification in its letter of intent to comply.

21. If Respondent intends to have Roy Brown or any other employee who is not currently certified as required by 40 C.F.R. § 82.34(a)(2) obtain such certification, Respondent shall state this in its letter of intent to comply. Respondent shall then provide U.S. EPA with a copy of any technician certification for each person who will perform service on MVACs when the certification is obtained. A copy of the certification shall be sent to the address in the following paragraph.

22. Respondent shall submit a signed letter of intent to comply with this Order, within 30 business days of receipt of this Compliance Order. Such notice shall be mailed to the address listed below:

Compliance Tracker - AE-17J
U.S. Environmental Protection Agency, Region 5
Attn: Joseph Cardile
Air and Radiation Division
77 West Jackson Boulevard
Chicago, Illinois 60604

23. Failure to comply with the terms of this Compliance Order may subject Respondent and its owner(s) to civil penalties and/or further enforcement action under Section 113 of the Act, 42 U.S.C. § 7413.

24. Any information submitted in response to this request may be used by U.S. EPA in support of an administrative, civil, or criminal action against Respondent. Knowing submittal of false information to U.S. EPA, in response to this request, may be actionable under Section 113(c)(2) of the Act, as well as 18 U.S.C. § 1341.

25. Nothing contained in this Compliance Order shall affect the responsibility of Respondent to comply with all applicable Federal, State or local laws or regulations, including other applicable provisions of 40 C.F.R. Part 82.

26. Nothing in this Compliance Order shall be construed to prevent or limit U.S. EPA's authority to collect penalties and pursue appropriate relief under Sections 113(b) and 113(d) of the Act, 42 U.S.C. §§ 7413(b) and 7413(d).

27. This Compliance Order is not subject to the Paperwork Reduction Act, because it seeks collection of information in an administrative action, or investigation involving U.S. EPA and specific individuals or entities.

28. Section 113(a)(4) of the Act, 42 U.S.C. § 7413(a)(4), states that an Order shall not take effect until the person to whom it is issued has had an opportunity to confer with U.S. EPA about the alleged violation. Therefore, U.S. EPA is giving Respondent an opportunity to confer with U.S. EPA concerning this Order. Respondent may schedule a conference with U.S. EPA by calling Mr. Joseph Cardile, at (312) 353-2151 within ten (10) days of Respondent's receipt of this Order.

29. The Compliance Order shall expire one year from the effective date, if Respondent has complied with all of its terms.

6/28/01
Date

Cheryl Newton, Acting Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Shanee Rucker, certify that I sent the Administrative Consent Order, U.S. EPA Order No. EPA-5-01-113(a)-MI-09, by Certified Mail, Return Receipt Requested, to:

Steve Habhab, Owner
Grand River & Power Shell
32340 Grand River
Farmington, Michigan 48336

I also certify that I sent a copy of the Administrative Consent Order U.S. EPA Order No. EPA-5-01-113(a)-MI-09, First Class Mail to:

Timothy McGarry, Enforcement Unit Supervisor
Air Quality Division
Michigan Department of Environmental Quality
P.O. Box 30260
Lansing, Michigan 48909

Lillian Woolley
S.E. Michigan District Headquarters
38980 Seven Mile Road
Livonia, Michigan 48152

on the 29th day of June 2001.

Shanee Rucker

Shanee Rucker, Secretary
AECAS(MI/WI)

CERTIFIED MAIL RECEIPT NUMBER: 70993400000958132897