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Recycling and Emissions Reduction Rule/Air Enforcement: U.S. Department of Justice and New York City Supermarket Operator Enter into Consent Decree

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The United States Department of Justice (“DOJ”) on behalf of the U.S. Environmental Protection Agency (“EPA”) entered into a July 1st Consent Decree (“CD”) with Gristede’s Foods NY, Inc. (“GFNI”) addressing alleged violations of section 608 of the Clean Air Act and the Commercial Refrigerant Repair and Record Keeping Regulations at 40 C.F.R. Part 82 Subpart F (Recycling and Emissions Reduction Rule [RER Rule]). See 24 Civ. 4981.

GFNI is stated to operate grocery stores in New York City.

DOJ had filed a complaint against GFNI alleging that it had violated the requirements of the RER Rule applicable to commercial refrigeration and comfort cooling equipment at its grocery stores. The alleged violations are stated to have included:

- Failing to calculate refrigerant leak rates when adding refrigerants to its appliances.
- Failing to conduct required monitoring and inspections.
- Failing to perform necessary repairs and to retire appliances that cannot be repaired.
- Failing to report significant refrigerant leaks to the EPA.
- Failing to conduct necessary record keeping.

The CD states that GFNI no longer uses ozone-depleting substances as refrigerants at its stores but instead uses refrigerants referred to as hydrofluorocarbons, or HFCs.

GFNI is stated to estimate that the injunctive relief provided by Section VI of the CD will cost at least \$13,500,000.00.

The CD assesses a civil penalty of \$400,000.00.

The injunctive requirements include:

- Refrigerant Compliance Management Plan.
- Company-wide leak rate reduction.
- Appliance repair schedule.
- Use of advanced refrigerants.
- Reporting requirements.

A copy of the CD can be downloaded [here](#).