



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

MAR - 2 2012

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Kim Ferraro
Attorney at Law
150 Lincolnway, Suite 3002
Valparaiso, Indiana 46383

Re: C & M Recycling, North Chicago, Illinois

Dear Ms. Ferraro:

Enclosed is the Administrative Consent Order (ACO) entered into by C & M Recycling (C & M) and the United States Environmental Protection Agency. Please retain this copy for your records.

The terms of this Order became effective on the date of signature by the Director, and are binding for two years from the effective date. Failure to comply with this Order may subject C & M to penalties of up to \$37,500 per day for each violation under Section 113 of the Act, 42 U.S.C. § 7413, and 40 C.F.R. Part 19.

Should you have any questions, please contact Ms. Louise Gross, Associate Regional Counsel, at (312) 886-6844, or Ms. Natalie Topinka, of my staff, at (312) 886-3853.

Sincerely,

A handwritten signature in black ink, appearing to read "Nathan Frank", written over a large, sweeping horizontal line that extends across the page.

Nathan Frank, Chief
Air Enforcement and Compliance Assurance Section (IL/IN)

Enclosures: ACO

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the matter of:)	EPA-5-12-113(a)-IL-02
)	Proceeding Under Sections
C&M Recycling)	113(a)(3) and 114 (a)(1)
)	of the Clean Air Act,
)	42 U.S.C. §§ 7413(a)(3) and 7414(a)(1)
North Chicago, Illinois)	
)	
)	
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_____)	

Administrative Consent Order

1. The Director of the Air and Radiation Division (Director), U.S. Environmental Protection Agency, Region 5 (EPA), is entering into this Administrative Consent Order (Order) with C&M Recycling (C&M), 1600 Morrow Avenue, North Chicago, Illinois, 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).

I. Statutory and Regulatory Background

2. Section 113(a)(3)(B) of the Act, 42 U.S.C. § 7413(a)(3)(B), authorizes the Administrator of EPA to issue an order requiring compliance with Subchapter VI of the Act to any person who has violated or is violating any requirement of Subchapter VI. The Administrator of EPA has delegated her order authority to the Regional Administrator of EPA, Region 5. The Regional Administrator of EPA, Region 5, has delegated her order authority to the Director of the Air and Radiation Division.

3. The Administrator of EPA may require any person who owns or operates an emission source to make reports and provide information required by the Administrator under

Section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1). The Administrator of EPA has delegated her information gathering authority to the Regional Administrator of EPA, Region 5. The Regional Administrator of EPA, Region 5, has delegated her information gathering authority to the Director pursuant to EPA Region 5.

4. 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). EPA has codified these regulations at 40 C.F.R. Part 82, Subpart F.

5. 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 from the suppliers of the small appliances and MVACs 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).

6. 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.

7. 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.

II. Findings

8. C&M owns and operates a scrap metal recycling facility at 1600 Morrow Avenue, North Chicago, Illinois. C&M is a corporation organized and doing business in Illinois. C&M is a "person," as defined by 40 C.F.R. § 82.152.

9. C&M 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.

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

11. On September 6, 2011, EPA issued to C&M a Finding of Violation alleging that it violated 40 C.F.R. § 82.156(f) because it neither recovered refrigerant from small appliances and MVACs nor obtained proper verification statements.

12. On September 28, 2011, C&M conferred with EPA concerning the violations referenced in paragraph 11.

III. Compliance Program

13. C&M must comply with 40 C.F.R. Part 82. Additionally, C&M must take the following actions by the dates specified and maintain compliance with paragraphs 14 through 21, below, for two years after the effective date of this Order for any small appliance or MVAC that it receives at its facility.

14. By the effective date of this Order, C&M must no longer accept small appliances or MVACs with cut or dismantled refrigerant lines, unless its suppliers can provide the certifications identified in paragraph 15, below.

15. By the effective date of this Order, C&M must notify its suppliers in writing that it will not accept small appliances or MVACs with cut or dismantled refrigerant lines, unless the suppliers can certify that the refrigerant was properly evacuated prior to cutting or dismantling the refrigerant lines. C&M must have its suppliers use either the verification statement included as Attachment 1 to this Order, or the refrigerant recovery contract included as Attachment 2, as appropriate, if the suppliers state that refrigerant was previously evacuated.

16. By the effective date of this Order, C&M must notify its suppliers in writing that it will provide refrigerant recovery services at no reduction in the value of the scrap or additional cost not shared by all of C&M's customers. C&M may satisfy the notice requirements of paragraphs 15 and 16 with a sign that is prominently displayed at the initial point of entry to the site during the period of time that this Order is effective.

17. By the effective date of this Order, C&M must either purchase and use equipment to recover refrigerant from small appliances and MVACs from which refrigerant has not been recovered prior to delivery to C&M, or contract with a third party that has the necessary equipment to recover the refrigerant from such appliances and MVACs.

18. If C&M accepts small appliances and MVACs from which refrigerant has not been recovered prior to delivery, C&M must have the refrigerant recovered by a properly trained individual. If that individual is an employee of C&M, then C&M will ensure that the individual is properly trained to use the equipment identified in paragraph 17.

19. By the effective date of this Order, C&M must use the refrigerant recovery log included as Attachment 3 to this Order. C&M will retain copies of receipts for all refrigerant it collects and sends to another company for reclamation.

20. Within 30 days of the effective date of this Order, C&M must provide EPA with proof of its compliance with the notice requirements of paragraphs 15 and 16. Within 30 days of the effective date of this Order, C&M must also provide EPA with proof that it has either purchased the equipment and has an individual trained in recovering refrigerant, as required by paragraphs 17 and 18; or contracted with a third party, as required by paragraph 17.

21. Within 30 days of June 30, 2012, December 31, 2012, June 30, 2013, and December 31, 2013, C&M must submit to EPA a copy of its refrigerant recovery log, the receipts for reclaimed refrigerant required by paragraph 19 and any verification statements used pursuant to paragraph 15 above from the preceding six-month reporting period.

22. C&M must send all reports, electronically or by hard copy, required by this Order to:

Attention: Compliance Tracker (AE-17J)
Air Enforcement and Compliance Assurance Branch
EPA Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

IV. General Provisions

23. C&M agrees to the terms of this Order.
24. This Order does not affect C&M's responsibility to comply with other federal, state, and local laws.
25. This Order does not restrict EPA's authority to enforce any requirement of the Act or its implementing regulations.
26. Nothing in this Order limits EPA's authority to seek appropriate relief, including penalties under Section 113 of the Act, 42 U.S.C. § 7413, for C&M's violation of the requirements of 40 C.F.R. Part 82, Subpart F.
27. Failure to comply with this Order may subject C&M to penalties of up to \$37,500 per day for each violation under Section 113 of the Act, 42 U.S.C. § 7413, and 40 C.F.R. Part 19.
28. C&M may assert a claim of business confidentiality under 40 C.F.R. Part 2, Subpart B, for any portion of the information it submits to EPA. Information subject to a business confidentiality claim is available to the public only to the extent allowed by 40 C.F.R. Part 2, Subpart B. If C&M fails to assert a business confidentiality claim, EPA may make all submitted information available, without further notice, to any member of the public who requests it. Emission data provided under Section 114 of the Act, 42 U.S.C. § 7414, is not entitled to confidential treatment under 40 C.F.R. Part 2, Subpart B. "Emission data" is defined at 40 C.F.R. § 2.301.
29. This Order is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 *et seq.*, because it seeks collection of information by an agency from specific individuals or entities as part of an administrative action or investigation. If submitted in hard copy, to aid in our

electronic record keeping efforts, please provide your response(s) to this Order without staples. Paper clips, binder clips, and 3-ring binders are acceptable.

30. The terms of this Order are binding on C&M, its assignees, and successors. C&M must give notice of this Order to any successors in interest prior to transferring ownership and must simultaneously verify to EPA that it has given the notice.

31. EPA may use any information submitted under this Order in an administrative, civil judicial, or criminal action.

32. This Order is effective on the date of signature by the Director of the Air and Radiation Division. This Order will terminate two years from the effective date, provided that C&M has complied with all terms of the Order throughout its duration.

33. Each person signing this Order 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.

34. Each party agrees to pay its own costs and attorneys' fees in this action.

35. This Order constitutes the entire agreement between the parties.

36. By execution of this Order, C&M does not admit any liability for the acts complained of, and reserves the right to assert all valid defenses against EPA in any future proceeding under Sections 113 (b) or (d) of the Act, 42 U. S. C. §§ 7413 (b) and (d).

AGREED AS STATED ABOVE:

C&M RECYCLING

Date: 2-10-12

By: 

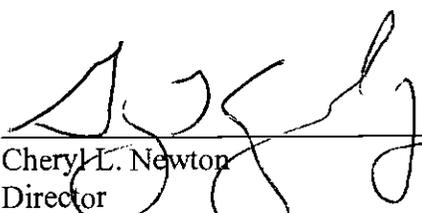
Name: JOSH BRAUS

Title: MANAGER

AGREED AND SO ORDERED:

U. S. ENVIRONMENTAL PROTECTION AGENCY

Date: 3/2/12

 ACTING
Cheryl L. Newton
Director
Air and Radiation Division

CERTIFICATE OF MAILING

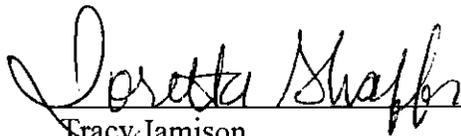
I, Tracy Jamison, certify that I sent Administrative Consent Order EPA-5-12-113(a)-IL-02 by Certified Mail, Return Receipt Requested, to:

Kim Ferraro
Attorney at Law
150 Lincolnway, Suite 3002
Valparaiso, IN 46383

With a copy to:

C & M Recycling
Attn: Michael Braus
1600 Morrow Avenue
North Chicago, IL 60064

On the 6th day of March 2012.



Tracy Jamison
Administrative Program Assistant
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER: 7009 1680 0000 7673 9306