



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

APR 24 2015

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Charles Clark, Owner and President
Clark Iron & Metal, Inc.
217 Hillard Street
Murfreesboro, Tennessee 37133

Re: Administrative Order CAA-04-2015-1775

Dear Mr. Clark,

Enclosed is an executed original of the Administrative Consent Order regarding the above captioned case. If you have any questions about the Order, please contact me at (312) 886-0243.

Sincerely,

A handwritten signature in cursive script that reads "Sara Breneman".

Sara Breneman
Chief
Air Enforcement and Compliance Assurance Branch

cc: Chris Moran, Tennessee Department of Environment & Conservation

Enclosure:

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

| | | |
|-------------------------------------|---|--|
| In the Matter of: |) | Docket No. CAA-04-2015-1775 |
| |) | |
| Clark Iron & Metal, Inc. |) | Proceeding Under Sections 113(a)(3) and |
| Murfreesboro, Tennessee |) | 114(a)(1) of the Clean Air Act, |
| |) | 42 U.S.C. §§ 7413(a)(3) and 7414(a)(1) |
| <hr/> |) | |

Administrative Consent Order

1. The Director of the Air, Pesticides, and Toxics Management Division, U.S. Environmental Protection Agency (EPA), Region 4, is issuing this Administrative Consent Order (Order) to Clark Iron & Metal, Inc. (Clark), 217 Hillard Street, Murfreesboro, Tennessee, under Section 113(a)(3) and 114(a)(1) of the Clean Air Act (CAA), 42 U.S.C. §§ 7413(a)(3) and 7414(a)(1). This Order is being entered into voluntarily and shall not be modified except by a subsequent written agreement between EPA and Clark.

Statutory and Regulatory Background

2. Section 113(a)(3)(B) of the CAA, 42 U.S.C. § 7413(a)(3)(B), authorizes the Administrator of EPA to issue an order requiring compliance with Subchapter VI of the CAA to any person who has violated or is violating any requirement of that subchapter. The Administrator of EPA has delegated her order authority to each of EPA's Regional Administrators (EPA Delegation Manual, Chapter 7, Section 7-6-A). The Regional Administrator of EPA, Region 4, has redelegated her order authority to the Director of Region 4's Air, Pesticides, and Toxics Management Division (EPA Region 4 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 CAA, 42 U.S.C. § 7414(a)(1). The Administrator of EPA has delegated

her information gathering authority to the Regional Administrator of EPA, Region 4, who has in turn delegated her information gathering authority to the Director of Region 4's Air, Pesticides, and Toxics Management Division (EPA Delegation's Manual, Chapter 7, Section 7-8; EPA Region 4 Delegation 7-8).

4. Subchapter VI of the CAA, 42 U.S.C. § 7671, *et seq.* provides for the protection of stratospheric ozone. Section 608(b) of the CAA, 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 regulations covering the safe disposal of CFCs and HCFCs from small appliances, motor vehicle air conditioners (MVACs), and MVAC-like appliances 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, room air conditioners, MVACs, and MVAC-like appliances must either recover any remaining refrigerant in accordance with the procedures set forth in the regulations or verify, including by the use of signed statements or contracts, that any refrigerant that has not leaked previously has been 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 stratospheric ozone, recycling and emissions reduction define "person" to include any individual or legal entity. See 40 C.F.R. § 82.152.

7. EPA's regulations for the protection of stratospheric ozone, recycling and emissions reduction define "disposal" 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." See 40 C.F.R. § 82.152.

8. 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.

9. EPA's regulations for the protection of stratospheric ozone, recycling and emissions reduction define "MVAC" 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.

Findings

10. Clark owns and operates a scrap metal recycling facility at 217 Hillard Street, Murfreesboro, Tennessee (the Facility).

11. Clark is a corporation doing business in Tennessee.

12. Clark is a "person," as defined by 40 C.F.R. § 82.152.

13. Clark is a person who takes the final step in the disposal process of small appliances, MVACs, or MVAC-like appliances and is subject to the requirements of 40 C.F.R. Part 82, Subpart F.

14. On May 7, 2014, EPA inspected the Facility to assess Clark's compliance with the CAA. During this inspection, Clark Iron & Metal representatives stated that Clark Iron & Metal did not own or operate refrigerant recovery equipment at the facility.

15. During the May 7, 2014, inspection, Clark Iron & Metal representatives stated that Clark Iron & Metal did not collect written statements from its vendors or suppliers verifying that refrigerant had been properly recovered prior to the delivery of appliances or MVACs to its facility.

16. During the May 7, 2014, inspection, Clark Iron & Metal representatives stated that Clark Iron & Metal does not have contracts or agreements in place with suppliers stating that refrigerant will be properly recovered prior to the delivery of appliances or MVACs to its facility.

17. Clark has accepted small appliances and MVACs without either recovering refrigerant or obtaining verification statements that met the requirements of 40 C.F.R. § 82.156(f).

18. In the weeks after the May 7, 2014, inspection, Clark purchased refrigerant recovery equipment, and put into place a program to recover refrigerant from appliances, MVACs, and MVAC-like appliances. These actions have brought Clark into compliance with applicable EPA regulations set forth at 40 C.F.R. §§ 82.156 and 82.166.

19. On September 15, 2014, EPA issued to Clark a Finding of Violation alleging that it had violated 40 C.F.R. § 82.156(f) because it did not recover refrigerant from small appliances and MVACs and did not obtain proper verification statements.

20. On October 16, 2014, representatives from Clark and EPA discussed the alleged violations in the Finding of Violation.

Compliance Program

21. By the effective date of this Order, Clark must achieve, demonstrate, and maintain compliance with 40 C.F.R. Part 82, Subpart F at its Murfreesboro, Tennessee facility. Additionally, Clark must take the following actions by the dates specified and maintain compliance with paragraphs 22 through 33, below, for one year after the effective date of this Order for any small appliance, MVAC, or MVAC-like appliance that it receives at its facility. Attachment 1 summarizes the compliance actions Respondent has agreed to implement.

22. Clark must not accept small appliances, MVACs, or MVAC-like appliances 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).

23. Clark must not accept small appliances, MVACs, or MVAC-like appliances with cut or dismantled refrigerant lines unless its supplier can certify, using a verification statement included as Attachment 2 to this Order, that the refrigerant was properly recovered. For

suppliers with whom Clark has had a long-standing business relationship, this requirement may be satisfied by Clark entering into the contract included as Attachment 3 to this Order.

24. Clark agrees to use Attachment 2 and Attachment 3 to this Order, which are hereby incorporated by reference, to comply with the requirement to obtain a signed statement, as set forth in paragraph 5, above, and maintain records for three years according to 40 C.F.R. § 82.166(i) and (m).

25. Clark may only accept small appliances, MVACs, or MVAC like appliances with intact refrigerant lines provided it uses refrigerant recovery equipment as described in paragraphs 26 through 30, below, to remove any remaining refrigerant.

26. By the effective date of this Order, Clark must notify its suppliers in writing that it will not accept small appliances, MVACs, or MVAC-like appliances with cut or dismantled refrigerant lines, unless the suppliers can certify that the refrigerant was properly recovered prior to cutting or dismantling the refrigerant lines using the verification statement included as Attachment 2 to this Order or the contract included as Attachment 3 to this Order.

27. By the effective date of this Order, Clark must notify its suppliers in writing that it will provide refrigerant recovery services. Clark may satisfy the notice requirements of paragraphs 26 and 27 with a sign that is prominently displayed at its weigh station during the period of time that this Order is effective.

28. By the effective date of this Order, Clark will purchase and use equipment, or contract the services of a trained individual, to recover refrigerant from small appliances and MVACs.

29. Clark must have the refrigerant recovered by a properly trained individual. If that individual is an employee of Clark, it will ensure that the individual is properly trained to use the refrigerant recovery equipment.

30. By the effective date of this Order, Clark must use the refrigerant recovery log included as Attachment 4. Clark must retain copies of receipts for all refrigerant it collects and sends to another company for reclamation. Clark must also document the number of small appliances, MVACs, or MVAC-like appliances it rejects, the date the appliance was rejected, and the reason for rejecting the item(s).

31. Within six months of the effective date of this Order and at one year of the effective date of this Order, Clark must provide EPA with proof of its compliance with the notice requirements of paragraphs 26 and 27, the requirements of paragraph 28, and that it has an individual trained in recovering refrigerant as required by paragraph 29.

32. Within six months of the effective date of this Order and at one year of the effective date of this Order, Clark must submit to EPA a copy of its refrigerant recovery log, the information required by paragraph 30, above, and any verification statements used pursuant to this Order.

33. Clark must send all reports required by this Order to:

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

General Provisions

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

35. This Order does not restrict EPA's authority to enforce any section of the CAA.

36. Nothing in this Order limits the EPA's authority to seek appropriate relief, including penalties, under Section 113 of the CAA, 42 U.S.C. § 7413, for Clark's violation of the CAA.

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

38. The terms of this Order are binding on Clark, its assignees and successors. Clark must give notice of this Order to any successors in interest prior to transferring ownership of the Facility and must simultaneously verify to EPA, at the above address, that it has given the notice.

39. Clark 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 Clark 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 CAA, 42 U.S.C. § 7414, is not entitled to confidential treatment under 40 C.F.R. Part 2, Subpart B.

40. 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 recordkeeping efforts, please furnish an electronic copy on physical media such as compact disk, flash drive or other similar item. If it is not possible to submit the information electronically, submit the response to this Order without staples; paper clips and binder clips, however, are acceptable.

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

42. Clark agrees to the terms of this Order.

43. Clark neither admits nor denies the factual allegations and conclusions of law set forth above in this Order.

44. Clark waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Clark 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 of the Act, 42 U.S.C. § 7607.

45. This Order is effective on the date of signature by the Director of the Air, Pesticides, and Toxics Management Division.

46. This Order expires one year after the effective date of this Order, provided that Clark has complied with all terms of the Order throughout its duration.

**Administrative Consent Order
Clark Iron & Metal, Inc.**

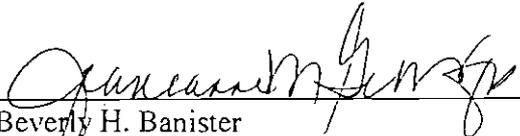
4/13/15
Date



Charles Clark
Owner and President
Clark Iron & Metal, Inc.

Administrative Consent Order
U.S. Environmental Protection Agency

4/24/15
Date


Beverly H. Banister
Director
Air, Pesticides, and Toxics Management Division
U.S. Environmental Protection Agency, Region 4

Attachment 1
Refrigerant Handling Compliance Plan

Clark Iron & Metal Refrigerant Handling Compliance Plan

Acceptance of Material

- Clark will not accept any small appliances or vehicles with cut or dismantled refrigerant lines if it knows or has reason to know that the refrigerant was not properly recovered.
- Clark will accept small appliances and vehicles with intact refrigerant lines and will recover any remaining refrigerant at no additional cost to customers.
- Clark will accept small appliances and vehicles with compliant verification statements proving refrigerant has been properly recovered, or from sellers with whom Clark has a contract in place stating that refrigerant will be properly recovered prior to delivery.
- For vehicles where the customer claims the refrigerant previously leaked, Clark will perform a pressure test:

If pressure test indicates no refrigerant is present, a compliant verification statement must indicate that the refrigerant leaked due to age or condition as determined by pressure test.

If a pressure test shows that refrigerant is present in the system, Clark will recover the refrigerant from vehicle, or will reject the vehicle until the seller can provide a compliant verification statement.

Documentation

- Clark will document the number of small appliances or vehicles it rejects, the date the appliance was rejected, and the reason for rejecting the item(s).
- Clark will keep a log of refrigerant recovery activity, and of refrigerant sale or disposal.
- Clark will keep all verification statements and contracts on file.

Notifying Suppliers

- Clark will notify its suppliers in writing that:

Clark will not accept small appliances or vehicles with cut or dismantled refrigerant lines without a verification statement proving refrigerant was recovered before the lines were cut or dismantled.

Clark will recover refrigerant from small appliances and vehicles. This service will be provided to customers at no additional cost.

Training

- Clark will ensure that the individual performing refrigerant recovery has been trained on how to operate the refrigerant recovery equipment in accordance with manufacturer's specifications.

Attachment 2
Verification Statement

CLARK IRONMETAL

217 Hillard Drive
Murfreesboro, Tennessee 37129

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

Attachment 3

Contract



Refrigerant Recovery Contract

The undersigned Supplier, _____, agrees that prior to delivery of material for recycling to Clark Iron & Metal Co., Inc., any refrigerant contained in the material shall be recovered in accordance with Section 608 of the Clean Air Act of 1990 and its final regulations, including but not limited to 40 C.F.R. 82.156(g)-(h). Delivery of material for recycling containing refrigerants or delivery of material for recycling from which refrigerants were not properly recovered shall constitute a breach of this agreement by Supplier. This agreement shall be effective from the date of signing. Supplier further agrees to indemnify and hold harmless Clark Iron & Metal Co., Inc., for any loss, damage, penalty, fine, fee, claim, or attorneys' fees arising from Supplier's breach of this agreement.

Signed: _____
Supplier

Signed: _____
Clark Iron & Metal Co., Inc.

Date: _____

Attachment 4
Refrigerant Recovery Log

CERTIFICATE OF MAILING

I, Loretta Shaffer, certify that I sent the Administrative Consent Order, CAA-04-2015-1775, by certified mail, return receipt requested, to:

Mr. Charles Clark, Owner and President
Clark Iron & Metal, Inc.
P.O. Box 771
Murfreesboro, Tennessee 37133

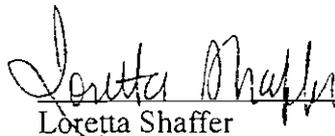
I also certify that I sent a copy of the Administrative Consent Order, CAA-04-2015-1775, by first-class mail to:

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

I also certify that I sent a copy of the Administrative Consent Order, CAA-04-2015-1775, by e-mail to:

Beverly Spagg, Region 4
spagg.beverly@epa.gov

On the 7 day of May, 2015.



Loretta Shaffer
Program Technician
AECAB, PAS

CERTIFIED MAIL RECEIPT
NUMBER:

7011 1150 0000 2640 5267