



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

NOV 18 2011

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

J. Jeffrey McNealey
Porter Wright Morris & Arthur LLP
41 South High Street
Suites 2800-3200
Columbus, OH 43215-6194

Re: I.H. Schlezinger, Inc., Columbus, Ohio

Dear Mr. McNealey:

Enclosed is the Administrative Consent Order (ACO) entered into by I.H. Schlezinger, Inc. – Joyce location (Schlezinger) 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 Schlezinger 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 Mr. Erik Olson, Associate Regional Counsel, at (312) 886-6829, or Ms. Natalie Topinka, of my staff, at (312) 886-3853.

Sincerely,

A handwritten signature in cursive script, appearing to read "Brent Marable", followed by the word "for".

Brent Marable, 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)-OH-02
)	Proceeding Under Sections
I. H. Schlezinger, Inc.)	113(a)(3) and 114 (a)(1)
1041 Joyce Avenue)	of the Clean Air Act,
)	42 U.S.C. §§ 7413(a)(3) and 7414(a)(1)
Columbus, Ohio)	
)	
)	
)	
)	
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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 I. H. Schlezinger, Inc. (Schlezinger), 1041 Joyce Avenue, Columbus, Ohio, 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 pursuant to EPA Headquarters Delegation 7-6-A. The Regional Administrator of EPA, Region 5, has delegated her order authority to the Director pursuant to EPA Region 5 Delegation 7-6-A.

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 pursuant to EPA Headquarters Delegation 7-8. The Regional Administrator of EPA, Region 5. has delegated her information gathering authority to the Director pursuant to EPA Region 5 Delegation 7-8.

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). These regulations for protection of the stratospheric ozone, recycling and emissions reduction are found in 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. Schlezinger owns and operates a scrap metal recycling facility, located at 1041 Joyce Avenue, Columbus, Ohio. Schlezinger is a corporation organized and doing business in Ohio. Schlezinger is a person as defined by 40 C.F.R. § 82.152.

9. Schlezinger 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. Schlezinger has accepted small appliances and MVACs without recovering refrigerant. Schlezinger has not obtained verification statements that met the requirements of 40 C.F.R. § 82.156(f) for these small appliances and MVACs.

11. Schlezinger has violated 40 C.F.R. § 82.156(f) because it neither recovered refrigerant from small appliances and MVACs nor obtained proper verification statements.

12. Schlezinger has had an opportunity to confer with EPA concerning the violations referenced in paragraph 11.

III. Compliance Program

13. Schlezinger must comply with 40 C.F.R. Part 82. Additionally, Schlezinger 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 November 30, 2011, Schlezinger must no longer accept small appliances or MVACs with cut or dismantled refrigerant lines unless its supplier can provide the certification described in paragraph 15 below.

15. By November 30, 2011, Schlezinger 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. Schlezinger must have its suppliers use the verification statement included as Attachment 1 to this Order or the refrigerant recovery contract included as Attachment 2, as appropriate, if they claim that refrigerant was previously evacuated.

16. By September 30, 2011, Schlezinger must notify its suppliers in writing that it will provide refrigerant recovery services at its facility at no additional cost or reduction in the value of the scrap. Schlezinger may satisfy the notice requirements of paragraphs 15 and 16 with signs that are prominently displayed at the initial point of entry to the facility during the period of time that this Order is effective.

17. By November 30, 2011, Schlezinger must purchase and use equipment at its facility to recover refrigerant from small appliances and MVACs from which refrigerant has not been recovered prior to delivery to Schlezinger.

18. Schlezinger must have the refrigerant recovered by a properly trained individual. If that individual is an employee of Schlezinger, then Schlezinger will ensure that the individual is properly trained to use the equipment identified in paragraph 17.

19. By November 30, 2011, Schlezinger must use the refrigerant recovery log for each facility included as Attachment 3. Schlezinger will retain copies of receipts for all refrigerant it collects and sends to another company for reclamation.

20. By December 31, 2011, Schlezinger must provide EPA with proof of its compliance with the notice requirements of paragraphs 15 and 16. By December 31, 2011, Schlezinger must also provide EPA with proof that it purchased the equipment required by paragraph 17 and has an individual trained in recovering refrigerant as required by paragraph 18.

21. Within 30 days of May 31, 2012, November 30, 2012, May 31, 2013, and November 30, 2013, Schlezinger must submit to EPA a copy of its refrigerant recovery logs from its facility, the information required by paragraph 19 and any verification statements used pursuant to paragraph 15 above from the preceding six month reporting period.

22. Schlezinger 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
Chicago, Illinois 60604

IV. General Provisions

23. Schlezinger agrees to the terms of this Order.

24. Schlezinger will not contest the authority of EPA and it to enter into this agreement. Schlezinger waives any further opportunity to confer or have a hearing.

25. This Order does not affect Schlezinger's responsibility to comply with other federal, state, and local laws.

26. This Order does not restrict EPA's authority to enforce any requirement of the Act or its implementing regulations.

27. Failure to comply with this Order may subject Schlezinger 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. Schlezinger 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 Schlezinger 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 Schlezinger, its assignees, and successors. Schlezinger must give notice of this Order to any successors in interest prior to transferring ownership of its facility 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. This Order will terminate two years from the effective date, provided that Schlezinger 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.

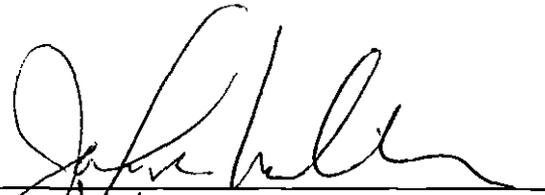
35. This Order constitutes the entire agreement between the parties.

36. By execution of this Order, Schlezinger 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:

I.H. SCHLEZINGER, INC.

Date: NOVEMBER 9, 2011

By: 

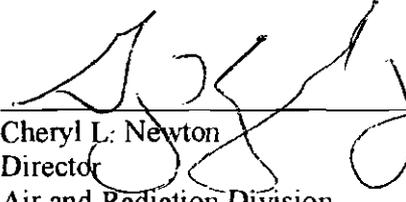
Name: John R. Miller

Title: Vice-President

AGREED AND SO ORDERED:

U. S. ENVIRONMENTAL PROTECTION AGENCY

Date: 11/9/11

 F012
Cheryl L. Newton
Director
Air and Radiation Division



I. H. SCHLEZINGER
REFRIGERANT EVACUATION CERTIFICATION



Under penalty of law, the undersigned SELLER hereby certifies to I.H. Schlezinger (hereinafter "Buyer") that the appliance formerly containing refrigerant sold to BUYER on the date set forth below hereby comports to the legal requirements as denoted below. Seller also agrees to hold the BUYER harmless from any and all liability, including fines and attorney fees, arising from the improper evacuation and disposal of refrigerant. The SELLER specifically certifies compliance in one of two (2) ways as follows:

REMOVED BY SELLER'S QUALIFIED TECHNICIAN: Pursuant to 40 CFR Part 82 Subpart F, undersigned SELLER certifies that all refrigerant (including, but not limited to, chlorofluorocarbons (CFCs) and hydrochlorofluorocarbons (HCFCs), as defined in Section 608 of the Clean Air Act Amendments and 40 CFR Part 82)), has been legally removed and recovered from appliances delivered under this contract of sale prior to delivery on (date of removal) _____ by (name of qualified technician) _____, whose address is _____ using USEPA-certified equipment.

OR

REMOVED BY BUYER:

The refrigerant was not removed and needs to be recovered by qualified technicians employed by the Buyer.

The term "appliance" means "any device which contains and uses a refrigerant and which is used for household or commercial purposes, including any air conditioner, refrigerated chiller, or freezer." An "appliance" includes both whole devices/machines/appliances and any portion of the refrigerant circuitry. The appliance(s) which is the subject of this sale is:

Descriptions:

Type of unit: _____ Model _____ Manufacturer: _____ Line Cut: Yes or No
Type of unit: _____ Model _____ Manufacturer: _____ Line Cut: Yes or No
Type of unit: _____ Model _____ Manufacturer: _____ Line Cut: Yes or No

WARNING: By signing this form, you as the SELLER affirm that the information required under Code of Federal Regulations Chapter 40 Part 82 Subpart F is true. If you provide false or incomplete information, you may be subject to felony and/or misdemeanor criminal charges, including the crime of Falsification pursuant to Ohio Revised Code 2921.13.

SELLER:

Date: _____

Transaction Record No.: _____

Note: If the BUYER knows or has reason to know this signed statement is false it is a violation of law.

TERMS OF PURCHASE
for
Refrigerant Containing Metal Scrap

This agreement is made as of the date set forth below between I.H. Schlezinger, Inc., 1041 Joyce Avenue, Columbus, Ohio 43219, and the undersigned SELLER of scrap metal.

WHEREAS, the United States Environmental Protection Agency (USEPA) and Ohio Environmental Protection Agency (OEPA) have various regulations regarding protection of clean air, which regulations are set forth at 40 CFR Part 82 (Subpart F), whereby sellers of certain scrap metal which, in the past may have contained refrigerant which if improperly released can cause damage to our environment, are required to certify compliant removal for all refrigerants prior to sale to I.H. Schlezinger, Inc.; and

WHEREAS, the undersigned wishes to sell scrap metal, which previously contained such refrigerant, to I.H. Schlezinger, Inc.

NOW, THEREFORE, be it agreed by and between the undersigned SELLER and I.H. Schlezinger, Inc., and in consideration of I.H. Schlezinger, Inc.'s agreement to purchase certain scrap metal previously containing refrigerant, SELLER does hereby agree and certify that:

Pursuant to 40 CFR Part 82 (Subpart F), federal and state regulations require removal of all refrigerant (including, but not limited to, chlorofluorocarbons (CFCs) and hydrochlorofluorocarbons (HCFCs), as defined in Section 608 of the Clean Air Act Amendments and 40 CFR, Part 82, that has not leaked previously, SELLER hereby certifies that any and all refrigerants will have been recovered prior to delivery from appliances to be delivered to I.H. Schlezinger, Inc. for sale. The term "appliances" means "any device which contains and uses a refrigerant and which is used for household or commercial purposes, including any air conditioner, refrigerated chiller or freezer." Further, SELLER agrees to indemnify and hold I.H. Schlezinger, Inc. harmless from any claim, penalty, fine, fee, cost, attorney fees, or other liability resulting, in whole or in part, from SELLER's breach of this certification.

IN WITNESS WHEREOF, I.H. Schlezinger, Inc. and the undersigned SELLER hereby execute this agreement by their duly authorized representatives as of this ____ day of _____, 201__.

I.H. SCHLEZINGER, INC.

By: _____
Print Name: _____
Print Title: _____

SELLER

By: _____
Print Name: _____
Print Title: _____
Customer Number _____
HVAC License Number _____

CERTIFICATE OF MAILING

I, Tracy Jamison, certify that I sent Administrative Consent Order

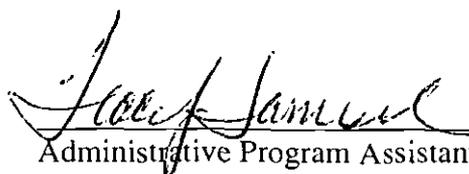
EPA-5-12-113(a)-OH-02 by Certified Mail, Return Receipt Requested, to:

J. Jeffrey McNealey
Porter Wright Morris & Arthur LLP
41 South High Street
Suites 2800-3200
Columbus, Ohio 43215-6194

With a copy to:

John Miller
I. H. Schlezinger, Inc.
2040 Parsons Avenue
Columbus, Ohio 43207

On the 18th day of November 2011.


Administrative Program Assistant

AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER: 7009 11680 0000 7672 8720

Standard bcc's: Official File Copy w/Attachment (s)
Originating Organization Reading File w/Attachment(s)

Other bcc's: Erik Olson (C-14J)