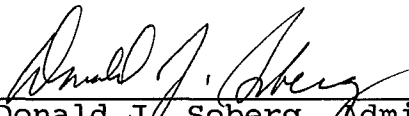


STATE OF WISCONSIN)
) SS
DEPARTMENT OF AGRICULTURE,)
TRADE AND CONSUMER PROTECTION)

I, Donald J. Soberg, Administrator of the Division of Trade and Consumer Protection, Wisconsin Department of Agriculture, Trade and Consumer Protection and custodian of the official records, certify that the annexed rules, relating to the recycling of refrigerants from mobile air conditioners, were duly approved and adopted by this department on February 14, 1991.

I further certify that this copy has been compared by me with the original on file in this department and that it is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department of Agriculture, Trade and Consumer Protection at 801 W. Badger Road in the city of Madison, this 14th day of February, 1991.



Donald J. Soberg, Administrator
Division of Trade and Consumer
Protection, Wisconsin Department of
Agriculture, Trade and Consumer
Protection



RECEIVED

FEB 14 1991
10:15 am
Revisor of Statutes
Bureau



FEB 14 1991

Revisor of Statutes
Bureau

ORDER
OF THE
STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION
ADOPTING, AMENDING OR REPEALING RULES

To create ch. Ag 136 and s. Ag 170.02 (1) (s), relating to the recycling of refrigerants from mobile air conditioners.

Analysis by the Wisconsin
Department of Agriculture, Trade and Consumer Protection

Statutory authority: ss. 93.07(1), 100.20 (2) and
100.45 (5), Stats.
Statutes interpreted: ss. 1.11, 100.20 (1), 100.45 (2) (b),
(4) and (5), Stats.

1989 Wisconsin Act 284 created a program to regulate the use of ozone-depleting refrigerants. Under that act, the legislature found that the release of chlorofluorocarbons commonly used as solvents and refrigerant fluids into the earth's atmosphere is reducing the concentration of ozone in the earth's stratosphere which in turn causes an increase in ultraviolet intensity at the earth's surface.

This increase in ultraviolet intensity at the earth's surface could cause an increase in human skin cancer and cataract cases, suppression of human immune systems, a decrease in crop yields and damage to marine phytoplankton, and an increase in the global greenhouse effect.

As part of the act, the legislature created s. 100.45, Stats., which incrementally restricts the distribution of mobile air conditioners using ozone-depleting refrigerant over the next five years, and prohibits any distribution after December 31, 1995. The department is authorized to grant one-year waivers from these restrictions to any manufacturer or distributor based on certain criteria.

Section 100.45 also regulates (1) business establishments which may sell or offer to sell ozone-depleting refrigerant and (2) business establishments which either install mobile air conditioners that contain ozone-depleting refrigerant, or perform motor vehicle repairs that release or may release ozone-depleting refrigerant.

The department of agriculture, trade and consumer protection is responsible for administering s. 100.45, Stats. The department is

directed to promulgate rules for this purpose.

Chapter Ag 136, Wis. Adm. Code, interprets s. 100.45, Stats., and prohibits unfair trade practices and methods of competition related to the sale, recycling and use of ozone-depleting refrigerant, under s. 100.20, Stats. The rule permits a manufacturer or distributor of mobile air conditioners to request a one-year waiver of s. 100.45 (2), Stats., which restricts the distribution of mobile air conditioners using ozone-depleting refrigerant. The rule also establishes standards upon which the department may grant the waiver. Under s. Ag 170.02 (1) (s), Wis. Adm. Code, the department is required to prepare an environmental assessment before a waiver may be granted.

Under ch. Ag 136, if a person operates a recycling establishment at which used ozone-depleting refrigerant is recycled for sale, or for use in charging a mobile air conditioner, the operator must register that establishment with the department. The operator of a motor vehicle repair business must also register with the department if the operator (1) performs any motor vehicle repair that releases or may release an ozone-depleting refrigerant from a mobile air conditioner, or (2) installs or services a mobile air conditioner that contains an ozone-depleting refrigerant.

Chapter Ag 136 spells out minimum standards which recycling establishments and motor vehicle repair businesses must meet in order to obtain a registration certificate from the department. Motor vehicle salvagers, who are regulated by the department of natural resources under s. 144.422, Stats., are not required to register with the department under this rule unless they install used refrigerant in motor vehicles or recycle used refrigerant for sale.

Recycled ozone-depleting refrigerant must meet standards of purity spelled out in ch. Ag 136. No person may represent used refrigerant as recycled refrigerant unless it meets those standards of purity. Nor may any person misrepresent used refrigerant, including recycled refrigerant, as new refrigerant. Every person who sells or distributes used refrigerant must record the name and address of the person to whom the refrigerant is sold or distributed. Every person who purchases or receives used refrigerant for resale, or for charging a mobile air conditioner, must also record the name and address of the person from whom the used refrigerant was received. Records must be retained for at least 3 years.

Under ch. Ag 136, ozone-depleting refrigerant must be recycled with approved equipment. Equipment may be approved by independent testing organizations, according to minimum standards spelled out in the rule. Under the rule, the department must establish and make available a list of approved testing

organizations which comply with these standards.

Under ch. Ag 136, persons operating recycling equipment must be trained and certified in proper recycling procedures. The rule establishes minimum training requirements for operators of recycling equipment. It also establishes standards for department approval of training programs. Under the rule, the department must establish and maintain an up-to-date list of organizations which offer approved training programs.

Pursuant to the authority vested in the state of Wisconsin department of agriculture, trade and consumer protection by s. 100.45, Stats., as created by 1989 Wisconsin Act 284, the state of Wisconsin department of agriculture, trade and consumer protection hereby creates rules interpreting s. 100.45, Stats., as follows:

SECTION 1. Chapter Ag 136 is created to read:

Chapter Ag 136

MOBILE AIR CONDITIONERS; RECYCLING REFRIGERANT

Ag 136.01 POLICY AND PURPOSE. It is the policy of the state of Wisconsin to prevent the release of ozone-depleting refrigerant into the atmosphere. The legislature has enacted s. 100.45, Stats., for the purpose of preventing the release of ozone-depleting refrigerant from mobile air conditioners and has directed the department to administer it. This chapter interprets s. 100.45, Stats., and prohibits unfair trade practices and methods of competition related to the sale, recycling and use of ozone-depleting refrigerant, under s. 100.20, Stats.

Ag 136.02 DEFINITIONS. The following definitions apply to this chapter:

(1) "Approved refrigerant recycling equipment" means any equipment approved by the department under s. Ag 136.08 for the recycling of used ozone-depleting refrigerant.

(2) "Distributor" has the meaning given in s. 218.01 (1) (e), Stats.

(3) "Individual" means a natural person.

(4) "Manufacturer" has the meaning given in s. 218.01 (1) (L), Stats.

(5) "Mobile air conditioner" means mechanical vapor compression refrigeration equipment used to cool the driver or passenger compartment of a motor vehicle.

(6) "Motor vehicle" has the meaning given in s. 340.01 (35), Stats.

(7) "Ozone-depleting refrigerant" means a substance used in refrigeration that is one of the following:

(a) A chemical with an ozone depletion weight of 0.1 or more, as set out in 40 CFR part 82, appendix A.

(b) A mixture of chemicals with an ozone depletion weight of 0.1 or more, as determined by multiplying the ozone depletion weight of each component, as set out in 40 CFR part 82, appendix A, by the proportion of that component in the mixture and adding the products.

(8) "Person" includes all partnerships, associations and bodies corporate, but does not include bodies politic.

(9) "Recycling establishment" means any location in this state at which used refrigerant is recycled for charging a mobile

air conditioner or for sale.

(10) "Recycled refrigerant" means used refrigerant which has been removed from a mobile air conditioner and recycled to meet the purity standards under s. Ag 136.08 (3) (b).

(11) "Used refrigerant" means ozone-depleting refrigerant which has been removed from a mobile air conditioner.

Ag 136.03 DISTRIBUTION OF MOBILE AIR CONDITIONERS; WAIVER OF STATUTORY PROHIBITION. (1) WAIVER REQUIREMENTS. After December 31, 1991, the department may waive the application of s. 100.45 (2) (a), Stats., to a manufacturer or distributor for a calendar year if the manufacturer or distributor demonstrates to the department's satisfaction that one or more of the following conditions is met:

(a) All substitutes for ozone-depleting refrigerant are toxic and their use is not safe for consumers, industry or the environment.

(b) Substitutes for ozone-depleting refrigerant will not be available in sufficient quantities in time for the manufacturer or distributor to meet the requirements under s. 100.45 (2) (a), Stats.

(c) An acceptable mobile air conditioner cannot be manufactured in sufficient quantities in time for the manufacturer to meet the requirements under s. 100.45 (2) (a), Stats., and the progress made by the manufacturer or distributor toward meeting the requirements is comparable with the progress made by other manufacturers and distributors toward meeting the requirements.

(2) WAIVER APPLICATION; FEE. A manufacturer or distributor applying for a waiver under sub. (1) shall submit a written waiver application to the department. The application shall include all of the following:

(a) Documentation showing that one or more of the conditions under sub. (1) (a) to (c) is met.

(b) A nonrefundable fee of \$250.

(c) Any information required by the department under sub. (4).

(3) TIME LIMITATIONS. No waiver request may be accepted by the department earlier than 12 months before the beginning of the calendar year for which the waiver is requested. The department shall grant or deny a waiver application within 60 days after the department receives a complete application under sub. (2), except that the department may extend this time limit up to 60 days if additional time is required to complete an environmental impact statement or assessment under sub. (4).

(4) ENVIRONMENTAL IMPACT STATEMENT OR ASSESSMENT. The department may require an applicant under sub. (2) to provide any information necessary to complete an environmental impact statement or assessment on the proposed waiver.

NOTE: Section Ag 170.02 (1) (s), Wis. Adm. Code, requires the department to prepare an environmental assessment before a waiver can be granted under this section. An environmental impact statement may also be required under s. Ag 170.03.

Ag 136.04 SALE OR RECEIPT OF USED OZONE-DEPLETING REFRIGERANTS; RECORDKEEPING. (1) SALES RECORDS. Every person who sells or distributes used refrigerant shall record the name and address of the person to whom used refrigerant is sold or distributed. This record may be kept in the form of an invoice relating to the sale or distribution. This subsection does not apply to the sale of recycled refrigerant by the operator of a motor vehicle repair business registered with the department under s. Ag 136.07, provided that the operator uses the refrigerant only for charging mobile air conditioners at the operator's own registered business.

(2) PURCHASE RECORDS. Every person who purchases or receives used refrigerant for resale or for charging a mobile air conditioner shall record the name and address of each person from whom the used refrigerant was purchased or received. This record may be kept in the form of a sales receipt relating to the purchase or receipt. This subsection does not apply to the recovery of used refrigerant by the operator of a motor vehicle repair business registered with the department under s. Ag 136.07, provided that the operator recovers the used refrigerant from mobile air conditioners at the operator's own registered business.

(3) RECORDS; INSPECTION AND COPYING. If a person is required to make records under sub. (1) or (2), those records shall be kept at the person's place of business for at least 3 years, and shall be made available for inspection and copying by

the department upon request.

Ag 136.05 SALE AND REUSE OF USED REFRIGERANT. (1) SALE CONTAINERS. No person may sell or offer to sell any ozone-depleting refrigerant in a container holding less than 15 pounds of ozone-depleting refrigerant.

(2) RECYCLING REQUIRED BEFORE REUSE. No person may charge a mobile air conditioner with used refrigerant unless the used refrigerant has been recycled so that it meets the purity standards provided in s. Ag 136.08 (3) (b).

(3) REPRESENTING USED REFRIGERANT AS RECYCLED. No person may represent, directly or by implication, that used refrigerant has been recycled for charging a mobile air conditioner unless the refrigerant has been recycled so that it meets the purity standards provided in s. Ag 136.08 (3) (b). If unrecycled used refrigerant is sold or offered for sale to another person for recycling, the refrigerant container shall bear a label which clearly indicates that the refrigerant is used and that it has not been recycled.

NOTE: Section 100.45, (3) (b), Stats., prohibits a business establishment from selling used ozone-depleting refrigerant that has not been recycled, except that it may sell used refrigerant to another person for the purpose of recycling the refrigerant.

(4) REPRESENTING USED REFRIGERANT AS NEW. No person may represent, directly or by implication, that any used refrigerant is new refrigerant. If used refrigerant is recycled for sale, every container of recycled refrigerant shall bear a label which

clearly indicates that the refrigerant is recycled rather than new.

NOTE: This section applies to every person who sells or distributes used refrigerant, regardless of whether that person operates a recycling establishment or motor vehicle repair business subject to registration under ss. Ag 136.06 or Ag 136.07.

Ag 136.06 RECYCLERS OF OZONE-DEPLETING REFRIGERANTS;

REGISTRATION AND STANDARDS. (1) REGISTRATION REQUIRED. Except as provided under s. Ag 136.10, no person may operate a recycling establishment unless that person holds and prominently displays in the recycling establishment an annual registration certificate from the department. An annual registration certificate expires on the last day of February each year. A person holding a registration certificate under s. Ag 136.07 is not required to hold a registration certificate under this section.

(2) APPLICATION AND FEE. An applicant for an annual registration certificate under sub. (1) shall apply on a form provided by the department. The application shall include the address of each recycling establishment which the applicant operates in this state. The application shall be accompanied by the certification under sub. (3) and by a nonrefundable fee of \$80 for each recycling establishment. The department shall grant or deny an application within 30 days after the department receives a complete application under this subsection.

NOTE: Application forms for recyclers of ozone-depleting refrigerant may be obtained upon a request to OZONE, Consumer Protection Bureau, P.O. Box 8911, Madison, Wisconsin 53708-8911.

(3) CERTIFICATION. In order to obtain an annual registration certificate under sub. (1), an applicant shall certify that the applicant's recycling operations comply with all of the following requirements:

(a) All recycled refrigerants are recycled with equipment and procedures approved under s. Ag 136.08.

(b) Individuals using recycling equipment after November 1, 1991, have completed an approved training program under s. Ag 136.09. If the individual was an employe of the applicant prior to the effective date of this chapter....[revisor inserts date], the applicant may instead certify that the employe has received training equivalent to that provided in an approved training program under s. Ag 136.09.

(c) Recycled refrigerants, if sold or offered for sale, are sold or offered in containers holding no less than 15 pounds of ozone-depleting refrigerant.

(d) The applicant complies with ss. Ag 136.04 and Ag 136.05.

Ag 136.07 PERSONS INSTALLING OR SERVICING MOBILE AIR CONDITIONERS; REGISTRATION AND STANDARDS. (1) REGISTRATION REQUIRED. (a) Except as provided under s. Ag 136.10, no person operating a motor vehicle repair business in this state may do either of the following unless that person holds and prominently displays in each business location an annual registration certificate from the department:

1. Perform any motor vehicle repair that releases or may

release an ozone-depleting refrigerant from a mobile air conditioner.

2. Install or service a mobile air conditioner that contains an ozone-depleting refrigerant.

(b) An annual registration certificate under this subsection expires on the last day of February of each year.

(2) APPLICATION AND FEES. An applicant for an annual registration certificate under sub. (1) shall apply on a form provided by the department. The application shall include the address of each repair establishment which the applicant operates in this state. The application shall be accompanied by the certification under sub. (3) and by a nonrefundable fee of \$80 for each business location identified in the application. The department shall grant or deny an application within 30 days after the department receives a complete application under this subsection.

NOTE: Application forms for persons installing or repairing mobile air conditioners may be obtained upon a request to OZONE, Consumer Protection Bureau, P.O. Box 8911, Madison, Wisconsin 53708-8911.

(3) CERTIFICATION. In order to obtain an annual registration certificate under sub. (1), the applicant shall certify that his or her motor vehicle repair business operations meet all of the following requirements:

(a) The operator does not use ozone-depleting refrigerant to clean the exterior surfaces of mobile air conditioners.

(b) Whenever the operator removes ozone-depleting

refrigerant from a mobile air conditioner, the operator reduces the mobile air conditioner system to a vacuum and pumps the ozone-depleting refrigerant into a storage tank or container which meets federal department of transportation standards under 49 CFR 173.304.

(c) The operator recycles all used refrigerant, or sends the used refrigerant to another person for recycling.

(d) If the operator recycles used refrigerant, the refrigerant is recycled using equipment and procedures approved by the department under s. Ag 136.08.

(e) If the operator recycles used refrigerant, individuals operating the recycling equipment after November 1, 1991, have completed a training course approved by the department under s. Ag 136.09. If the individual was an employe of the operator prior to the effective date of this chapter....[revisor inserts date], the operator may instead certify that the employe has received training equivalent to that provided in an approved training program under s. Ag 136.09.

(f) The operator complies with ss. Ag 136.04 and 136.05.

Ag 136.08 APPROVED RECYCLING EQUIPMENT. (1) GENERAL.

Equipment used to recycle used refrigerant shall be certified by an independent testing organization under sub. (2) or approved by the department under sub. (3).

(2) EQUIPMENT CERTIFIED BY INDEPENDENT TESTING ORGANIZATIONS; STANDARDS. Recycling equipment certified by an independent testing organization may be used in this state if the

independent testing organization is approved by the department under sub. (4) and the organization applies standards which are at least as stringent as the standards provided under Extraction and Recycle Equipment for Mobile Automotive Air-Conditioning Systems, SAE J1990 OCT89, published by the Society of Automotive Engineers, Inc., 400 Commonwealth Drive, Warrendale, Pennsylvania 15096. SAE J1990 OCT89 incorporates by reference the following standards:

(a) Automotive Air Conditioning Hose, SAE J51 OCT89.

(b) Standard of Purity for Use in Mobile Air-Conditioning Systems, SAE J1991 OCT89.

(c) UL 1963 Section 40 Tests Service Hoses for Refrigerant-12, a standard of the Underwriters Laboratories, 333 Pfingeston Road, Northbrook, Illinois 60062.

(d) Pressure Relief Device Standard Part 1 - Cylinders for Compressed Gases, CGA Pamphlet S-1.1, a standard of the Compressed Gas Association, 1235 Jefferson Davis Highway, Arlington, VA 22202.

NOTE: Pursuant to s. 227.21, Stats., the attorney general and the revisor of statutes have consented to the incorporation by reference of these standards. Copies are on file and may be inspected in the offices of the department, the secretary of state, and the revisor of statutes.

(3) EQUIPMENT PURCHASED PRIOR TO AVAILABILITY OF CERTIFICATION. (a) Except as provided in par. (b), the department may approve recycling equipment that was manufactured prior to the effective date of this chapter....[revisor inserts

date] if the manufacturer certifies and provides proof that the equipment model is functionally identical to a model which is certified under sub. (2).

(b) The department may not approve any refrigerant recycling equipment under this subsection unless recycling by that equipment limits contaminants in the refrigerant to moisture, refrigerant oil and noncondensable gases. These contaminants shall not exceed the following levels:

1. Moisture - 15 ppm by weight.
2. Refrigerant oil - 4000 ppm by weight.
3. Noncondensable gases - 330 ppm by weight.

(4) LIST OF RECOGNIZED TESTING ORGANIZATIONS AND EQUIPMENT.

The department shall identify any independent testing organization which complies with sub. (2) and any equipment which complies with sub. (3) on a list that is made available to the public on request. The department may amend this list as additional organizations and equipment are identified.

NOTE: A list of recognized testing organizations and equipment may be obtained upon a request to OZONE, Consumer Protection Bureau, P.O. Box 8911, Madison, Wisconsin 53708-8911.

Ag 136.09 QUALIFICATIONS FOR APPROVED REFRIGERANT RECYCLING EQUIPMENT USERS. (1) TRAINING REQUIRED. Except as provided by ss. Ag 136.06 (3) (b) and Ag 136.07 (3) (e), every individual who uses approved refrigerant recycling equipment after November 1, 1991, shall have successfully completed a training program approved under sub. (2).

(2) APPROVED TRAINING PROGRAM. The department may approve refrigerant recycling training programs that provide no less than 2 hours of instruction and include all of the following:

(a) A presentation of the environmental concerns relating to the emission of ozone-depleting refrigerants.

(b) A presentation of the applicable state and federal laws regulating the handling of ozone-depleting refrigerants from mobile air conditioners.

(c) Instruction on necessary safety precautions during the recovery, recycling and recharging of ozone-depleting refrigerant.

(d) A presentation of the industry standards for refrigerant recovery and recycling equipment.

(e) Hands-on instruction for each person participating in the program in the use of approved refrigerant recovery, storage and recycling equipment.

(f) An evaluation of each person participating in the program which verifies successful completion.

(g) A certificate which identifies each individual who has successfully completed the training program and each individual who was responsible for the presentation of the program.

(3) APPLICATION AND NOTICE. Any person may apply to the department for training program approval by describing how the program will meet requirements under sub. (2), and by certifying that the individual or individuals who are responsible for the presentation of the program have knowledge in all subject areas

listed under sub. (2). The department shall provide a list of all approved refrigerant recycling training programs to the public upon request.

NOTE: A list of approved training programs may be obtained upon a request to OZONE, Consumer Protection Bureau, P.O. Box 8911, Madison, Wisconsin 53708-8911.

Ag 136.10 SALVAGERS. (1) NO REGISTRATION REQUIRED. No person who salvages or dismantles motor vehicles is required to register with the department under either s. Ag 136.06 or s. Ag 136.07 unless the person does either of the following:

(a) Performs motor vehicle repair, other than salvaging or dismantling, that releases or may release ozone-depleting refrigerant from a mobile air conditioner.

(b) Recycles used refrigerant for charging a mobile air conditioner or for sale.

(2) COMPLIANCE REQUIRED. Every person who salvages or dismantles motor vehicles shall comply with ss. Ag 136.04 and Ag 136.05 regardless of whether the person is or may be required to certify to the department of natural resources under s. 144.422 (2), Stats.

SECTION 2. Ag 170.02 (1) (s) is created to read:

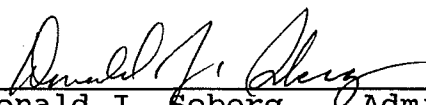
(s) Distribution of mobile air conditioners using ozone-depleting refrigerant; waiver. Granting any manufacturer or distributor of mobile air conditioners a waiver, under s. 100.45 (2) (b), Stats., or s. Ag 136.03, from the application of s. 100.45 (2) (a), Stats., which restricts the distribution of

mobile air conditioners using ozone-depleting refrigerant.

SECTION 3. EFFECTIVE DATE. The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, as provided in s. 227.22 (2) (intro.), Stats.

Dated this 14th day of February, 1991.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By 
Donald J. Soberg, Administrator
Trade and Consumer Protection
Division

r\11.f

RECEIVED
FEB 14 1991
Revisor of Statutes
Bureau

