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

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

AUG 30 2016

REPLY TO THE ATTENTION OF

Rudy Holesek, CEO
Green Way Solutions II LLC
225 N. Fehr Way
Bay Shore, NY 11706

Re: Finding of Violation
Green Way Solutions II, LLC
Bay Shore, New York

Dear Mr. Holesek:

The U.S. Environmental Protection Agency is issuing the enclosed Finding of Violation (FOV) to Green Way Solutions II LLC (you) under Section 113(a)(1) of the Clean Air Act, 42 U.S.C. § 7413(a)(1). We find that you have violated the Clean Air Act, 42 U.S.C § 7413(a) (the CAA), specifically the Significant New Alternative Policy Program regulations at 40 C.F.R. Part 82, Subpart G. EPA promulgated these regulations under Section 608 of the CAA, 42 U.S.C. § 7671g.

Section 113 of the Clean Air Act gives us several enforcement options. These options include issuing an administrative compliance order, issuing an administrative penalty order and bringing a judicial civil or criminal action.

We are offering you an opportunity to confer with us about the violations alleged in the FOV. The conference will give you an opportunity to present information on the specific findings of violation, any efforts you have taken to comply and the steps you will take to prevent future violations. In addition, in order to make the conference more productive, we encourage you to submit to us information responsive to the FOV prior to the conference date.

Please plan for your facility's technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

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The EPA contact in this matter is Sara Loiacono. You may call her at (312) 353-9199 to request a conference. You should make the request within 10 calendar days following receipt of this letter. We should hold any conference within 30 calendar days following receipt of this letter.

Sincerely,

Edward Nam
Acting Director
Air and Radiation Division

Enclosure

cc: Robert Buettner, Chief
Air Compliance Branch
US EPA Region 2

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:	)	
	)	
Green Way Solutions II LLC	)	**FINDING OF VIOLATION**
Bay Shore, New York	)	
	)	**EPA-5-16-COE-04**
Proceedings Pursuant to	)	
Section 113(a)(1) of the	)	
Clean Air Act, 42 U.S.C.	)	
§ 7413(a)(1)	)	

FINDING OF VIOLATION

The U.S. Environmental Protection Agency (EPA) finds that Green Way Solutions II LLC (Green Way Solutions) is violating the Clean Air Act (CAA), 42 U.S.C. § 7401 *et seq.* Specifically, Green Way Solutions is violating the provisions of the "Significant New Alternatives Policy" (SNAP) program regulations at 40 C.F.R. Part 82, Subpart G, as follows:

Statutory and Regulatory Background

1. Section 612 of the CAA, 42 U.S.C. § 7671k, authorizes EPA to identify, review and restrict the use of substitutes for "Class I" and "Class II" ozone-depleting substances (ODS).

2. Under Section 602(b) of the CAA, 42 U.S.C. § 7671a(b), Congress identified "HCFC-22" as a "Class II" ODS.

3. Section 612(a) of the CAA, 42 U.S.C. § 7671k(a), requires that, to the maximum extent practicable, Class I and Class II ODS be replaced by chemicals, product substitutes, or alternative manufacturing processes that reduce overall risks to human health and the environment.

4. Under Section 612(c) of the CAA, 42 U.S.C. § 7671k(c), EPA promulgated the SNAP program regulations at 40 C.F.R. Part 82, Subpart G. These regulations establish standards and requirements for the use of Class I and Class II substances used in specific major industrial sectors where a substitute is used to replace an ODS including, among other things, refrigeration and air conditioning. See 59 *Fed. Reg.* 13044 (March 18, 1994).

5. Among the purposes of the SNAP regulations is to provide for safe alternatives to ODS. 40 C.F.R. § 82.170(a).

6. Among the objectives of the SNAP program is to identify substitutes for ODS that present lower overall risks to human health and the environment relative to Class I and Class II substances being replaced. 40 C.F.R. § 82.170(b).

7. Under the SNAP regulations at 40 C.F.R. § 82.176(a), any producer of a new substitute must submit a notice of intent to introduce a new substitute into interstate commerce 90 days prior to such introduction.

8. Under the SNAP regulations at 40 C.F.R. § 82.174(a), no person may introduce a new substance into interstate commerce before the expiration of 90 days after a notice is initially submitted to EPA under 40 C.F.R. § 82.176(a).

9. Under the SNAP regulations at 40 C.F.R. § 82.174(b), no person may use a substitute which a person knows or has reason to know was manufactured, processed or imported in violation of the SNAP regulations.

10. Under the SNAP regulations at 40 C.F.R. § 82.172, "substitute or alternative" is defined as "any chemical, product substitute, or alternative manufacturing process, whether existing or new, intended for use as a replacement for a class I or class II compound."

11. Under the SNAP regulations at 40 C.F.R. § 82.172, "use" is defined as "any use of a substitute for a Class I or Class II ozone-depleting compound, including but not limited to use in a manufacturing process or product, in consumption by the end-user, or in intermediate uses, such as formulation or packaging for other subsequent uses."

12. Under the SNAP regulations at 40 C.F.R. § 82.172, "person" is defined to include a corporation.

13. EPA has promulgated a list of hydrocarbon refrigerants acceptable as substitutes for Class I or Class II ODS refrigerants. (See Appendix R to 40 C.F.R. Part 82, Subpart G.) This list does not contain any flammable hydrocarbon refrigerants acceptable for use as a retrofit in equipment designed for nonflammable materials, with the exception of industrial process refrigeration. See 59 *Fed. Reg.* 13044 (March 18, 1994).

Factual Background

14. Green Way Solutions is a corporation with a place of business at 225 North Fehr Way, Bay Shore, New York (the Bay Shore facility).

15. Green Way Solutions is a "person" under the SNAP regulations.

16. At the Bay Shore facility, Green Way Solutions sells and distributes hydrocarbon refrigerants under the registered trademark "Priority Cool®."

17. "HC22a/502a" is a Priority Cool® refrigerant sold by Green Way Solutions.

18. Green Way Solutions sells and distributes "HC22a/502a" domestically.

19. "HC22a/502a" is a hydrocarbon refrigerant.

20. Hydrocarbons are flammable substances.

21. The Material Safety Data Sheets for "HC22a/502a" state that it is an "extremely flammable gas" that is "potentially explosive" and "may cause flash fire" and that "accidental releases pose a serious fire or explosion hazard."

22. The product labels for "HC22a/502a" state that it "can form explosive mixtures with air."

23. HCFC-22 is a non-flammable, Class II ODS approved by EPA for many end-uses in the refrigeration and air conditioning sector (e.g., industrial process refrigeration, vending machines, household refrigerators and freezers, residential dehumidifiers). See 59 *Fed. Reg.* 13044 (March 18, 1994), 59 *Fed. Reg.* 44240 (August 26, 1994), and 60 *Fed. Reg.* 3318 (January 13, 1995).

24. CFC-115 is a non-flammable, Class I ODS used in non-mechanical heat transfer.

25. R-502 is a non-flammable, Class I ODS used in many refrigeration and air conditioning applications, such as industrial process refrigeration, ice skating rinks, cold storage warehouses, refrigerated transport, retail food refrigeration, vending machines, water coolers, commercial ice machines, household refrigerators and freezers, and non-mechanical heat transfer.

26. HCFC-22 is commonly referred to as R-22.

27. CFC-115 is commonly referred to as R-115.

28. R-502 is a blend of R-22 and R-115.

29. Technical materials prepared by Green Way Solutions related to the use of Priority Cool® hydrocarbon refrigerants state that they are intended "to replace existing CFC or HCFC refrigerants."

30. Marketing materials for "HC22a/502a" state that it was developed as a "drop-in replacement for refrigerants R-22 [and] R-502" and that it is a "direct replacement for many refrigeration and air conditioning systems currently using R-22 [or] R-502."

31. The product label for "HC22a/502a" states that it is "equivalent to 30 lbs. of R22."

32. "HC22a/502a" is a product substitute intended for use as a replacement for a Class I or Class II compound, and thus a "substitute," as defined by the SNAP regulations at 40 C.F.R. § 82.172.

33. The original Class II substance that "HC22a/502a" is intended to replace, R-22, is still available for use as a refrigerant and is commonly used throughout the industry.

34. The original Class I substance that "HC22a/502a" is intended to replace, R-502, is still available for use as a refrigerant and is commonly used throughout the industry.

35. "HC22a/502a" is not contained in EPA's list of acceptable hydrocarbon substitutes at Appendix R to 40 C.F.R. Part 82, Subpart G, or 59 *Fed. Reg.* 13044.

36. No notice of intent to introduce "HC22a/502a" into interstate commerce has been submitted to EPA.

37. EPA has not approved "HC22a/502a" as a substitute for R-22.

38. EPA has not approved "HC22a/502a" as a substitute for R-502.

Violations

39. Because EPA has not received a notice of intent to introduce "HC22a/502a" into interstate commerce, Green Way Solutions introduced "HC22a/502a" into interstate commerce before the expiration of 90 days after initial submission to EPA of the notice of intent, in violation of 40 C.F.R. § 82.174(a).

40. By selling and distributing "HC22a/502a," Green Way Solutions used a substitute which it knows or has reason to know was manufactured, processed or imported in violation of the SNAP regulations, in violation of 40 C.F.R. § 82.174(b).

Environmental Impact of Violations

41. The use of "HC22a/502a," a hydrocarbon refrigerant, in unapproved uses as a substitute for R-22 or R-502 creates the potential for explosion and fires. As such, it presents a serious risk to human health and the environment.

3/31/16
Date

Edward Nam
Acting Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Loretta Shaffer, certify that I sent a Finding of Violation, No. EPA-5-16-COE-04, by Certified Mail, Return Receipt Requested, to:

Rudy Holesek, CEO
Green Way Solutions II LLC
225 N. Fehr Way
Bay Shore, NY 11706

I also certify that I sent a copy of the Finding of Violation by email to:

Robert Buettner
Chief, Air Compliance Branch
US EPA Region 2
buettner.robert@epa.gov

On the 30 day of August 2016.

Loretta Shaffer

Loretta Shaffer
Program Technician
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER: 7009 1680 0000 7674 0746