



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

JAN 30 2015

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Dan Becker
Becker Iron and Metal
1310 Broadway
Venice, Illinois 62090

Re: Administrative Consent Order EPA-5-14-113(a)-IL-17

Dear Mr. Becker:

Enclosed is a signed copy of the Administrative Consent Order (ACO) regarding the above captioned case. Please maintain this copy for your records.

The ACO became effective upon the date of signature by the EPA Region 5 Air Division Director. If you have any questions about the ACO, please contact Louise Gross at 312-886-6844 or Natalie Topinka at 312-886-3853.

Sincerely,

A handwritten signature in black ink, appearing to read "Nathan A. Frank".

Nathan A. Frank, Chief
Air Enforcement and Compliance Assurance Section (IL/IN)

Enclosure

cc: Ann Coyle, Regional Judicial Officer/C-14J
Regional Hearing Clerk/E-19J
Louise Gross/C-14J
Eric Jones, Illinois Environmental Protection Agency

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	EPA-5-14-113(a)-IL-17
)	Proceeding Under Sections
Becker Iron and Metal, Inc.)	113(a)(3) and 114(a)(1)
Venice, Illinois)	of the Clean Air Act,
)	42 U.S.C. §§ 7413(a)(3) and 7414(a)(1)
_____)	

Administrative Consent Order

1. The Director of the Air and Radiation Division (Director), U.S. Environmental Protection Agency, Region 5 (EPA), is entering into this Administrative Consent Order (Order) with Becker Iron and Metal, Inc. (Becker), 1310 Broadway, Venice, Illinois, under Sections 113(a)(3) and 114(a)(1) of the Clean Air Act (Act), 42 U.S.C. §§ 7413(a)(3), 7414(a)(1).

I. Statutory and Regulatory Background

2. Section 113(a)(3)(B) of the Act, 42 U.S.C. § 7413(a)(3)(B), authorizes the Administrator of EPA to issue an order requiring compliance with Subchapter VI of the Act to any person who has violated or is violating any requirement of Subchapter VI. The Administrator of EPA has delegated her order authority to the Regional Administrator of EPA, Region 5, pursuant to EPA Headquarters Delegation 7-6-A. The Regional Administrator of EPA, Region 5, has delegated her order authority to the Director, Air and Radiation Division, EPA Region 5, pursuant to Delegation 7-6-A.

3. The Administrator of EPA may require any person who owns or operates an emission source to make reports and provide information required by the Administrator under Section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1). The

Administrator of EPA has delegated her information gathering authority to the Regional Administrator of EPA, Region 5, pursuant to EPA Headquarters Delegation 7-8. The Regional Administrator of EPA, Region 5, has delegated her information gathering authority to the Director, Air and Radiation Division, EPA Region 5, pursuant to Delegation 7-8.

4. Subchapter VI of the Act, 42 U.S.C. § 7671 *et seq.*, provides for the protection of stratospheric ozone. Section 608(b) of the Act, 42 U.S.C. § 7671g(b), provides EPA with the authority to regulate the safe disposal of class I and II substances. Class I and II substances include refrigerants containing chlorofluorocarbons (CFCs) and hydrochlorofluorocarbons (HCFCs). EPA promulgated such regulations covering the safe disposal of CFCs and HCFCs from small appliances and motor vehicle air conditioners at 58 Fed. Reg. 28660 (May 14, 1993). These regulations for protection of the stratospheric ozone, recycling and emissions reduction are found in 40 C.F.R. Part 82, Subpart F.

5. Effective July 13, 1993, persons who take the final step in the disposal process (including but not limited to scrap recyclers) of small appliances and motor vehicle air conditioners (MVACs) must either recover the refrigerant in accordance with specific procedures or verify with signed statements that the refrigerant was properly recovered prior to receipt of the small appliance or MVAC. See 40 C.F.R. § 82.156(f). If verification statements are used then the scrap recycler must notify the suppliers of the small appliance or MVAC of the need to properly recover the refrigerant. See 40 C.F.R. § 82.156(f)(3). The scrap recycler must keep verification statements on-site for a minimum of three years. See 40 C.F.R. § 82.166(i) and (m).

6. EPA's regulations for the protection of the stratospheric ozone, recycling and emissions reduction define a "small appliance" as any appliance that is fully manufactured, charged, and hermetically sealed in a factory with five 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. See 40 C.F.R. § 82.152.

7. EPA's regulations for the protection of stratospheric ozone, recycling and emissions reduction define "motor vehicle air conditioners" (MVACs) as mechanical vapor compression refrigeration equipment used to cool the driver's or passenger's compartment of any motor vehicle. See 40 C.F.R. §§ 82.32 and 82.152.

8. EPA regulations for the protection of stratospheric ozone define "person" as any individual or legal entity including an individual or corporation.

II. Findings

9. Becker owns and operates a scrap metal recycling facility at 1310 Broadway, Venice, Illinois (the facility).

10. Becker is a corporation organized and doing business in Illinois.

11. Becker is a "person," as defined by 40 C.F.R. § 82.152.

12. At the facility, Becker is a person who takes the final step in the disposal process of small appliances, and is subject to the requirements of 40 C.F.R. Part 82, Subpart F.

13. Becker has accepted small appliances and MVACs. In its regular course of business, Becker did not accept those small appliances and MVACs that had refrigerant inside. Becker had a warning sign posted stating that it does not accept appliances with refrigerant. Becker obtained signed contracts from its industrial and regular suppliers but not its retail suppliers that they had recovered all refrigerant properly prior to delivery. Therefore Becker did not meet the requirements of 40 C.F.R. § 82.156(f)(2) for these small appliances and MVACs.

14. On February 27, 2013, EPA issued to Becker a Finding of Violation alleging that it has violated 40 C.F.R. § 82.156(f) because it did not recover refrigerant from small appliances or did not obtain proper verification statements.

15. Becker has had an opportunity to confer with EPA concerning the violations referenced in paragraph 13.

III. Compliance Program

16. Becker must comply with 40 C.F.R. Part 82, Subpart F. Additionally, for any small appliance or MVAC that it receives at the facility, Becker must take the following actions by the dates specified and maintain compliance as specified in paragraphs 17 through 23, below, for two years after the effective date of this Order.

17. Becker must not accept small appliances or MVACs with cut or dismantled refrigerant lines if it knows or has reason to know that the refrigerant has not been properly recovered in accordance with 40 C.F.R. § 82.156(g) and (h).

18. Becker must not accept small appliances or MVACs with cut or dismantled refrigerant lines unless its supplier can certify, using the verification statement included as Attachment 1 to this Order, that all refrigerant that had not leaked previously

has been properly recovered. For suppliers with whom Becker has had a long-standing business relationship, this requirement may be satisfied by Becker entering into the contract included as Attachment 2 to this Order.

19. If Becker decides in the future to accept small appliances, small appliance components or MVACs with intact refrigerant lines, it must use refrigerant recovery equipment and follow the procedures and regulatory requirements in 40 C.F.R. §§ 82.156(g) and (h).

20. As provided for in 40 C.F.R. § 82.156(f)(3), Becker must notify its suppliers that refrigerant must be properly removed before delivery of the items to the facility. The form of this notification may be warning signs, letters to suppliers, or other equivalent means.

21. Within thirty (30) days of the effective date of this Order, Becker must provide EPA with proof of its compliance with the notice requirements of paragraph 20.

22. Within six months of the effective date of this Order and at one year of the effective date of this Order, Becker must submit to EPA copies of all signed verification statements and all signed contracts.

23. Becker must send all reports required by this Order to:

Attention: Compliance Tracker (AE-17J)
Air Enforcement and Compliance Assurance Branch
EPA, Region 5
77 West Jackson
Chicago, Illinois 60604

IV. General Provisions

24. Becker agrees to the terms of this Order.

25. Becker does not contest the authority of EPA and it to enter into this

agreement. Becker waives all remedies, claims for relief and otherwise available rights to judicial or administrative review that Becker may have with respect to any issue of fact or law set forth in this Order, including any right of judicial review under Section 307(b) of the Clean Air Act.

26. This Order does not affect Becker's responsibility to comply with other federal, state, and local laws.

27. This Order does not restrict EPA's authority to enforce any requirement of the Act or its implementing regulations.

28. Failure to comply with this Order may subject Becker to penalties of up to \$37,500 per day for each violation under Section 113 of the Act, 42 U.S.C. § 7413, and 40 C.F.R. Part 19.

29. Becker may assert a claim of business confidentiality under 40 C.F.R. Part 2, Subpart B, for any portion of the information it submits to EPA. 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 Becker fails to assert a business confidentiality claim, EPA may make all submitted information available, without further notice, to any member of the public who requests it. Emission data provided under Section 114 of the Act, 42 U.S.C. § 7414, is not entitled to confidential treatment under 40 C.F.R. Part 2, Subpart B. "Emission data" is defined at 40 C.F.R. § 2.301.

30. This Order is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 *et seq.*, because it seeks collection of information by an agency from specific individuals or entities as part of an administrative action or investigation. To aid in our electronic record keeping efforts, please provide your response(s) to this Order in

electronic format if possible. If paper copies are sent, please provide your response without staples. Paper clips, binder clips, and 3-ring binders are acceptable.

31. The terms of this Order are binding on Becker, its assignees, and successors. Becker must give notice of this Order to any successor in interest prior to transferring ownership and must simultaneously verify to EPA that it has given the notice.

32. EPA may use any information submitted under this Order in an administrative, civil judicial, or criminal action.

33. This Order is effective on the date of signature by the Director. This Order will terminate two years from the effective date, provided that Becker has complied with all terms of the Order throughout its duration. Thereafter, Becker shall continue to comply with 40 C.F.R. Part 82, Subpart F.

34. Each person signing this Order certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

35. Each party agrees to pay its own costs and attorneys' fees in this action.

36. This Order constitutes the entire agreement between the parties.

AGREED AS STATED ABOVE:

BECKER IRON AND METAL, INC.

1-21-15
Date

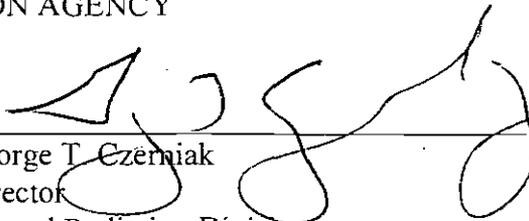


Dan Becker
Becker Iron and Metal, Inc.

AGREED AND SO ORDERED:

U.S. ENVIRONMENTAL PROTECTION AGENCY

1/30/15
Date



George T. Czerniak
Director
Air and Radiation Division



1310 Broadway Venice, IL 62090 Phone: (314) 382-3800/(618) 213-4250 Toll Free: (866) 688-4250 Fax: (314) 382-3938 www.beckermetal.com

VERIFICATION OF REFRIGERANT REMOVAL

I certify that all refrigerant and substitutes (including but not limited to chlorofluorocarbons (CFCs) and hydrochlorofluorocarbons (HCFCs) as defined in Section 608 of the Clean Air Act Amendments and 40 CFR Part 82) that have not leaked previously have been recovered in accordance with the federal regulations on refrigerant recycling at 40 C.F.R. Part 82, Subpart F, from the appliances delivered under this sale.

The refrigerant has been recovered as follows:

Name of person
Recovering refrigerant: _____

Address of person
recovering refrigerant: _____

Date refrigerant recovered: _____

Seller's Signature

Seller's name (print)

Date



BECKER IRON & METAL

1310 Broadway Venice, IL 62090 Phone: (314) 382-3800/(618) 213-4250 Toll Free: (866) 688-4250 Fax: (314) 382-3938 www.beckermetal.com

CFC & HCFC REMOVAL CERTIFICATION

[Name of Company] certifies that all refrigerant (including but not limited to chlorofluorocarbons (CFC's) and hydro-chlorofluorocarbons (HCFC's), as defined in 608 of the Clean Air Act Amendments and 40 CFR Part 82) that has not leaked previously will be recovered from appliances to be delivered under this contract of sale prior to delivery. [Name of Company] further agrees to indemnify and hold Becker Iron & Metal, Inc. harmless from any claim, penalty, fine, fee, cost, attorney's fee or other liability resulting in whole or in part from [Name of Company] breach of this certification.

SELLER:

Company

Address

City, State and Zip Code

Authorized Signature & Title

Date Signed

EPA DEFINES A SMALL APPLIANCE TO BE "ANY OF THE FOLLOWING PRODUCTS THAT ARE FULLY MANUFACTURED, CHARGED, AND HERMETICALLY SEALED IN A FACTORY WITH FIVE (5) POUNDS OR LESS OF REFRIGERANT: REFRIGERATORS AND FREEZERS DESIGNED FOR HOME USE, ROOM AIR CONDITIONERS, PACKAGED TERMINAL HEAT PUMPS, DEHUMIDIFIERS, UNDER-THE-COUNTER ICE MAKERS, VENDING MACHINES AND DRINKING WATER COOLERS". PLEASE NO THAT MOTOR VEHICLE AIR CONDITIONERS ARE CONSIDERED APPLIANCES BY THE EPA FOR THE PURPOSES OF THIS REGULATION AND ALSO ARE COVERED BY THIS CERTIFICATION REQUIREMENT.

CERTIFICATE OF MAILING

I, Loretta Shaffer, certify that I sent the Administrative Consent Order, EPA-5-14-113(a)-IL-17, by certified mail, return receipt requested, to:

Dan Becker
Becker Iron and Metal
1310 Broadway
Venice, Illinois 62090

I also certify that I sent a copy of the Administrative Consent Order, EPA-5-14-113(a)-IL-17, by first-class mail to:

Eric Jones
Bureau of Air, Compliance Unit
Illinois Environmental Protection Agency
P.O. Box 19506
Springfield, Illinois 62794

On the 5 day of February 2015.

Kathy Jones
for **Loretta Shaffer**
Program Technician
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER: .

7011 1150 0000 26406042