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

SEP 14 2000 (AE-17J)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Charles Henley, Owner
Tom's Automotive & Towing
5422 Fleet Avenue at E. 55th
Cleveland, Ohio 44105

Re: Notice of Intent to File Civil Administrative Complaint Against Tom's Automotive & Towing and Opportunity to Show Cause

Dear Mr. Henley:

Based on information gathered by the United States Environmental Protection Agency (U.S. EPA), we plan to file an administrative complaint for civil penalties against Tom's Automotive & Towing (you). We will allege that you violated Section 609 of the Clean Air Act, 42 U.S.C. § 7671h, and the regulations promulgated at 40 C.F.R. Part 82, Subpart B. Specifically, we will allege that you have repaired and serviced motor vehicles for consideration and that you have violated 40 C.F.R. § 82.42(a) by repairing or servicing motor vehicle air conditioners for consideration without submitting the required written certification to U.S. EPA and violated 40 C.F.R. § 82.34(a)(1) by using nonapproved refrigerant recycling equipment when servicing or repairing motor vehicle air conditioners or MVACs. Based on information currently available to us, we plan to propose a penalty of $28,600 in the complaint. This penalty includes $1,000 for the size of violator, based on our estimate that you have a net worth or net assets between $100,001 - $500,000.

This letter is not a demand to pay a penalty. We will not ask you to pay a penalty until we file the complaint or a final order. Before filing the complaint, we are giving you the opportunity to present any information that you believe we should consider. You may present information and supporting documentation both to show cause why U.S. EPA should not institute administrative proceedings to assess

civil penalties, and to show cause why the proposed penalty should be reduced. Relevant information might include evidence that you did not violate the law; evidence that you relied on compliance assistance from U.S. EPA or a State agency; evidence that we identified the wrong party; or financial data bearing on the size of your company or your ability to pay a penalty.

If you believe that you will be unable to pay a $28,600 penalty because of financial reasons, please give us the following supporting documentation: certified financial statements, including balance sheets, for the past three years; and your company's income tax returns, with all schedules, for the past three years.

You may assert a claim of business confidentiality under 40 C.F.R. Part 2, Subpart B, for any portion of the information you submit to us. Information subject to a business confidentiality claim is available to the public only to the extent allowed by 40 C.F.R. Part 2, Subpart B. If you fail to assert a business confidentiality claim, U.S. EPA may make all submitted information available, without further notice, to any member of the public who requests it. Please see the enclosure titled "Confidential Business Information" if you wish to assert a claim of business confidentiality.

We may use any information you submit in support of an administrative, civil, or criminal action.

Within 10 calendar days after you receive this letter, please send any response to:

Alan Walts
Assistant Regional Counsel (C-14J)
United States Environmental Protection Agency
Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

We intend to file the complaint against you 14 calendar days after you receive this letter, unless you give us information that the complaint is not substantially justified.

If you have any questions, please call Rae Trine, of my staff, at (312) 353-9228.

Thank you for your prompt attention to this matter.

Sincerely,

Bharat Mathur, Director
Air and Radiation Division

Enclosures (CBI Instructions and Small Business Fact Sheet)