



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

MAR - 2 2016

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Stephen T. Grossmark, Partner
Tressler LLP
233 South Wacker Drive, 22nd Floor
Chicago, Illinois 60606

Re: Administrative Order EPA-5-16-113(a)-IL-08

Dear Mr. Grossmark:

Enclosed is an executed original of the Administrative Consent Order regarding the above captioned case. If you have any questions about the Order, please contact me at (312) 866-3850.

Sincerely,

A handwritten signature in black ink, appearing to read "Nathan Frank", with a long horizontal flourish extending to the right.

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

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:)	EPA-5-16-113(a)-IL-08
)	
Adelman's Truck and Equipment Corp. d/b/a Adelman's Resource Solutions Chicago, Illinois)	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)
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Administrative Consent Order

1. The Director of the Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 5, is entering into this Order with Adelman's Truck and Equipment Corp. d/b/a Adelman's Resource Solutions (Adelman's), 3051 East 106th Street, Chicago, Illinois, under Section 113(a)(3) and 114(a)(1) of the Clean Air Act (CAA), 42 U.S.C. §§ 7413(a)(3) and 7414(a)(1).

Statutory and Regulatory Background

2. Section 113(a)(3)(B) of the CAA, 42 U.S.C. § 7413(a)(3)(B), authorizes the Administrator of EPA to issue an order requiring compliance with Subchapter VI of the CAA 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 of the Air and Radiation Division 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 CAA, 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 of the Air and Radiation Division pursuant to EPA Region 5 Delegation 7-8.

4. Subchapter VI of the CAA, 42 U.S.C. § 7671, *et seq.* provides for the protection of stratospheric ozone. Section 608(b) of the CAA, 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 (MVACs) 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. Section 608(c)(1) of the CAA, 42 U.S.C. § 7671g(c)(1), provides that effective July 1, 1992, it shall be unlawful for any person, in the course of maintaining, servicing, repairing, or disposing of an appliance or industrial process refrigeration, to knowingly vent or otherwise knowingly release or dispose of any class I or class II substance used as a refrigerant in such appliance (or industrial process refrigeration) in a manner which permits such substance to enter the environment.

6. Section 608(c)(2) of the CAA, 42 U.S.C. § 7671g(c)(2), provides that effective 5 years after November 15, 1990, it shall be unlawful for any person maintaining, servicing, repairing, or disposing of an appliance or industrial process refrigeration to knowingly vent or otherwise knowingly release or dispose of any substitute substance for a class I or class II substance unless the Administrator determines that venting, releasing, or disposing of such

substance does not pose a threat to the environment.

7. 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 MVACs must either recover the refrigerant in accordance with specific procedures or verify with signed statements 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).

8. Effective June 13, 2005, no person maintaining, servicing, repairing, or disposing of appliances may knowingly vent or otherwise release into the environment any refrigerant or substitute from such appliances. Several substitutes, not applicable to this action, are excluded from this prohibition. *See* 40 C.F.R. § 82.154(a)(1).

Findings

9. Adelman's owns and operates an end-of-life truck recycling facility at 3051 East 106th Street, Chicago, Illinois (the Facility).

10. Adelman's is a corporation doing business in Illinois.

11. Adelman's is a "person," as defined by 40 C.F.R. § 82.152.

12. Adelman's is a person who takes the final step in the disposal process of MVACs and is subject to the requirements of 40 C.F.R. Part 82, Subpart F.

13. On March 11, 2014, EPA inspected the Facility to assess Adelman's compliance with the CAA. During this inspection, EPA observed wrecked trucks, semi cabs and some appliance components. Adelman's did not produce verification statements during the inspection

and stated it did not recover refrigerant at the time of the inspection.

14. On June 27, 2014, EPA issued a CAA Section 114 Information Request to obtain information to assess compliance with verification, recovery and disposal practices at Adelman's Facility.

15. On July 28, 2014, EPA collected information from the Chicago Police Department regarding stolen vehicles found at Adelman's Facility.

16. On July 31, 2014, EPA received a response to the CAA Section 114 Information Request from Adelman's.

17. Based on the March 11, 2014 inspection, the records collected on July 28, 2014 from the Chicago Police Department and Adelman's July 31, 2014 response to EPA's CAA Section 114 Information Request, Adelman's accepted MVACs without either recovering refrigerant or obtaining verification statements in violation of 40 C.F.R. § 82.156(f) on certain occasions from January 1, 2011 through April 8, 2014.

18. Based on the March 11, 2014 inspection, the records collected on July 28, 2014 from the Chicago Police Department and Adelman's July 31, 2014 response to EPA's CAA Section 114 Information Request, Adelman's knowingly vented or otherwise released into the environment refrigerant or substitute from MVACs in violation of 40 C.F.R. § 82.154(a)(1) from January 1, 2011 through April 8, 2014.

19. On August 11, 2014, EPA issued to Adelman's a Finding of Violation alleging that it had violated 40 C.F.R. § 82.156(f) because it did not recover refrigerant from MVACs or obtain verification statements.

20. On September 18, 2014, Adelman's counsel and EPA discussed the Finding of Violation.

Compliance Program

21. By the effective date of this Order, Adelman's must achieve, demonstrate and maintain compliance with 40 C.F.R. Part 82, Subpart F at its Facility in Chicago, Illinois. Additionally, Adelman's must take the following actions by the dates specified and maintain compliance with paragraphs 22 through 33, below, for two years after the effective date of this Order for any small appliance or MVAC that it receives at its Facility.

22. Adelman's must not accept small appliances or MVACs with cut or dismantled refrigerant lines if it knows or has reason to know that the refrigerant or substitute has not been properly recovered.

23. Adelman's must no longer accept small appliances or MVACs with cut or dismantled refrigerant lines unless its supplier can certify, using a verification statement included as Attachment 1 to this Order, that the refrigerant or substitute was properly recovered. For suppliers with whom Adelman's has had a long-standing business relationship, this requirement may be satisfied by Adelman's entering into the contract included as Attachment 2 to this Order.

24. Adelman's agrees to use Attachment 1 and Attachment 2 to this Order, which are hereby incorporated by reference, to comply with the requirement to obtain a signed statement, as set forth in paragraph 23 above and maintain records for three years according to 40 C.F.R. § 82.166(i) and (m).

25. Adelman's may only accept small appliances with intact refrigerant lines provided it uses refrigerant recovery equipment as described in paragraph 30, below, to remove any remaining refrigerant or substitute.

26. Adelman's may only accept MVACs with intact refrigerant lines (1) if it has recovery equipment, or (2) if each intact MVAC is tested to verify that no remaining refrigerant

is present. If the pressure test indicates that no refrigerant or substitute remains in the system, the verification statement included as Attachment 1 to this Order shall be completed indicating that refrigerant leaked due to age or condition as determined by pressure test. If pressure remains in the system, then Adelman's must either (1) reject the unit until such time the supplier can provide a completed verification statement, or (2) use refrigerant recovery equipment as described in paragraph 30, below, to remove any remaining refrigerant or substitute.

27. By the effective date of this Order, Adelman's 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 or substitute was properly recovered prior to cutting or dismantling the refrigerant lines using the verification statement included as Attachment 1 to this Order or the contract included as Attachment 2 to this Order.

28. By the effective date of this Order, Adelman's must notify its suppliers in writing that it will provide refrigerant recovery services at no additional cost or reduction in the value of the items Adelman's acquires.

29. Adelman's may satisfy the notice requirements of paragraphs 27 and 28 with a sign that is prominently displayed at its weigh station during the period of time that this Order is effective.

30. By the effective date of this Order, Adelman's must use the equipment that it previously purchased to recover refrigerant and substitutes from small appliances and MVACs, or contract the services of a trained individual to recover refrigerant and substitutes from small appliances and MVACs. Adelman's must ensure that the individual using this equipment is properly trained.

31. By the effective date of this Order, Adelman's must use the small appliance /

MVAC Refrigerant Recovery Log included as Attachment 3 to this Order. Adelman's must retain copies of receipts for all refrigerant and substitutes it collects and sends to another company for reclamation. Adelman's must also document the number of small appliances or MVACs it rejects, the date the appliance was rejected, and the reason for rejecting the item(s).

32. Within six months of the effective date of this Order, at one year of the effective date of this Order, at 18 months of the effective date of this Order, and at two years of the effective date of this Order, Adelman's must provide EPA with proof of its compliance with the notice requirements of paragraphs 27 and 28, that it is using the equipment and that it has an individual trained in recovering refrigerant as required by paragraph 30.

33. Within six months of the effective date of this Order, at one year of the effective date of this Order, at 18 months of the effective date of this Order, and at two years of the effective date of this Order, Adelman's must submit to EPA a copy of its small appliance / MVAC Refrigerant Recovery Log, the information required by paragraph 31, above, and any verification statements and contracts used pursuant to this Order.

34. Adelman's must send all reports required by this Order to:

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

And by email to letuchy.alexandra@epa.gov

General Provisions

35. Adelman's neither admits nor denies the factual allegations in this Order.

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

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

38. Nothing in this Order limits the EPA's authority to seek appropriate relief, including penalties, under Section 113 of the CAA, 42 U.S.C. § 7413, for Adelman's violation of the CAA.

39. Failure to comply with this Order may subject Adelman's to penalties of up to \$37,500 per day for each violation under Section 113 of the CAA, 42 U.S.C. § 7413, and 40 C.F.R. Part 19.

40. The terms of this Order are binding on Adelman's, its assignees and successors. Adelman's must give notice of this Order to any successors in interest prior to transferring ownership and must simultaneously verify to EPA, at the above address, that it has given the notice.

41. Adelman's 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 Adelman's 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 CAA, 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.

42. 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. To aid in our electronic recordkeeping

efforts, please furnish an electronic copy on physical media such as compact disk, flash drive or other similar item. If it is not possible to submit the information electronically, submit the response to this Order without staples; paper clips and binder clips, however, are acceptable.

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

44. Adelman's agrees to the terms of this Order.

45. Adelman's waives all remedies, claims for relief and otherwise available rights to judicial or administrative review that Adelman's may have with respect to any issue of fact or law set forth in this Order, including any right of judicial review under Section 307(b) of the CAA, 42 U.S.C. § 7607(b).

46. 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.

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

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

49. 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 Adelman's has complied with all terms of the Order throughout its duration.

2/18/2016
Date

Carl M. Adelman
Carl M. Adelman
President
Adelman's Truck and Equipment Corp.
d/b/a Adelman's Resource Solutions

3/2/16
Date

George T. Czerniak
George T. Czerniak
Director
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5

[Company Name]
[Company Street Address]
[Company City, State Zip Code]

VERIFICATION OF REFRIGERANT REMOVAL

I certify that all refrigerant and substitutes (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 have not leaked previously have been recovered in accordance with the federal regulations on refrigerant recycling at 40 C.F.R. Part 82, Subpart F, from the appliances delivered under this sale.

The refrigerant has been recovered as follows:

Name of person
recovering refrigerant: _____

Address of person
recovering refrigerant: _____

Date refrigerant recovered: _____

Seller's Signature

Seller's name (print)

Date

[Company Name]
[Company Street Address]
[Company City, State Zip Code]

Refrigerant Recovery Contract

[Company or I] hereby certifies(y) and agree that [it or I] shall be responsible for properly recovering or ensuring the proper recovery of any refrigerants (including Freon) prior to delivering any appliances and motor vehicle air conditioning systems to [Company Name], [Company City, State], in accordance with EPA regulations found at 40 C.F.R. § 82.156.

Company Name

Company Address

Company Representative – Print Name

[Company Name] Representative – Print Name

Signature

Date

Signature

Date

CERTIFICATE OF MAILING

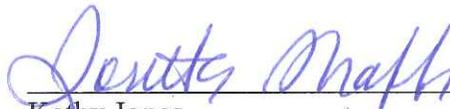
I, Kathy Jones, certify that I sent the Administrative Consent Order, EPA-5-16-113(a)-IL-08, by certified mail, return receipt requested, to:

Stephen T. Grossmark, Partner
Tressler LLP
233 South Wacker Drive, 22nd Floor
Chicago, Illinois 60606

I also certify that I sent a copy of the Administrative Consent Order, EPA-5-16-113(a)-IL-08, by first-class mail to:

Yasmine Keppner-Bauman, Acting
Manager
Compliance Unit
Bureau of Air
Illinois Environmental Protection Agency
P.O. Box 19506
Springfield, Illinois 62794

On the 11 day of March 2016.



Kathy Jones
Program Technician
AECAB, PAS

CERTIFIED MAIL RECEIPT
NUMBER:

70091680 0000 7673 7883