



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

SEP 30 2014

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Xiaodong Qu
DaMenga Weaver
A-Z Recycling, Inc.
1465 East 17th Avenue
Columbus, Ohio 43211

Re: In the matter of A-Z Recycling, Inc., Docket No. CAA-05-2014-0059

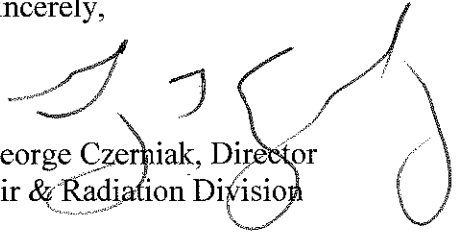
Dear Mr. Qu and Mr. Weaver:

I have enclosed the Complaint filed by the U.S. Environmental Protection Agency against A-Z Recycling, Inc. under Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d), a copy of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. Part 22, and a copy of U.S. Environmental Protection Agency's Clean Air Act Stationary Source Civil Penalty Policy, dated October 25, 1991.

As provided in the Complaint, if you would like to request a hearing, you must do so in your Answer to the Complaint. Please note that if you do not file an Answer with the Regional Hearing Clerk (E-19J), U.S. Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, Illinois 60604 within 30 days of your receipt of this Complaint, a default order may be issued and the proposed civil penalty will become due 30 days later. If you choose to file an Answer, you also must mail a copy of it to Erik Olson, Associate Regional Counsel (C-14J), U.S. Environmental Protection Agency, 77 W. Jackson Boulevard, Chicago, Illinois 60604.

Whether or not you request a hearing, you may request an informal settlement conference. If you wish to request a conference, or if you have any questions about this matter, please contact Mr. Olson at (312)886-6829.

Sincerely,



George Czerniak, Director
Air & Radiation Division

Enclosures

cc: Regional Hearing Clerk
U.S. EPA, Region 5

Thomas Lagos, Esq.
Lagos & Lagos PLLC
1 South Limestone Street #1000
Springfield, OH 45502

Drew Bergman
Deputy Director for Legal Affairs
Ohio EPA
PO Box 1049
Columbus, Ohio 43216-1049

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:

A-Z Recycling, Inc.
Columbus, Ohio,

Respondent.



Docket No. CAA-05-2014-0059

Proceeding to Assess a Civil Penalty
Under Section 113(d) of the Clean Air Act,
42 U.S.C. § 7413(d)

Complaint

1. This is an administrative action to assess a civil penalty under Section 113(d) of the Clean Air Act (the CAA), 42 U.S.C. § 7413(d).

2. The Complainant is, by lawful delegation, the Director of the Air Radiation Division, U.S. Environmental Protection Agency (EPA), Region 5, Chicago, Illinois.

3. The Respondent is A-Z Recycling, Inc., a corporation doing business in Ohio.

Statutory and Regulatory Background

4. Section 602(a) of the CAA, 42 U.S.C. § 7671a(a), requires the Administrator of the EPA to publish a list of class I substances, including certain chlorofluorocarbons and other chemicals, and to add to that list any other substance that the Administrator finds causes or contributes significantly to harmful effects on the stratospheric ozone layer.

5. Section 602(b) of the CAA, 42 U.S.C. § 7671a(b), requires the Administrator of the EPA to publish a list of class II substances, including certain hydrochlorofluorocarbons and other chemicals, and to add to that list any other substance that the Administrator finds is known or may reasonably be anticipated to cause or contribute to harmful effects on the stratospheric ozone layer.

6. Section 608(a)(2) of the CAA, 42 U.S.C. § 7671g, provides, in part, that the Administrator of the EPA shall promulgate regulations establishing standards and requirements regarding the use and disposal of class I and class II substances during service, repair, or disposal of appliances and industrial process refrigeration.

7. On May 14, 1993, pursuant to Section 608(a) of the CAA, 42 U.S.C. § 7671g(a), EPA published regulations establishing standards and requirements regarding the use and disposal of class I and class II substances during service, repair, or disposal of appliances and industrial process refrigeration. These regulations, which have been subsequently amended, are codified in Title 40 of the Code of Federal Regulations, Part 82, Subpart F.

8. 40 C.F.R. § 82.156(f) requires, in part, that persons who take the final step in the disposal process (including but not limited to scrap recyclers and landfill operators) of a small appliance to either: 1) recover any remaining refrigerant from the appliance in accordance with 40 C.F.R. § 82.156(g) or (h); or 2) verify that the refrigerant has been evacuated from the appliance or shipment of appliances previously. Such verification must include a signed statement from the person from whom the appliance or shipment of appliances is obtained that all refrigerant that had not leaked previously has been recovered from the appliance or shipment of appliances. This statement must include the name and address of the person who recovered the refrigerant and the date the refrigerant was recovered or a contract that refrigerant will be removed prior to delivery.

9. 40 C.F.R. § 82.166(i) requires, in part, that, persons disposing of small appliances, motor vehicle air conditioners (MVACs), and MVAC-like appliances must maintain copies of signed statements obtained pursuant to 40 C.F.R. § 82.156.

10. Appliance is defined in Section 601(1) of the CAA, 42 U.S.C. § 7671(1), and 40

C.F.R. § 82.152(a) as any device which contains and uses a class I or class II substance as a refrigerant and which is used for household or commercial purposes, including any air conditioner, refrigerator, chiller, or freezer.

11. Small appliance is defined in 40 C.F.R. § 82.150(a) as any appliance that is fully manufactured, charged, and hermetically sealed in a factory with five (5) pounds or less of a class I or class II substance used as a refrigerant, including, but not limited to, refrigerators and freezers (designed for home, commercial, or consumer use), medical or industrial research refrigeration equipment, room air conditioners (including window air conditioners and packaged terminal air heat pumps), dehumidifiers, under-the-counter ice makers, vending machines, and drinking water coolers.

12. Motor vehicle air conditioner (MVAC) is defined at 40 C.F.R. § 82.152 and 40 C.F.R. § 82.32(d) as mechanical vapor compression refrigeration equipment used to cool the driver's or passenger's compartment of any motor vehicle.

13. Disposal is defined in 40 C.F.R. § 82.152 as the process leading to and including: (1) the discharge, deposit, dumping or placing of any discarded appliance into or on any land or water; (2) the disassembly of any appliance for discharge, deposit, dumping or placing of its discarded component parts into or on any land or water; or (3) the disassembly of any appliance for reuse of its component parts.

14. The Administrator of EPA (the Administrator) may assess a civil penalty of up to \$37,500 per day of violation up to a total of \$295,000 for violations of the regulations for the protection of the stratospheric ozone that occurred between January 12, 2009, and December 6, 2013, pursuant to Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

15. Section 113(d)(1) of the CAA limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

16. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this Complaint.

General Allegations

17. Respondent owns and operates a scrap metal recycling facility (the facility) at 1465 East 17th Avenue, Columbus, Ohio.

18. Respondent is a person who disposes of appliances, including MVACs and small appliances as part of its business operations.

19. Respondent is a "person" as defined at Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

20. The regulations at 40 C.F.R. Part 82, Subpart F, apply to Respondent.

21. On September 22, 2011, EPA performed an inspection of Respondent's facility.

22. On October 31, 2011, EPA issued an Information Request to Respondent under Section 114 of the CAA, 42 U.S.C. § 7414. On January 25, 2012, Respondent submitted to EPA a response to the Information Request.

23. On May 30, 2012, EPA issued to Respondent a Finding of Violation describing violations of the regulations regarding the use and disposal of class I and class II substances during service, repair, or disposal of appliances, 40 C.F.R. Part 82, Subpart F.

Count 1

24. Complainant incorporates paragraphs 1 through 23 of this Complaint, as if set forth in this paragraph.

25. From November 1, 2010 to October 31, 2011, Respondent accepted appliances and MVACs for recycling or disposal at its facility in the regular course of business.

26. From, November 1, 2010 to October 31, 2011, Respondent failed to recover any remaining refrigerant from appliances or MVACs in accordance with 40 C.F.R. § 82.156(g) or (h) as required by 40 C.F.R. § 82.156(f).

27. From November 1, 2010 to October 31, 2011, Respondent failed to verify by, among other things, collection of a signed verification statement from the person from whom the appliances or MVACs were obtained, that the refrigerant had been evacuated from the appliances or MVACs previously, as required by 40 C.F.R. § 82.156(f).

Proposed Civil Penalty

28. Complainant proposes that the Administrator assess a civil penalty against Respondent for the violations alleged in this Complaint of \$89,227.

29. Complainant determined the proposed civil penalty according to the factors specified in Section 113(e) of the CAA, 42 U.S.C. § 7413(e). Complainant evaluated the facts and circumstances of this case with specific reference to Appendix X of EPA's Clean Air Act Stationary Source Civil Penalty Policy, dated October 25, 1991 (penalty policy). Enclosed with this Complaint is a copy of the penalty policy.

30. Complainant developed the proposed penalty based on the best information available to Complainant at this time. Complainant may adjust the proposed penalty if

Respondent establishes bona fide issues of ability to pay or other defenses relevant to the penalty's appropriateness.

Rules Governing This Proceeding

31. The Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (the Consolidated Rules), at 40 C.F.R. Part 22, govern this proceeding to assess a civil penalty. Enclosed with the Complaint served on Respondent is a copy of the Consolidated Rules.

Filing and Service of Documents

32. Respondent must file with the EPA Regional Hearing Clerk the original and one copy of each document Respondent intends as part of the record in this proceeding. The Regional Hearing Clerk's address is:

Regional Hearing Clerk (E-19J)
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

33. Respondent must serve a copy of each document filed in this proceeding on each party pursuant to Section 22.5 of the Consolidated Rules. Complainant has authorized Erik Olson to receive any Answer and subsequent legal documents that Respondent serves in this proceeding. You may telephone him at 312-886-6829. Mr. Olson's address is:

Erik Olson (C-14J)
Associate Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

Penalty Payment

34. Respondent may resolve this proceeding at any time by paying the proposed penalty by certified or cashier's check payable to "Treasurer, the United States of America," and by delivering the check to:

Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

35. Respondent must include the case name and docket number on the check and in the letter transmitting the check. Respondent simultaneously must send copies of the check and transmittal letter to the Regional Hearing Clerk and Erik Olson at the addresses given above and to:

Attn: Compliance Tracker, (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

Answer and Opportunity to Request a Hearing

36. If Respondent contests any material fact upon which the Complaint is based or the appropriateness of any penalty amount, or contends that it is entitled to judgment as a matter of law, Respondent may request a hearing before an Administrative Law Judge. To request a hearing, Respondent must file a written Answer within 30 days of receiving this Complaint and must include in that written Answer a request for a hearing. Any hearing will be conducted in accordance with the Consolidated Rules.

37. In counting the 30-day period, the date of receipt is not counted, but Saturdays, Sundays and federal legal holidays are counted. If the 30-day period expires on a Saturday, Sunday or federal legal holiday, the time period extends to the next business day.

38. To file an Answer, Respondent must file the original written Answer and one copy with the Regional Hearing Clerk at the address given above.

39. Respondent's written Answer must clearly and directly admit, deny or explain each of the factual allegations in the Complaint, or must state clearly that Respondent has no knowledge of a particular factual allegation. Where Respondent states that it has no knowledge of a particular factual allegation, the allegation is deemed denied. Respondent's failure to admit, deny or explain any material factual allegation in the Complaint constitutes an admission of the allegation.

40. Respondent's Answer must also state:

- a. The circumstances or arguments which Respondent alleges constitute grounds of defense;
- b. The facts that Respondent disputes;
- c. The basis for opposing the proposed penalty; and
- d. Whether Respondent requests a hearing.

41. If Respondent does not file a written Answer within 30 days after receiving this Complaint, the Presiding Officer may issue a default order, after motion, under Section 22.17 of the Consolidated Rules. Default by Respondent constitutes an admission of all factual allegations in the Complaint and a waiver of the right to contest the factual allegations.

Respondent must pay any penalty assessed in a default order, without further proceedings, 30 days after the order becomes the final order of the EPA Administrator under Section 22.27(c) of the Consolidated Rules.

Settlement Conference

42. Whether or not Respondent requests a hearing, Respondent may request an informal settlement conference to discuss the facts alleged in the Complaint and to discuss a settlement. To request an informal settlement conference, Respondent may contact Erik Olson at (312)886-6829.

43. Respondent's request for an informal settlement conference does not extend the 30-day period for filing a written Answer to this Complaint. Respondent may pursue simultaneously the informal settlement conference and the adjudicatory hearing proceeding. Complainant encourages all parties facing civil penalties to pursue settlement through an informal conference. Complainant, however, will not reduce the penalty simply because the parties hold an informal settlement conference.

Continuing Obligation to Comply

44. Neither the assessment nor payment of a civil penalty will affect Respondent's continuing obligation to comply with the CAA and any other applicable federal, state or local law.

Date

9/30/14


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

In the Matter of: A-Z Recycling, Inc.
Docket No. **CAA-05-2014-0059**

Certificate of Service

I, Loretta Shaffer, certify that I hand delivered the original and one copy of the Complaint, docket number CAA-05-2014-0059, to the Regional Hearing Clerk, Region 5, U.S. Environmental Protection Agency, and that I mailed a correct copy of the Complaint, a copy of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits at 40 C.F.R. Part 22, and a copy of the penalty policy described in the Complaint by first-class, postage prepaid, certified mail, return receipt requested, to the Respondent and Thomas Lagos, counsel for Respondent, by placing them in the custody of the United States Postal Service addressed as follows:

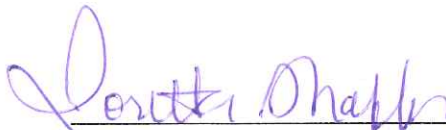
Xiaodong Qu
DaMenga Weaver
A-Z Recycling, Inc.
1465 East 17th Avenue
Columbus, OH 43227

Thomas Lagos
Lagos & Lagos PLLC
1 South Limestone Street #1000
Springfield, OH 45502

I also certify that I sent a copy of the Complaint by first-class mail to:

Drew Bergman
Deputy Director for Legal Affairs
Ohio EPA
PO Box 1049
Columbus, Ohio 43216-1049

On the 30 day of September, 2014.



Loretta Shaffer
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER 7009 1680 0000 7676 2724