



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

SEP 15 2014

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Damon Hassell
Mr. John Binkley
Hermitage Recycling, LLC
3533 Hermitage Ind. Drive
Hermitage, Tennessee 37076

Re: Finding of Violation
Hermitage Recycling, LLC
Hermitage, Tennessee

Dear Sirs:

The U.S. Environmental Protection Agency is issuing the enclosed Finding of Violation (FOV) to Hermitage Recycling, LLC (you) related to activities at your scrap recycling operation in Hermitage, Tennessee. EPA finds that you have violated the Clean Air Act (CAA), 42 U.S.C. § 7401 *et seq.*, and federal regulations implementing the CAA for the Protection of Stratospheric Ozone, 40 C.F.R. Part 82, Subpart F.

EPA has 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 civil and/or criminal action in federal court.

We are offering you an opportunity to confer with us, either in person or by telephone, 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. In addition, in order to make the conference more productive, we encourage you to submit to us information responsive to the FOV prior to the conference date.

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 your receipt of this letter.

The conference, should you elect to have one, should be held within 30 calendar days from your receipt of this letter. 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.

Sincerely,

A handwritten signature in black ink, appearing to read 'G. Czerniak', written over the printed name.

George T. Czerniak
Director
Air and Radiation Division

cc: Charlie Garlow, U.S. EPA, Office of Enforcement & Compliance Assurance
Beverly Spagg, U.S. EPA, Region 4
Chris Moran, Tennessee Department of Environment & Conservation

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:

**Hermitage Recycling, LLC
Hermitage, Tennessee**

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

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)
) **FINDING OF VIOLATION**

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) **EPA-5-14-COE-04**
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FINDING OF VIOLATION

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

Statutory and Regulatory Authority

1. Section 302(e) of the CAA, 42 U.S.C. § 7602(e), defines the term “person” to include an individual, corporation, partnership, and association and any officer, agent, or employee thereof.
2. Section 608 of the CAA, 42 U.S.C. § 7671g, among other things, requires EPA to promulgate regulations that establish standards and requirements regarding the use and disposal of class I and class II refrigerants.
3. Pursuant to Section 608 of the CAA, EPA promulgated regulations at 40 C.F.R. Part 82, Protection of Stratospheric Ozone.
4. “Small appliance” is defined 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.” 40 C.F.R. § 82.152.
5. “Motor vehicle air conditioner (MVAC)” is defined as “any appliance that is a motor vehicle air conditioner as defined in 40 C.F.R. Part 82, Subpart B.” 40 C.F.R. § 82.152.

6. The regulations at 40 C.F.R. Part 82, Subpart F, Recycling and Emissions Reduction, apply to, among others, persons disposing of appliances, including small appliances and MVACs. 40 C.F.R. § 82.150(b).
7. The purpose of the regulations, in part, is to reduce emissions of class I and class II refrigerants and their substitutes to the lowest achievable level during the service, maintenance, repair, and disposal of appliances. 40 C.F.R. § 82.150(a).
8. The Subpart F regulations provide that “disposal” means “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.” 40 C.F.R. § 82.152.
9. The regulations at 40 C.F.R. § 82.156(f), require persons (including scrap recyclers and landfill operators) who take the final step in the disposal process of a small appliance, room air conditioning unit, 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 in accordance with specific procedures, as set forth in the regulations at 40 C.F.R. § 82.156(f)(2) and (3), that the refrigerant has been evacuated from the appliance or shipment of appliances. A compliant verification may be 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).

Finding of Fact

10. Hermitage owns and/or operates a scrap metal recycling facility at 3533 Hermitage Ind. Drive, Hermitage, Tennessee.
11. For all times pertinent to this Finding of Violation, Hermitage is a “person” as defined by the CAA.
12. At all times pertinent to this Finding of Violation, Hermitage is a person that took the final step in the disposal process of a small appliance, room air conditioning unit, MVAC, or MVAC-like appliance.
13. On May 5, 2014, EPA inspected the facility to assess Hermitage’s compliance with regulations governing the handling of refrigerant under the CAA.

14. During the May 5, 2014, inspection, EPA observed, among other things:
 - a. a sign in the front office stating "All Freon Lines Must Be Cut On Any Appliance Before Disposal";
 - b. room air conditioning units, small appliances and components, and motor vehicle air conditioners (MVACs) in Hermitage's warehouse; and
 - c. small appliances, including several refrigerators, in Hermitage's yard.
15. During the May 5, 2014, inspection, a Hermitage representative stated that Hermitage accepts room air conditioning units, compressors, condensers, copper tubing, motor vehicle air conditioning radiators, and white goods, including refrigerators.
16. During the May 5, 2014, inspection, a Hermitage representative stated that Hermitage does not recover refrigerant, does not use verification statements and does not use contracts to verify refrigerant has been properly recovered.
17. During the May 5, 2014, inspection, a Hermitage representative stated that Hermitage verifies lines are cut on all appliances and that Hermitage does not accept intact appliances (i.e. small appliances, MVACs or room air conditioning units) that still contain refrigerant.

Finding of Violations

18. Hermitage's failure to either recover refrigerant from small appliances, room air conditioning units, and MVACs as described above, or to verify via a signed and properly documented statement that refrigerant had been properly recovered, violates 40 C.F.R § 82.156(f) and therefore violates section 608 of the CAA.

Date

9/15/14

George T. Czerniak
Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Loretta Shaffer, certify that I sent a Finding of Violation, No. EPA-5-14-COE-04, by Certified Mail, Return Receipt Requested, to:

Mr. Damon Hassell
Mr. John Binkley
Hermitage Recycling, LLC
3533 Hermitage Ind. Drive
Hermitage, Tennessee 3706

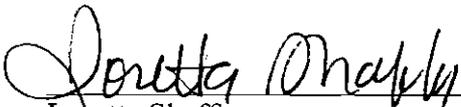
I also certify that I sent copies of the Finding of Violation by first-class mail to:

Charlie Garlow, Attorney-Advisor
USEPA - Office of Enforcement and Compliance Assurance
Office of Civil Enforcement - Air Enforcement Division
1200 Pennsylvania Ave, NW, MC 2242A
Washington, DC 20460

Beverly Spagg
USEPA - Region 4
61 Forsyth Street, S.W.
Mail Code: 9T25
Atlanta, GA 30303-8960

Chris Moran, Enforcement Coordinator
Tennessee Department of Environment & Conservation
William R. Snodgrass Tennessee Tower, 2nd Floor
312 Rosa L. Parks Avenue
Nashville, TN 37243

On the 19 day of September 2014.


Loretta Shaffer
Administrative Program Assistant
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER: 70091680 0000 7676 2205