



**The Alliance**  
*for Responsible Atmospheric Policy*

NOVEMBER 8, 2012  
FOR IMMEDIATE RELEASE

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INDUSTRY COMMENDS US GOVERNMENT FOR SUCCESSFUL  
PROSECUTION AND SENTENCING OF HCFC-22 REFRIGERANT SMUGGLERS

WASHINGTON, D.C. - The Alliance for Responsible Atmospheric Policy (Alliance), an industry coalition, today commended the US Government for successfully concluding 11 criminal and civil cases related to HCFC-22 refrigerant smuggling over the last two years. Individuals and companies were found guilty of various crimes related to the illegal importation or sale of over 3.3 million pounds of HCFC-22, fined over \$1.5 million, required to forfeit proceeds of almost \$2.7 million, and received jail and probation amounting to over 26 years.

"The US Government is very serious about tracking down those who illegally import or sell HCFC-22. Anyone devising illegal schemes to import or sell this refrigerant is on notice that the US will arrest and convict you," stated Dave Stirpe, Alliance Executive Director.

The attached document summarizes all of the civil and criminal cases prosecuted by the United States related to the illegal importation and sale of HCFC-22.

The Alliance cautions industry and the public to be certain that their HCFC-22 refrigerant purchases are legal, and to report any offers to buy illegally imported refrigerants to the U.S. Environmental Protection Agency (EPA). HCFC-22 refrigerant may be legally produced domestically and imported into the US provided that EPA-issued quota allowances are expended. Anyone importing HCFCs without legal allowances is in violation of federal law. HCFC-22 is generally used to service and maintain existing commercial air conditioning and refrigeration equipment. Newly produced equipment generally relies on HFCs and other refrigerants.

"Purchasers of the illegal refrigerant are at risk. The government may confiscate any illegally imported refrigerant, even if it has been passed down through the marketplace, and it may prosecute purchasers who knowingly buy illegal material," Stirpe said. "Consumers should also be wary of the refrigerant since some of the imported material has been found to be of poor quality, or it could be counterfeit," Stirpe noted.

Purchasers of imported HCFC-22 should verify that their importer is an authorized EPA baseline consumption allowance holder, or was involved in a subsequent legal trade of consumption allowances. An EPA list of baseline consumption allowances holders can be found at [www.epa.gov/ozone/title6/allowance.html](http://www.epa.gov/ozone/title6/allowance.html). The recipient of a trade can show a letter from EPA acknowledging the approval of the trade. Purchasers who question the legitimacy of an HCFC-22 importer should request a copy of the EPA approval letter from the seller. Importers of used HCFCs must follow EPA petition process requirements listed at [www.epa.gov/ozone/title6/imports/usedclasstwo.html](http://www.epa.gov/ozone/title6/imports/usedclasstwo.html). Violations should be reported at [www.epa.gov/tips/](http://www.epa.gov/tips/), and may be done so anonymously.

For 32 years the Alliance has coordinated industry participation in the development of responsible international and U.S. government policies regarding ozone protection and climate change. It is composed of manufacturers and businesses that rely on fluorocarbons.



**CONVICTIONS**  
**ILLEGAL IMPORT AND SALE OF HCFC-22**

	<b><u>Perpetrator</u></b>	<b><u>Date of Last Action</u></b>	<b><u>Summary</u></b>
1	Norberto Guada	October 2, 2012 -  Guilty, sentencing on December 11, 2012	Convicted of importing 15,640 kilograms of HCFC-22
2	Carlos A. Garcia	June 26, 2012 –  13 months imprisonment, followed by a two-year supervised release that includes four months of house arrest.	Convicted of knowingly receiving, buying, selling and facilitating the transportation, concealment, and sale of approximately 13,600 kilograms of HCFC-22 on behalf of the company he worked for, Mar-Cone Appliance Parts Co. (Marcone), which was previously convicted in 2010.
3	American Seafoods Company LLC and Pacific Longline Company LLC	June 14, 2012 –  \$700,000 penalty.	The companies were convicted of illegally importing 70,000 kg of HCFC-22 without holding valid allowances.
4	Douglas Vincent Mertz	May 3 <sup>rd</sup> , 2012 –  \$5,000 fine and one year probation and restitution up to \$750.	Convicted after advertising sale of HCFC-22 on Craigslist, which stated that “no EPA card or license” would be necessary to do business.
5	Brendan Clery	July 29, 2011 –  18 months in prison, a \$40,000 criminal fine and forfeiture of \$935,240 in illegal proceeds.	Imprisoned and fined for operating a business that illegal imported 278,256 kilograms of HCFC-22 into the United States.
6	Harp USA, Inc.	February 11, 2011 –  \$206,140 fine and a required community service payment of \$25,000 to the Southern Environmental Enforcement Training Fund, and forfeiture of \$206,140 in proceeds resulting from the crime.	Convicted of illegally importing 1,874 cylinders of HCFC-22 into the United States.
7	Robinson Plumbing and Heating Supply, Co.	November 3, 2010 –  \$30,000 fine.	Fined for selling HCFC-22 to non-certified technicians at two separate sales outlets.
8	John Correa, Abdiel Falcon, Charles Nova, and Blasdimir Urena	October 20, 2010 –  1-5 years’ probation, storage and destruction fees.	Convicted of illegally importing 23,079 kilograms of HCFC-22 into the US.

9	Mar-Cone Appliance Parts Co. (Marcone)	<p>March 19, 2010 –</p> <p>5 years' probation, a \$500,000 criminal fine, performance of community service by donating \$400,000 to the Southern Environmental Enforcement Training Fund, and forfeiture of \$190,534.70 in proceeds resulting from the crime.</p>	<p>Convicted of knowingly receiving, buying, selling and facilitating the transportation, concealment, and sale of approximately 100,898 kilograms of HCFC-22.</p>
10	James Garrido and Kroy Corporation	<p>February 11, 2010 –</p> <p>Garrido was sentenced to 30 months' imprisonment, to be followed by three years of supervised release. Kroy Corporation was sentenced to five years of probation. Additionally, Garrido and Kroy were sentenced, jointly and severally, to pay a criminal fine of \$40,000, and were further ordered to forfeit \$1,356,160 to the United States.</p>	<p>Kroy Corporation, and its president James and Garrido, were convicted of illegally importing approximately 418,654 kilograms (29,107 cylinders) of HCFC-22 in eleven separate shipments, with a total fair market value of more than \$3.9 million.</p>
11	Service Supply of Victoria, Inc.	<p>January 26, 2010 –</p> <p>\$12,500 fine.</p>	<p>Fined for illegally importing 7,517 cylinders of HCFC-22 into the US.</p>
12	JWS Refrigeration & Air Conditioning, Ltd	<p>November 19, 2007 –</p> <p>\$53,481 fine.</p>	<p>Fined for illegally importing 25,402 kilograms of HCFC-22 into the US.</p>
13	Carrier Guam	<p>October 1, 2007 –</p> <p>\$62,922 fine.</p>	<p>Fined for illegally importing 32,356 kilograms of HCFC-22 into the US.</p>

## **1. Norberto Guada**

### **Miami Man Pleads Guilty in Illegal Refrigerant Smuggling Operation**

October 3, 2012

#### **FOR IMMEDIATE RELEASE**

Wifredo A. Ferrer, United States Attorney for the Southern District of Florida, Maureen O'Mara, Special Agent in Charge, U.S. Environmental Protection Agency (EPA), Criminal Investigation Division, Atlanta Area Office, Drusilla Hufford, Director, EPA's Stratospheric Protection Division, and Alysa D. Erichs, Special Agent in Charge, U.S. Immigration and Customs Enforcement's Homeland Security Investigations (ICE-HSI), Miami Field Office, announced that defendant **Norberto Guada**, 43, of Hialeah, Florida, pled guilty yesterday in U.S. District Court in Miami on charges of knowingly importing approximately 15,640 kilograms of illegal hydrochlorofluorocarbon-22 (HCFC-22), contrary to the provisions of the Clean Air Act (CAA). HCFC-22 is a widely used refrigerant for residential heat pump and air-conditioning systems.

U.S. District Judge Donald Graham accepted Guada's guilty plea to one count of the multiple-count indictment that had been filed against Guada and co-defendant **Jorge G. Murillo**. Guada faces a possible sentence of up to twenty years in prison, a fine of up to \$250,000, and three years of supervised release. Sentencing is scheduled for December 11, 2012 at 2:20 p.m.

The CAA regulates air pollutants, including ozone depleting substances, such as HCFC-22. The CAA and its implementing regulations established a schedule to phase out the production and importation of ozone depleting substances, with a complete ban starting in 2030. To meet its obligations under an international treaty to reduce its consumption of ozone depleting substances, the United States issued baseline consumption allowances for the production and importation of HCFC-22 to individuals and companies. To legally import HCFC-22, one must hold an unexpended consumption allowance.

According to court records and a factual statement filed in court yesterday, Guada was hired as a salesman in February 2007 by a company known as Lateral Investments LLC (Lateral). Lateral was a Florida corporation, engaged in, among other things, importing merchandise, including refrigerant gas. Between June and August 2007, Lateral illegally smuggled large quantities of HCFC-22 into the United States to sell on the black market. At no time did Lateral or its principals hold unexpended consumption allowances that would have allowed them to legally import the HCFC-22.

In this way, during 2007, Lateral illegally imported approximately 278,256 kilograms or 20,460 cylinders of restricted HCFC-22, with a market value of \$1,438,270, which Guada was tasked with selling to businesses in the South Florida area. As part of his agreement in this matter, Guada specifically admitted to his knowing involvement in the importation and sale, contrary to law, of 15,640 kilograms of HCFC-22 on August 10, 2007.

Mr. Ferrer commended the investigative efforts of the Environmental Protection Agency, Criminal Investigation Division, ICE's Homeland Security Investigations, and the Florida Department of Environmental Protection, Criminal Investigation Bureau. The case was prosecuted by Special Assistant U.S. Attorney Jodi A. Mazer and Assistant U.S. Attorney Thomas Watts-FitzGerald.

A copy of this press release may be found on the website of the United States Attorney's Office for the Southern District of Florida at <http://www.usdoj.gov/usao/fls>. Related court documents and information may

be found on the website of the District Court for the Southern District of Florida at <http://www.flsd.uscourts.gov> or on <http://pacer.flsd.uscourts.gov>.

Technical comments about this website can be e-mailed to the Webmaster. PLEASE NOTE: The United States Attorney's Office does not respond to non-technical inquiries made to this website. If you wish to make a request for information, you may contact our office at 305-961-9001, or you may send a written inquiry to the United States Attorney's Office, Southern District of Florida, 99 NE 4th Street, Miami, FL 33132.

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## **2. Carlos A. Garcia**

### **International Product Support Company Senior Vice President Sentenced For The Illegal Purchase and Sale of Smuggled Ozone-Depleting Refrigerant Gas**

June 26, 2012

#### **FOR IMMEDIATE RELEASE**

Wifredo A. Ferrer, United States Attorney for the Southern District of Florida, Maureen O'Mara, Special Agent in Charge, U.S. Environmental Protection Agency (EPA), Criminal Investigation Division, Atlanta Area Office, and Alysa D. Erichs, Special Agent in Charge, U.S. Immigration and Customs Enforcement's Homeland Security Investigations (ICE-HSI), announced that defendant **Carlos A. Garcia**, 52, was sentenced to prison today in Miami for his role in the illegal receipt, purchase, and sale of ozone-depleting refrigerant gas that had been smuggled into the United States contrary to the Clean Air Act, in violation of Title 18, United States Code, Section 545.

The Honorable Cecilia Altonaga, U.S. District Court Judge, sentenced Garcia to a thirteen month term of imprisonment, followed by a two-year term of supervised release that includes four months of home confinement under electronic monitoring.

Garcia pled guilty in April 2012 to a charge of knowingly receiving, buying, selling and facilitating the transportation, concealment, and sale of approximately 13,600 kilograms of the ozone-depleting substance hydrochlorofluorocarbon-22 (HCFC-22). HCFC-22 is a widely used refrigerant for residential heat pump and air-conditioning systems. Garcia's employer, Mar-Cone Appliance Parts Co. (Marcone), was previously convicted and sentenced for their role in the illicit conduct and ordered to pay a \$500,000 criminal fine, a \$400,000 community service payment, and was ordered to forfeit to the United States \$190,534.70 in illegal proceeds.

Federal law prohibits dealing in merchandise that is imported contrary to law. The Federal Clean Air Act regulates air pollutants including ozone depleting substances such as HCFC-22. The Clean Air Act and its implementing regulations established a schedule to phase out the production and importation of ozone-depleting substances beginning in 2002, with a complete ban starting in 2030. To meet its obligations under an international treaty to reduce its consumption of ozone-depleting substances, the United States issued baseline allowances for the production and importation of HCFC-22 to individuals and companies. In order to legally import HCFC-22, one must hold an unexpended consumption allowance.

United States Attorney Wifredo A. Ferrer stated, "As the Court stated at the sentencing hearing, the regulatory program here is intended to protect us all from the harmful effects associated with depletion of the

earth's ozone layer. By aggressively supporting the investigative agencies in their efforts to enforce federal laws that seek to protect our environment, we are both meeting our country's commitment to the international community and maintaining a level playing field for the many businesses and individuals who abide by the law."

"The defendant illegally bought and sold ozone depleting substances that harm both human health and the environment," said Maureen O'Mara, Special Agent-in-Charge of EPA's criminal enforcement program in Florida. "Today's sentence sends a crystal clear message-- if you put illegal profits ahead of the well being of the public, you will be prosecuted and pay a heavy price."

"The smuggling of goods contrary to law poses a significant threat to national security and public safety. And in this particular case, the illegal importation posed a global hazard to our environment," said Alysa Erichs, Special Agent in Charge of HSI in Miami. This case demonstrates HSI's partnership and aggressive approach with the U.S. Attorney's Office and EPA to protect the American public from inferior and unsafe products."

According to court records and proceedings, Garcia was the Senior Vice-President of Marcone's Heating and Cooling Division responsible for executing legal purchases and sales of refrigerant gas. Instead Garcia engaged in a pattern of conduct to purchase and sell black market HCFC-22. The investigation revealed that the defendant routinely arranged the purchase of HCFC-22 from importers who did not hold the required unexpended consumption allowances, totaling approximately 55,488 kilograms of restricted HCFC-22, with a fair market value of approximately \$639,458. The refrigerant gas was routinely distributed by Marcone throughout the United States.

This matter and others involving the smuggling and distribution of ozone-depleting substances are being investigated through a multi-agency initiative known as Operation Catch-22. Operation Catch-22 has, to date, included the successful conviction of nearly a dozen individuals and corporations at every level of the refrigerant gas smuggling and distribution chain. Mr. Ferrer commended the investigative efforts of the EPA, ICE-HSI, the Florida Department of Environmental Protection, Criminal Investigation Bureau, and the Miami-Dade Police Department. The case was prosecuted by Assistant U.S. Attorney Thomas A. Watts-FitzGerald and Special Assistant U.S. Attorney Jodi A. Mazer.

A copy of this press release may be found on the website of the United States Attorney's Office for the Southern District of Florida at <http://www.usdoj.gov/usao/fls>. Related court documents and information may be found on the website of the District Court for the Southern District of Florida at <http://www.flsd.uscourts.gov> or on <http://pacer.flsd.uscourts.gov>.

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### **3. American Seafoods Company LLC and Pacific Longline Company LLC**

#### **Two Seattle-based seafood processors settle federal clean air violations for improper import and handling of ozone-depleting refrigerants**

Release Date: 06/14/2012

Contact Information: Hanady Kader, EPA Public Affairs, 206-553-0454, kader.hanady@epa.gov

(Seattle—June 14, 2012) American Seafoods Company LLC and Pacific Longline Company LLC have agreed to phase out the use of ozone depleting refrigerants, implement a comprehensive leak detection and repair program aboard a number of their vessels and pay a penalty to resolve federal Clean Air Act violations.

The settlement, outlined in a consent decree lodged by the U.S. Department of Justice on behalf of the U.S. Environmental Protection Agency, concerns the improper release and illegal import of ozone depleting refrigerants. The consent decree was lodged at the U.S. District Court for the Western District of Washington in Seattle.

“The global effort to protect the ozone layer requires that companies using refrigerants manage them carefully and follow laws designed to minimize releases,” said Ed Kowalski, Director of Compliance and Enforcement at EPA’s Seattle office. “EPA is pleased that these companies have agreed to now use refrigerants on their vessels that don’t deplete the ozone.”

Stratospheric ozone depletion can cause increased ultraviolet radiation to reach the Earth and has been linked to skin cancer, cataracts and impaired immune systems. It can also damage crops and reduce crop yields. Some scientists suggest that marine phytoplankton, the base of the ocean food chain, may be under stress from ultraviolet radiation.

American Seafoods Company is one of the country’s largest seafood harvesters and at-sea processors of pollock, hake, cod, scallops and yellowfin sole. The company sells its products in the United States, Asia and Europe. American Seafoods Company and Pacific Longline Company are based in Seattle.

Between 2006 and 2009, American Seafoods Company and Pacific Longline Company used HCFC-22 as a refrigerant in industrial refrigeration units aboard seafood catcher-processor vessels. American Seafoods illegally imported 70,000 kg of HCFC-22 refrigerant to the United States without holding valid allowances. The United States limits the amount of HCFC-22 that companies are permitted to import through the use of set allowances.

The consent decree also resolves violations relating to their use of ozone-depleting substances:

- Failure to repair refrigerant leaks in a timely manner
- Failure to verify adequacy of repairs to refrigeration system
- Inadequate records of repair service on refrigerant system
- Use of uncertified employees to perform refrigerant-related work.

HCFC-22 is among a set of refrigerants being phased out of use due its to high ozone depletion potential under the Montreal Protocol on Substances that Deplete the Ozone Layer.

In addition to a \$700,000 penalty, the companies will spend an estimated \$9 million to \$15 million to convert refrigeration systems on several vessels to operate using non-ozone depleting refrigerants. The companies have also purchased and retired HCFC-22 allowances to offset the harm caused by their illegal importation.

American Seafoods Company and Pacific Longline Company are subsidiaries of American Seafoods Group.

The consent decree is available for public comment.

For additional information on ozone and ozone depleting substances, visit:

<http://www.epa.gov/oar/oaqps/gooduphigh/good.html#1>

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#### **4. Douglas Vincent Mertz**

##### **West Bloomfield Man Sentenced for Delivering a False Document Regarding Hazardous Material**

FOR IMMEDIATE RELEASE

May 3, 2012

A West Bloomfield man received a \$5,000 fine for delivering a false document regarding a hazardous material, United States Attorney Barbara L. McQuade announced today.

Joining McQuade in the announcement was Randall Ashe, the Special Agent-in-Charge of the Environmental Protection Agency's criminal enforcement program in Chicago.

Douglas Vincent Mertz, 38, was sentenced by United States District Judge Denise Page Hood. Mertz pleaded guilty to the charge on November 9, 2011. In addition to the fine, Mertz was sentenced to one year probation and restitution up to \$750.

Federal law makes it illegal to sell the refrigerant "HCFC-22" to any person who is not certified under a program approved by the United States Environmental Protection Agency, unless the buyer is otherwise legally allowed to purchase such refrigerants under Clean Air Act regulations. Certain refrigerants, such as HCFC-22 can, damage the earth's ozone layer if they are released to the atmosphere. The ozone layer protects the earth from overexposure of ultraviolet radiation (UV) produced by the sun. Overexposure of UV radiation is believed to be linked to an increase in skin cancers, immune system suppression, eye damage, and negative effects on plants and aquatic life. The EPA's certification program ensures that individuals who work with ozone-depleting refrigerants like HCFC-22 are trained to properly and safely handle these substances and minimize their release to the atmosphere.

In August and September, 2009, Mertz advertised the sale of HCFC-22 on Craig's List with postings such as, "If you cannot get HCFC-22 on your own, no EPA card or license, we can do business," and, "I have virgin 30 lb jugs of HCFC-22 that I will sell to anyone who can't otherwise get one for EPA or license reasons and the distributors deny you." Mertz, who himself was certified, then obtained ten containers of HCFC-22 refrigerant and sold them to a person who was neither certified nor otherwise legally allowed to purchase the HCFC-22. The buyer was in fact an undercover federal agent. To conceal the illegal sale, Mertz prepared a document that falsely identified the buyer as an employee of the defendant's business.

As part of his sentence, Mertz was required to surrender his EPA certification, which allowed him to purchase and work with refrigerants such as HCFC-22.

Mertz's accomplice, Wasim Ibrahim Bony, was sentenced on April 19, 2012. Bony, who pleaded guilty to aiding and abetting Mertz in knowingly making and delivering as true a writing containing a false statement,



was sentenced to pay a \$1,500 criminal fine, and ordered to pay up to \$750 in restitution, jointly and severally, with Mertz.

"Refrigerants like HCFC-22 deplete the stratospheric ozone layer, which protects people from the harmful effects of ultraviolet radiation such as skin cancer and cataracts," said Randall Ashe, Special Agent in Charge of EPA's criminal enforcement program in Michigan. "It is a serious offense to sell HCFC-22 or other ozone-depleting refrigerants to people who haven't been trained to properly handle these substances. In this case, the defendant not only made this illegal sale, but went further and created a false document to cover his tracks. This case demonstrates that anyone who thinks breaking the law is worth the risk should think again."

The case was prosecuted by the United States Attorney's Office in the Eastern District of Michigan by Assistant United States Attorney Jennifer Blackwell and Special Assistant United States Attorney James Cha. The case was investigated by agents of the Environmental Protection Agency's Criminal Investigation Division.

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## **5. Brendan Clery**

### **Miami Man Sentenced to 18 Months in Prison for Smuggling Refrigerant**

Release Date: 07/29/2011

Contact Information: Stacy Kika, Kika.stacy@epa.gov, 202-564-0906

**WASHINGTON** –Today, U.S. District Court Judge Adalberto Jordan sentenced Brendan Clery, 34, to 18 months in prison and ordered him to pay a \$40,000 criminal fine and forfeit illegal proceeds in the amount of \$935,240. Clery pleaded guilty in April 2011 to knowingly importing approximately 278,256 kilograms of illegal hydrochlorofluorocarbon - 22 (HCFC-22, also known as HCFC-22) into the United States. HCFC-22 is an ozone-depleting substance regulated by EPA under the Clean Air Act (CAA). HCFC-22 depletes the ozone layer, resulting in increased ultraviolet radiation-B (UV-B) reaching the Earth's surface, which in turn leads to a greater chance of overexposure to UV radiation and the risks of health effects, such as skin cancer, cataracts, and suppression of the immune system.

"EPA takes seriously the smuggling of illegal substances that can harm the ozone layer, which protects us from harmful UVB radiation that can cause skin cancer and cataracts," said Cynthia Giles, assistant administrator for EPA's Office of Enforcement and Compliance Assurance. "Today's sentencing is an example of EPA's commitment to aggressively enforce U.S. laws and meet our international obligations."

According to court records and statements, in 2005, Clery formed and served as president of Lateral Investments LLC, a corporation he established in Florida for the purpose of importing merchandise, including refrigerant gas he intended to sell illegally. Between June and August 2007, Clery illegally smuggled approximately 278,256 kilograms or 20,460 cylinders of restricted HCFC-22 from China, with a market value of \$1,438,270, and at no time did Clery or Lateral Investments hold the consumption allowances required to legally import HCFC-22.

EPA established a schedule to phase out the production and importation of ozone-depleting substances, with a complete phase out starting in 2030. To meet its obligations under the Montreal Protocol, an international treaty designed to protect the ozone layer, EPA issued baseline consumption allowances for the production and importation of HCFC-22 to individuals and companies. To legally import HCFC-22 for consumption, one must hold and expend one consumption allowance for each kilogram of HCFC-22 imported into the

United States.

This case was part of a larger criminal investigation known as Operation Catch-22. It was investigated by the Environmental Protection Agency, U.S. Immigration and Customs Enforcement, and the Florida Department of Environmental Protection, Criminal Investigation Bureau, and prosecuted by special assistant U. S. Attorney Jodi A. Mazer.

More information on EPA's criminal enforcement program:  
<http://www.epa.gov/compliance/criminal/index.html>

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## **6. Harp USA, Inc.**

### **INTERNATIONAL REFRIGERANT GAS SUPPLIER PLEADS GUILTY AND IS SENTENCED FOR FALSE STATEMENTS IN THE IMPORTATION OF OZONE DEPLETING HCFC-22**

February 11, 2011

#### **FOR IMMEDIATE RELEASE**

Wifredo A. Ferrer, United States Attorney for the Southern District of Florida, Maureen O'Mara, Special Agent in Charge, U.S. Environmental Protection Agency (EPA), Criminal Investigation Division, Atlanta Area Office, and Anthony V. Mangione, Special Agent in Charge, U.S. Immigration and Customs Enforcement (ICE), Homeland Security Investigations (HSI), Miami Field Office, announced that defendant **Harp USA Inc.** (Harp), a Florida corporation, pled guilty and was sentenced today in connection with false statements made in entry documents for the importation of ozone depleting refrigerant gas, in violation of Title 18, United States Code, Section 542.

Harp pled guilty before U.S. District Judge Jose E. Martinez to a one count Information that charged Harp with knowingly and intentionally introducing into the United States approximately 1,874 cylinders of the ozone-depleting substance hydrochlorofluorocarbon-22 ("HCFC-22") using false invoices and statements. HCFC-22 is a widely used refrigerant for residential heat pump and air-conditioning systems.

Immediately following the guilty plea, Harp was sentenced to three years of probation and ordered to pay a \$206,140 criminal fine. Harp was also ordered to perform community service by making a \$25,000 payment to the Southern Environmental Enforcement Training Fund, a not-for-profit training organization. In addition, as a special condition of probation, Harp was ordered to implement and enforce an Environmental Compliance Plan and to reimburse the government for costs associated with the storage and handling of the merchandise. Finally, Harp was ordered to forfeit to the United States \$206,140, which represents proceeds received as a result of the crime.

The Clean Air Act regulates air pollutants including ozone depleting substances such as HCFC-22. As well, federal law prohibits making false statements in connection with documentation used to gain entry into the United States of merchandise.

According to court records, Harp, is a wholly owned subsidiary of Harp Overseas Limited, a United Kingdom Private Limited Company, which is a wholly owned subsidiary of Harp International Limited. Harp International Limited is a market leader in the supply of refrigerant gas throughout the United Kingdom and overseas markets. According to statements in court and court records, in July 2010, Harp sought to

import approximately 25,497 kilograms of HCFC-22 based on a Petition to the EPA. The Petition falsely claimed a single source of the refrigerant gas, when in fact, there was no single source. EPA had previously indicated it would deny a Petition from multi-use or multi-source facilities because of the inability to verify whether the product was new or used. Harp also falsely claimed source equipment capacity was more than 25,000 kilograms. In fact, the claimed source equipment capacity was only 700 kilograms (with a separate holding tank of another approximately 700 kilograms).

U.S. Attorney Wifredo Ferrer stated, "The U.S. Attorney's Office is committed to enforcing federal laws that seek to protect our safety and environment."

"The defendants flouted the protections we have in place to prevent the illegal importation of ozone depleting substances. These substances thin the ozone layer causing skin cancers and cataracts," said Maureen O'Mara, Special Agent in Charge of EPA's criminal enforcement program in Florida. "The aggressive criminal prosecution of these cases deter others who seek to jeopardize our health, safety and national security and bolsters EPA's commitment to the Montreal Protocol, the international agreement designed to protect the ozone layer."

"The effort to protect the ozone layer is a great success, but the job is not finished yet, since seasonal ozone holes in Antarctica continue to appear," said Drusilla Hufford, U.S. EPA Stratospheric Protection Division Director. "When we prevent smugglers from illegally profiting by bringing falsely documented ozone depleting chemicals into the U.S., we are protecting the health of Americans and the ozone layer as well."

"The unlawful importation of goods pose a triple threat to the national security, public safety, and economic well-being of the United States," said ICE HSI Special Agent in Charge in Miami Anthony V. Mangione. "We will continue to vigorously investigate those who are determined to line their pockets with the proceeds of crimes against the environment."

Mr. Ferrer commended the investigative efforts of the Environmental Protection Agency, ICE's Homeland Security Investigations in Miami, the Florida Department of Environmental Protection, Criminal Investigation Bureau, and the Miami-Dade Police Department, Environmental Investigation Unit. The case was prosecuted by Special Assistant U.S. Attorney Jodi A. Mazer.

A copy of this press release may be found on the website of the United States Attorney's Office for the Southern District of Florida at <http://www.usdoj.gov/usao/fls>. Related court documents and information may be found on the website of the District Court for the Southern District of Florida at <http://www.flsd.uscourts.gov> or on <http://pacer.flsd.uscourts.gov>.

Technical comments about this website can be e-mailed to the Webmaster. PLEASE NOTE: The United States Attorney's Office does not respond to non-technical inquiries made to this website. If you wish to make a request for information, you may contact our office at 305-961-9001, or you may send a written inquiry to the United States Attorney's Office, Southern District of Florida, 99 NE 4th Street, Miami, FL 33132.

## **7. Robinson Plumbing and Heating Supply Co.**

### **Mass. Plumbing Supply Company Cited for Illegal Sales of Refrigerant**

Release Date: 11/03/2010

Contact Information: Paula Ballentine, 617-918-1027

(Boston, Mass. – Nov. 3, 2010) – Based on the findings of an undercover inspector, EPA has proposed a penalty of \$30,000 against a Fall River plumbing and supply company charged with selling ozone-depleting refrigerants in violation of federal regulations.

According to EPA's New England office, Robinson Plumbing and Heating Supply, Co. sold ozone-depleting refrigerants to non-certified technicians at two separate sales outlets in Massachusetts, in violation of the Clean Air Act.

“Vendors of refrigeration supplies have a responsibility to make sure the buyers are certified to purchase these refrigerants,” said Curt Spalding, administrator of EPA's New England office. “Release of these refrigerants to the atmosphere depletes the stratospheric ozone layer, which protects us from the sun's harmful rays.”

EPA regulations restrict the sale of ozone-depleting refrigerant to persons who are trained and certified, or otherwise properly regulated, in order to limit illegal releases that would further damage the stratospheric ozone layer.

On July 13, an undercover EPA inspector attempted to buy refrigerant at three Robinson Supply sales outlets. Although the inspector was not a certified technician, he was able to purchase refrigerant at two of the Robinson Supply outlets, in Avon and Woburn. No sale was made at Plainville.

For more information:

- [Enforcement of the Clean Air Act in New England](http://www.epa.gov/ne/enforcement/air/index.html) ([www.epa.gov/ne/enforcement/air/index.html](http://www.epa.gov/ne/enforcement/air/index.html))

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## **8. John Correa, Abdiel Falcon, Charles Nova, and Blasdimir Urena**

- On October 20, 2010, John Correa, Abdiel Falcon, Charles Nova, and Blasdimir Urena each pled guilty to the felony charge of violating 18 USC 545 for importing merchandise (23,079 kg of HCFC-22 with a FMV of approximately \$257,944) contrary to the CAA in that they did not hold unexpended consumption allowances. Sentencing for all 4 defendants was scheduled for December 29, 2010. Results: 1-5 years of probation, storage and destruction fees.
    - Facts about the case:
    - The HCFC-22 was Chinese manufactured
    - The HCFC-22 was sent to the DR - we do not know if the import was legal or illegal. We do not know how it got to the DR.
    - We know the defendants "learned the smuggle scheme" from someone; we do not know who taught them.
    - Investigation team: Environmental Protection Agency, U.S. Immigration and Customs Enforcement, and the Florida Department of Environmental Protection, Criminal Investigation Bureau, and prosecuted by special assistant U. S. Attorney Jodi A. Mazer
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## **9. Mar-Cone Appliance Parts Co. (Marcone)**

### **INTERNATIONAL PRODUCT SUPPORT COMPANY CONVICTED AND SENTENCED FOR THE ILLEGAL PURCHASE AND SALE OF SMUGGLED OZONE-DEPLETING REFRIGERANT GAS**

March 19, 2010

#### **FOR IMMEDIATE RELEASE**

Jeffrey H. Sloman, United States Attorney for the Southern District of Florida, Maureen O'Mara, Special Agent in Charge, U.S. Environmental Protection Agency (EPA), Criminal Investigation Division, Atlanta Area Office, and Anthony V. Mangione, Special Agent in Charge, U.S. Immigration and Customs Enforcement (ICE), Office of Investigations, announced that defendant **Mar-Cone Appliance Parts Co. (Marcone)**, a Missouri corporation with its headquarters in St. Louis, was convicted and sentenced today in connection with the illegal receipt, purchase, and sale of ozone-depleting refrigerant gas that had been smuggled into the United States contrary to the Clean Air Act, in violation of Title 18, United States Code, Section 545.

Marcone pled guilty before U.S. District Court Judge Alan S. Gold this afternoon to a one count Information, charging it knowingly receiving, buying, selling and facilitating the transportation, concealment, and sale of approximately 100,898 kilograms of the ozone-depleting substance hydrochlorofluorocarbon - 22 ("HCFC-22"), which had been illegally smuggled into the United States contrary to the Clean Air Act. HCFC-22 is a widely used refrigerant for residential heat pump and air-conditioning systems.

Immediately following the guilty plea, Marcone was sentenced to five years of probation and ordered to pay a \$500,000 criminal fine. Marcone was also ordered to perform community service by making a \$400,000 payment to the Southern Environmental Enforcement Training Fund, a not-for-profit training organization. In addition, as a special condition of probation, Marcone was ordered to implement and enforce a comprehensive Environmental Compliance Plan. Finally, Marcone was ordered to forfeit to the United States \$190,534.70, which represents proceeds received as a result of the crime.

The Federal Clean Air Act regulates air pollutants, including ozone-depleting substances such as HCFC-22. The Clean Air Act and its implementing regulations established a schedule to phase out the production and importation of ozone-depleting substances beginning in 2002, with a complete ban starting in 2030. To meet its obligations under an international treaty to reduce its consumption of ozone-depleting substances, the United States issued baseline allowances for the production and importation of HCFC-22 to individuals and companies. In order to legally import HCFC-22, you must hold an unexpended consumption allowance. This matter, as well as others involving the smuggling and distribution of ozone-depleting substances, are being investigated through a multi-agency initiative known as Operation Catch-22, following in the footsteps of Operation Cool Breeze, which targeted illegal trafficking of CFC-12 in the mid-1990's.

According to court records, Marcone is a product support company serving customers throughout the United States and 117 countries worldwide. The investigation determined that between July 2007 and April 2009, Marcone engaged in a pattern of conduct to purchase and sell black market HCFC-22. Over the years, a Senior Vice-President of the Heating and Cooling Division, working within the scope of his employment, would routinely negotiate for the purchase of HCFC-22 from various suppliers that was not legally imported. Marcone then distributed the product throughout the United States. In this way, Marcone purchased HCFC-22 from various importers, who did not hold the required unexpended consumption allowances, totaling approximately 100,898 kilograms, or 7,419 cylinders, of restricted HCFC-22, with a fair market value of approximately \$843,291.00.

U.S. Attorney Jeffrey Sloman stated, "The defendant jeopardized the global effort to protect the ozone layer for its own financial benefit. Such conduct is short-sighted and inexcusable. We will continue to aggressively enforce federal laws that seek to protect our environment."

EPA Special Agent in Charge Maureen O'Mara said, "HCFC's deplete the stratospheric ozone layer, which is critical to life on earth and protecting people from the harmful effects of ultraviolet radiation, including cancer. EPA is committed to working with ICE and other agencies to combat such criminal conduct and preventing flagrant violations of our Nation's environmental laws. Those who jeopardize public safety to make illegal profits will be vigorously prosecuted and punished."

"This HCFC enforcement case under existing EPA regulations demonstrates our serious domestic and global commitment to protecting the ozone layer," said Drusilla Hufford, Director of EPA's Stratospheric Protection Division.

"The unlawful importation of goods pose a triple threat to the national security, public safety, and economic well-being of the United States," said Anthony V. Mangione, Special Agent in Charge of ICE's Office of Investigations in Miami. "This case demonstrates ICE's partnership and aggressive approach with the U.S. Attorney's Office and EPA to protect the American public from inferior and unsafe products that illegally enter the United States and combat those who exploit our commerce system and compromise the safety of our citizens."

Mr. Sloman commended the investigative efforts of the EPA, ICE's Office of Investigations in Miami, the Florida Department of Environmental Protection, Criminal Investigation Bureau, and the Miami-Dade Police Department, Environmental Investigation Unit. The case was prosecuted by Special Assistant U. S. Attorney Jodi A. Mazer.

A copy of this press release may be found on the website of the United States Attorney's Office for the Southern District of Florida at <http://www.usdoj.gov/usao/fls>. Related court documents and information may be found on the website of the District Court for the Southern District of Florida at <http://www.flsd.uscourts.gov> or on <http://pacer.flsd.uscourts.gov>.

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## **10. James Garrido and Kroy Corporation**

### **KROY CORPORATION AND JAMES GARRIDO SENTENCED FOR ILLEGAL OZONE-DEPLETING SUBSTANCE SMUGGLING OPERATION; ASSOCIATE PLEADS GUILTY TO FALSE CUSTOMS DECLARATIONS**

February 11, 2010

#### **FOR IMMEDIATE RELEASE**

Jeffrey H. Sloman, United States Attorney for the Southern District of Florida, Maureen O'Mara, Special Agent in Charge, United States Environmental Protection Agency (EPA), Criminal Investigation Division, Atlanta Area Office, and Anthony V. Mangione, Special Agent in Charge, U.S. Immigration and Customs Enforcement (ICE), Office of Investigations, announced that defendants **James Garrido**, 44, of Miami, and **Kroy Corporation**, a Florida corporation with its principal place of business in Miami, were sentenced today on charges related to their smuggling of ozone-depleting substances into the U.S., contrary to the provisions of the Clean Air Act, Title 42, United States Code, Sections 7413(c)(1) and 7671d, in violation of Title 18, United States Code, Section 545. In addition, an associate working for Kroy and Garrido, **Amador Hernandez**, 43, of Miami, pled guilty today to charges of making false statements and declarations on Customs entry forms to disguise the illegal merchandise being imported.

More specifically, James Garrido and Kroy Corporation were each sentenced today by U.S. District Court Judge Patricia A. Seitz. Garrido was sentenced to 30 months' imprisonment, to be followed by three years of supervised release. Kroy Corporation was sentenced to five years of probation. Additionally, Garrido and Kroy were sentenced, jointly and severally, to pay a criminal fine of \$40,000, and were further ordered to forfeit \$1,356,160 to the United States.

In the related matter, defendant Hernandez pled guilty before U.S. District Court Judge Marcia G. Cooke to a one-count Information charging him with willfully and knowingly entering and attempting to enter hydrochlorofluorocarbon - 22 ("HCFC-22") using false invoices and declarations. Defendant Hernandez faces a possible statutory maximum term of imprisonment of two years. Sentencing has been scheduled for April 21, 2010 before Judge Cooke.

The Federal Clean Air Act regulates air pollutants, including ozone-depleting substances such as HCFC-22. HCFC-22 is a widely used refrigerant in residential heat pump and air-conditioning systems. The Clean Air Act and its implementing regulations established a schedule to phase out the production and importation of ozone-depleting substances beginning in 2002, with a complete ban starting in 2030. To meet its obligation under an international treaty to reduce consumption of ozone-depleting substances, the United States issued baseline allowances for the production and importation of HCFC-22 to individuals and companies. In order to legally import HCFC-22, one must hold an unexpended consumption allowance. These matters, as well as others involving the smuggling and distribution of ozone-depleting substances, are being investigated

through a mutli-agency initiative known as Operation Catch-22, following in the footsteps of Operation Cool Breeze which targeted illegal trafficking of CFC-12 in the mid 1990's.

According to court records, Kroy, a corporation formed in February 2007, and its president, James Garrido, were in the business of importing merchandise, including refrigerant gas. Between March 2007 and April 2009, Kroy and Garrido engaged in the smuggling of large quantities of HCFC-22 into the United States for subsequent resale. The defendants routinely declared imported merchandise as either legal HFC-134A refrigerant gas or as "United States Goods Return." Except for a small quantity of legal refrigerant strategically placed in front of the contraband, the shipments contained HCFC-22 and were accompanied by false documentation. Neither Kroy nor Garrido held unexpended consumption allowances that would have allowed them to legally import the HCFC-22. In all, from 2007 to April 2009, Kroy and Garrido illegally imported approximately 418,654 kilograms, or 29,107 cylinders, of illegal HCFC-22 in eleven separate shipments, with a total fair market value of more than \$3.9 million.

According to court records in the related case, Hernandez was in the business of facilitating importation of merchandise, including refrigerant gas, by completing the necessary Customs entry paperwork. Hernandez was one of the associates who worked for Kroy and Garrido and completed Customs entry paperwork for four of the illegal importations in early 2009. In each of those shipments, Hernandez declared the merchandise as either refrigerant gas HFC-134A, HFC-404A, or HFC-410, and as "United States Goods Return," when in fact the shipments contained predominantly restricted HCFC-22. Hernandez completed false paperwork for approximately 82,852 kilograms, or 5,116 cylinders, of HCFC-22 with a fair market value of more than \$700,000.

United States Attorney Jeffrey H. Sloman stated, "The defendants jeopardized the global effort to restore and protect the ozone for their own financial benefit. Such conduct is short-sighted and inexcusable. We will continue to aggressively enforce federal laws that seek to protect our environment."

EPA Special Agent in Charge Maureen O'Mara said, "HCFCs deplete the stratospheric ozone layer, which is critical to life on earth and protecting people from the harmful effects of ultraviolet radiation, including cancer. EPA is committed to working aggressively with ICE and other agencies to combat such criminal conduct, preventing these dangerous smuggling operations, and preventing flagrant violations of our Nation's environmental laws. These sentences and the guilty plea send a strong message that those who jeopardize public safety in order to make illegal profits will be vigorously prosecuted and punished."

"The unlawful importation of goods pose a triple threat to the national security, public safety, and economic well-being of the United States," said Anthony V. Mangione, Special Agent in Charge of ICE's Office of Investigations in Miami. "This case demonstrates ICE's partnership and aggressive approach with the U.S. Attorney's Office and EPA to protect the American public from inferior and unsafe products that illegally enter the United States and combat those who exploit our commerce system and compromise the safety of our citizens."

Mr. Sloman commended the investigative efforts of the Special Agents and officers of the United States Environmental Agency, ICE's Office of Investigations in Miami, the Florida Department of Environmental Protection, Criminal Investigation Bureau, and the Miami-Dade Police Department, Environmental Investigation Unit. The case was prosecuted by Special Assistant U.S. Attorney Jodi A. Mazer.

A copy of this press release may be found on the website of the United States Attorney's Office for the Southern District of Florida at <http://www.usdoj.gov/usao/fls>. Related court documents and information may be found on the website of the District Court for the Southern District of Florida at <http://www.flsd.uscourts.gov> or on <http://pacer.flsd.uscourts.gov>.



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### **11. Service Supply of Victoria, Inc.**

January 26, 2010: EPA fines Service Supply of Victoria, Inc. for illegally importing HCFC-22  
Service Supply of Victoria, Inc., a supplier of plumbing, HVAC, and industrial supplies located in Victoria, Texas, was fined \$12,500 for illegally importing HCFC-22 into the U.S. In 2007, the U.S. Customs and Border Protection Office seized 7,517 cylinders (102,231 kg) of HCFC-22 from Service Supply of Victoria, Inc. EPA Region 6 allowed the HCFC-22 that was seized to be exported to another country that is permitted to import HCFC-22 under the terms of the Montreal Protocol.

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### **12. JWS Refrigeration & Air Conditioning, Ltd**

#### **U.S. EPA settles with JWS Refrigeration for \$53,481 for illegal importation of ozone-depleting substances**

Release Date: 11/19/2007

Contact Information: Dean Higuchi, 808-541-2711, [higuchi.dean@epa.gov](mailto:higuchi.dean@epa.gov)

(11/19/07) HONOLULU – The U.S. Environmental Protection Agency today fined JWS Refrigeration & Air Conditioning, Ltd., a Tamuning, Guam refrigeration and heating equipment services company, \$53,481 for allegedly importing banned refrigerants in violation of the Clean Air Act.

The company allegedly imported 25,402 kg of hydrochlorofluorocarbon 22, an ozone-depleting substance, from sources outside the United States, a violation of the stratospheric ozone protection regulations.

“To protect stratospheric ozone, the Clean Air Act limits the importing of ozone depleting chemicals into the United States,” said Deborah Jordan, director of the EPA’s Air Division for the Pacific Southwest region. “Companies in Guam and other U.S. territories are not excluded and must comply with all stratospheric ozone protection regulations.”

A May 2006 inspection by the Guam EPA, in consultation with the U.S. EPA, identified the violations by JWS Refrigeration.

High in the atmosphere, the stratospheric ozone layer is the earth’s protective shield against excessive ultraviolet radiation. Overexposure to ultraviolet radiation is responsible for increased risk of skin cancer and cataracts, depressed immune systems, decreased crop output, and the destruction of plankton, a critical link in the oceanic food chain.

The U.S. EPA’s stratospheric ozone protection program aims to prevent depletion of the ozone layer through the production phase-out and use restriction of refrigerants. Among other restrictions, the program forbids

the importation of ozone-depleting substances.

For more information on the U.S. EPA's stratospheric ozone protection program, please visit <http://www.epa.gov/ozone/strathome.html>.

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### **13. Carrier Guam**

#### **U.S. EPA settles with Carrier Guam for \$63,922 for illegal importation of ozone-depleting substances**

Release Date: 10/01/2007

Contact Information: Dean Higuchi, 808-541-2711, [higuchi.dean@epa.gov](mailto:higuchi.dean@epa.gov)

(10/01/07) HONOLULU – The U.S. Environmental Protection Agency recently reached a settlement with Carrier Guam, of Tamuning, a refrigeration and heating equipment services company, for allegedly importing refrigerants regulated by the Clean Air Act.

The company imported 32,356 kilograms of hydrochlorofluorocarbon, an ozone-depleting substance. The EPA's stratospheric ozone protection regulations limit and regulate the import of the product from sources outside the United States.

“The U.S. EPA limits the importation of ozone-depleting chemicals into the United States to protect the ozone layer from further damage,” said Deborah Jordan, director of the EPA's Air Division for the Pacific Southwest region. “Refrigeration companies in Guam are not excluded from the rules and need to comply with the stratospheric ozone protection regulations in the Clean Air Act.”

A May 2006 inspection by the Guam EPA, in consultation with the U.S. EPA, identified the alleged violations of the stratospheric ozone protection regulations committed by Carrier Guam.

High in the atmosphere, the stratospheric ozone layer is the earth's protective shield against excessive ultraviolet radiation. Overexposure to ultraviolet radiation has been held responsible for increased risk of skin cancer and cataracts, depressed immune systems, decreased crop output, and the destruction of plankton, a critical link in the oceanic food chain.

The U.S. EPA's stratospheric ozone protection program aims to prevent depletion of the ozone layer through refrigerant production phase-out and use restrictions. The program also regulates the importation of ozone-depleting substances such as hydrochlorofluorocarbon

For more information on the U.S. EPA's stratospheric ozone protection program, please visit <http://www.epa.gov/ozone/strathome.html>.