



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

MAR 28 2013

REPLY TO THE ATTENTION OF:

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Brett Nickel, Chief Operating Officer  
Top Metal Buyers, Inc.  
808 Walnut Street  
East St. Louis, Illinois 62201

**Re: Finding of Violation**  
Top Metal Buyers, Inc.  
East St. Louis, Illinois

Dear Mr. Nickel:

The U.S. Environmental Protection Agency is issuing the enclosed Finding of Violation (FOV) to Top Metal Buyers, Inc. (you). We find that you have violated the Clean Air Act (CAA), 42 U.S.C. § 7401 *et seq.*, specifically the regulations for the Protection of Stratospheric Ozone located at 40 C.F.R. Part 82, Subpart F, at your East St. Louis, Illinois facility. EPA promulgated these regulations as required by Section 608 of the CAA, 42 U.S.C. § 7671g.

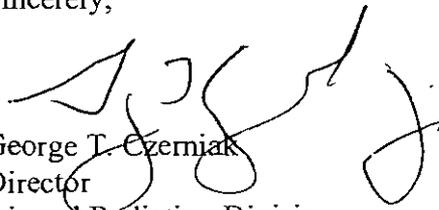
We have several enforcement options under Section 113(a)(3) of the CAA, 42 U.S.C. § 7413(a)(3). These options include issuing an administrative compliance order, issuing an administrative penalty order and bringing a judicial civil or criminal action.

We are offering you an opportunity to confer with us about the violations alleged in the FOV. The conference will give you the opportunity to present information on the specific findings of violation, the efforts you have taken to comply, and the steps you will take to prevent future violations.

Please plan for your facility's technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

The EPA contact in this matter is Katie Owens. You may call her at 312-886-6097 to request a conference. You should make the request within 10 calendar days following receipt of this letter. We should hold any conference within 30 calendar days following receipt of this letter.

Sincerely,



George T. Czerniak  
Director  
Air and Radiation Division

Enclosure: SBREFA fact sheet

cc: Ray Pilapil, IEPA

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

**IN THE MATTER OF:**

**Top Metal Buyers, Inc.  
East St. Louis, IL**

Proceedings Pursuant to  
the Clean Air Act,  
42 U.S.C. §§ 7401 et seq.

)  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)

**FINDING OF VIOLATION**

**EPA-5-13-IL-21**

**FINDING OF VIOLATION**

The U.S. Environmental Protection Agency (EPA) finds that Top Metal Buyers, Inc. (Top Metal) is violating the Clean Air Act (CAA), 42 U.S.C. § 7401 *et seq.* Specifically, Top Metal is failing to reduce emissions of ozone-depleting substances as required by 40 C.F.R. Part 82, Subpart F, as follows:

**Statutory and Regulatory Authority**

1. In accordance with Section 608 of the CAA, 42 U.S.C. § 7671g, EPA promulgated regulations at 40 C.F.R. Part 82, Subpart F, applicable to recycling and emissions reductions of ozone-depleting substances. The purpose of the regulations is to reduce emissions of class I and class II refrigerants to the lowest achievable level during the service, maintenance, repair, and disposal of appliances. 40 C.F.R. § 82.150(a).
2. Under 40 C.F.R. § 82.156(f), persons who take the final step in the disposal process (including but not limited to scrap recyclers and landfill operators) of a small appliance, room air conditioning unit, Motor Vehicle Air Conditioner (MVAC), or MVAC-like appliance are required to either:
  - a. Recover any remaining refrigerant from the appliance in accordance with specific procedures described in 40 C.F.R. § 82.156(g) or (h); or
  - b. Verify that the refrigerant has been evacuated from the appliance or shipment of appliances previously. Such verifications 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 appliances 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. 40 C.F.R. § 82.156(f)(2). Any signed statements must be maintained on-site for a minimum of three years. 40 C.F.R. §§ 82.166(i) and (m).

**Factual Background**

3. Top Metal owns and operates a scrap metal recycling facility (the facility) at 808 Walnut Street, East St. Louis, Illinois.
4. On August 23, 2012, EPA inspected the facility to assess Top Metal's compliance with the CAA.
5. During the August 23, 2012 inspection, EPA observed bins of small appliances near the receiving area of Top Metal. Upon further observation, EPA noted cut copper tubing on the appliances contained in the bins. EPA also observed white goods in the yard at Top Metal.
6. During the August 23, 2012 inspection, Top Metal stated that if it accepts refrigerators, the refrigerator would be deposited in the iron pile, and the customer would be responsible for removing the copper tubing.
7. During the August 23, 2012 inspection, Top Metal stated that it does not accept air conditioning parts at the facility, nor does it recover refrigerant onsite.
8. During the August 23, 2012 inspection, Top Metal also stated that its policy is not to buy whole units, and direct customers to break down the unit prior to accepting the unit. Top Metal stated is does not take verification statements at this facility.

**Finding of Violations**

9. For the above reasons, EPA finds that Top Metal has violated 40 C.F.R. § 82.156.

\_\_\_\_\_

Date

3/8/13

  
\_\_\_\_\_  
George T. Czerniak  
Director  
Air and Radiation Division

**CERTIFICATE OF MAILING**

*Elizabeth Rosado*

I, ~~Loretta Shaffer~~, certify that I sent a Finding of Violation, No. EPA-5-13-IL-21, by Certified Mail, Return Receipt Requested, to:

Brett Nickel, Chief Operating Officer  
Top Metal Buyers, Inc.  
808 Walnut Street  
East St. Louis, Illinois 62201

I also certify that I sent copies of the Finding of Violation by first-class mail to:

Ray Pilapil, Manager  
Bureau of Air  
Compliance and Enforcement Section  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
Springfield, Illinois 62702

On the 11 day of March 2013.

*Elizabeth Rosado*  
~~Loretta Shaffer~~  
Administrative Program Assistant  
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER: 7009 1680 0000 7669 5329

## U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources, including workshops, training sessions, hotlines, websites and guides, to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

### EPA's Small Business Websites

Small Business Environmental Homepage - [www.smallbiz-enviroweb.org](http://www.smallbiz-enviroweb.org)

Small Business Gateway - [www.epa.gov/smallbusiness](http://www.epa.gov/smallbusiness)

EPA's Small Business Ombudsman - [www.epa.gov/sbo](http://www.epa.gov/sbo) or 1-800-368-5888

#### EPA's Compliance Assistance Homepage

[www.epa.gov/compliance/assistance/  
business.html](http://www.epa.gov/compliance/assistance/business.html)

This page is a gateway to industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

#### EPA's Compliance Assistance Centers [www.assistancecenters.net](http://www.assistancecenters.net)

EPA's Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

#### Agriculture

[www.epa.gov/agriculture/](http://www.epa.gov/agriculture/)

#### Automotive Recycling

[www.ecarcenter.org](http://www.ecarcenter.org)

#### Automotive Service and Repair

[www.ccar-greenlink.org](http://www.ccar-greenlink.org) or 1-888-GRN-LINK

#### Chemical Manufacturing

[www.chemalliance.org](http://www.chemalliance.org)

#### Construction

[www.cicacenter.org](http://www.cicacenter.org) or 1-734-995-4911

#### Education

[www.campuserc.org](http://www.campuserc.org)

#### Food Processing

[www.fpeac.org](http://www.fpeac.org)

#### Healthcare

[www.hercenter.org](http://www.hercenter.org)

#### Local Government

[www.lgean.org](http://www.lgean.org)

#### Metal Finishing

[www.nmfrc.org](http://www.nmfrc.org)

#### Paints and Coatings

[www.paintcenter.org](http://www.paintcenter.org)

#### Printed Wiring Board Manufacturing

[www.pwbrc.org](http://www.pwbrc.org)

#### Printing

[www.pneac.org](http://www.pneac.org)

#### Ports

[www.portcompliance.org](http://www.portcompliance.org)

#### U.S. Border Compliance and Import/Export Issues

[www.bordercenter.org](http://www.bordercenter.org)

#### Hotlines, Helplines and Clearinghouses

[www.epa.gov/epahome/hotline.htm](http://www.epa.gov/epahome/hotline.htm)

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Some examples are:

#### Antimicrobial Information Hotline

[info-antimicrobial@epa.gov](mailto:info-antimicrobial@epa.gov) or  
1-703-308-6411

#### Clean Air Technology Center (CATC) Info-line

[www.epa.gov/ttn/catc](http://www.epa.gov/ttn/catc) or 1-919-541-0800

#### Emergency Planning and Community Right-To-Know Act

[www.epa.gov/superfund/resources/  
infocenter/epcra.htm](http://www.epa.gov/superfund/resources/infocenter/epcra.htm) or 1-800-424-9346

#### EPA Imported Vehicles and Engines Public Helpline

[www.epa.gov/otaq/imports](http://www.epa.gov/otaq/imports) or  
734-214-4100

#### National Pesticide Information Center

[www.npic.orst.edu/](http://www.npic.orst.edu/) or 1-800-858-7378

#### National Response Center Hotline -

to report oil and hazardous substance spills  
[www.nrc.uscg.mil](http://www.nrc.uscg.mil) or 1-800-424-8802

#### Pollution Prevention Information Clearinghouse (PPIC)

[www.epa.gov/opptintr/ppic](http://www.epa.gov/opptintr/ppic) or  
1-202-566-0799

#### Safe Drinking Water Hotline

[www.epa.gov/safewater/hotline/index.  
html](http://www.epa.gov/safewater/hotline/index.html) or 1-800-426-4791

#### Stratospheric Ozone Protection Hotline

[www.epa.gov/ozone](http://www.epa.gov/ozone) or 1-800-296-1996

**Toxic Substances Control Act (TSCA) Hotline**  
tsc hotline@epa.gov or 1-202-554-1404

**Wetlands Information Helpline**  
www.epa.gov/owow/wetlands/wetline.html or 1-800-832-7828

### State and Tribal Web-Based Resources

**State Resource Locators**  
www.envcap.org/statetools

The Locators provide state-specific contacts, regulations and resources covering the major environmental laws.

**State Small Business Environmental Assistance Programs (SBEAPs)**  
www.smallbiz-enviroweb.org

State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits. The website is a central point for sharing resources between EPA and states.

**EPA's Tribal Compliance Assistance Center**  
www.epa.gov/tribalcompliance/index.html

The Center provides material to Tribes on environmental stewardship and regulations that might apply to tribal government operations.

**EPA's Tribal Portal**  
www.epa.gov/tribalportal/

The Portal helps users locate tribal-related information within EPA and other federal agencies.

### EPA Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two such policies that may apply to small businesses:

**EPA's Small Business Compliance Policy**  
www.epa.gov/compliance/incentives/smallbusiness/index.html

This Policy offers small businesses special incentives to come into compliance voluntarily.

**EPA's Audit Policy**  
www.epa.gov/compliance/incentives/auditing/auditpolicy.html

The Policy provides incentives to all businesses that voluntarily discover, promptly disclose and expeditiously correct their noncompliance.

### Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a SBREFA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247), or go to their website at [www.sba.gov/ombudsman](http://www.sba.gov/ombudsman).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

### Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

*EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.*