UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:	)	
	)	
Walled Lake Citgo	)	**Administrative Order**
Walled Lake, Michigan	)	
	)	**EPA-5-01-113(a) MI-06**
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 Acting Director of the Air and Radiation Division, United States Environmental Protection Agency (U.S. EPA), Region 5, is issuing this Order to Misamer Kahil, Owner of Walled Lake Citgo (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. § 82.42(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.

6. 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.

7. The Administrator of U.S. EPA may require any person who is subject to any requirement of the Act to provide information required by the Administrator 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

8. Respondent owns and operates a facility at 750 Pontiac Trail, Walled Lake, Michigan.

9. Respondent performs service on motor vehicle air conditioners for consideration at the facility identified in paragraph 8. Therefore, Respondent is subject to 40 C.F.R. § 82.42(a).

10. Respondent is "subject to any requirement" of the Clean Air Act 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).

11. On July 11, 2000, authorized representatives of the Administrator (the inspectors) conducted a compliance inspection of Respondent's facility in order to determine Respondent's compliance status with Section 609 of the Act.

12. The inspectors observed that Mr. Kahil was performing work involving R-12 or R-134A refrigerants without using equipment dedicated to R-12 or R-134A refrigerant as required by 40 C.F.R. § 82.34(a)(1).

13. On November 16, 2000, U.S. EPA issued a Notice of Intent to File Civil Administrative Complaint Against the Respondent.

14. 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.

15. On the basis of these facts, U.S. EPA finds that Respondent violated Section 609(d) of the Act, 42 U.S.C. § 7671h(d), and the implementing regulations at 40 C.F.R. § 82.34(a)(1).

IT IS HEREBY ORDERED THAT:

16. Respondent shall maintain compliance with Section 609(c) of the Act, 42 U.S.C. § 7671g, and the regulations at Title 40 of the *Code of Federal Regulations*, Part 82, Subparts B and G.

17. Respondent shall ensure that only dedicated refrigerant recovery equipment as required by 40 C.F.R. § 82.34(a)(1) will be used to perform service or repair on MVACs. Respondent certifies to U.S. EPA that it will not perform service or repair on MVACs without properly using refrigerant recovery equipment approved pursuant to § 82.36.

18. Respondent shall submit a signed letter of intent to comply with this order, within 3 business days. Such notice shall be mailed to the address listed below:

U.S. Environmental Protection Agency
Region 5
Attn: Rochelle Marceillars
Air and Radiation Division
Mailcode: AE-17J
77 West Jackson Boulevard
Chicago, Illinois 60604

19. 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.

20. 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.

21. Nothing contained in this 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.

22. Nothing in this 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).

23. This 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.

24. 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 contacting Ms. Marceillars, at (312) 353-4370 within five (5) calendar days of Respondent's receipt of this Order.

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

3/9/01
Date

Cheryl Newton, Acting Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Shanee Rucker, certify that I sent the Administrative Consent Order, EPA-5-01-113(a) MI-06, by Certified Mail, Return Receipt Requested, to:

Misamer Kahil, Owner
Walled Lake Citgo
750 Pontiac Trail
Walled Lake, Michigan 48390

I also certify that I sent a copy of the Administrative Consent Order, EPA-5-01-113(a) MI-06, First Class Mail to:

Tim McGarry, Supervisor
Enforcement Unit
Air Quality Division
Michigan Department of Environmental Quality
Hollister Building
101 West Allegan Street
P.O. Box 30260
Lansing, Michigan 48909-7760

on the 9th day of March 2001.

Shanee Rucker

Shanee Rucker, Secretary
AECAS(MI-WI)

CERTIFIED MAIL RECEIPT NUMBER: 7099 3400 0000 9592 4694