



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

FEB - 5 2013

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

REPLY TO THE ATTENTION OF:

Mr. Dennis Rook
President
Benton Metal Recycling
1256 Milton Street
Benton Harbor, Michigan 49022

Dear Mr. Rook:

The U.S. Environmental Protection Agency is issuing the enclosed Finding of Violation (FOV) to Benton Metal Recycling (BMR) in accordance with Section 113(a) of the Clean Air Act, 42 U.S.C. § 7413(a) (the Act).

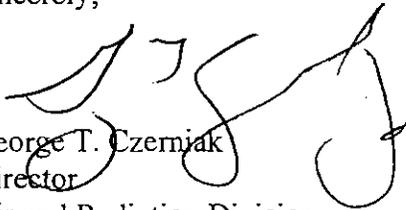
EPA has determined that BMR is violating the regulations for the Protection of Stratospheric Ozone promulgated under Section 608 of the Act, codified at 40 C.F.R. Part 82, Subpart F, at its Benton Harbor, Michigan scrap metal recycling facility.

We have several enforcement options under Section 113(a)(3) of the Act, 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.

EPA is offering you the opportunity to confer with us about the violations cited in the FOV. At the conference, you may present information on the specific findings in the FOV and the steps you will take or have taken to bring the Benton Harbor facility into compliance. Please plan for your facility's technical and management personnel to take part in these discussions. You may have an attorney represent you at this conference.

You may contact Eleanor Kane at (312) 353-4840 to request a conference. You should make the request for a conference no later than 10 calendar days after receipt of this letter, and we should hold any conference within 30 calendar days of your receipt of this letter.

Sincerely,


George T. Czerniak
Director
Air and Radiation Division

cc: Mary Douglas, Michigan Department of Environmental Quality
Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:)

Benton Metal Recycling)
Benton Harbor, Michigan)

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

FINDING OF VIOLATION

EPA-5-13-MI-03

FINDING OF VIOLATION

The U.S. Environmental Protection Agency (EPA) finds that Benton Metal Recycling (BMR) is violating the Clean Air Act (CAA), 42 U.S.C. § 7401 *et seq.*, at its scrap metal recycling facility located in Benton Harbor, Michigan.

This Finding of Violation (FOV) is issued pursuant to Section 113(a) of the CAA, 42 U.S.C. § 7413(a). The authority to issue this FOV has been delegated to the Regional Administrator of EPA, Region 5, and redelegated to the Director, Air and Radiation Division, Region 5.

Statutory and Regulatory Background

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 these 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).

Factual Background

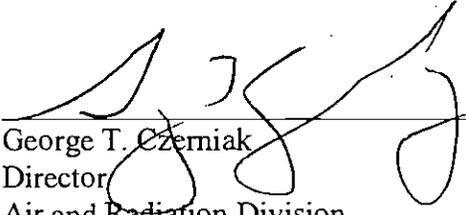
4. BMR owns and operates a scrap metal recycling facility at 1256 Milton Street, Benton Harbor, Michigan (the facility).
5. EPA conducted an on-site inspection of the facility on October 31, 2012. During this inspection, BMR explained to the EPA inspectors the process used for accepting refrigerant-containing appliances that are brought to the facility.
6. BMR does not own or operate equipment to remove refrigerants from refrigerant-containing appliances.
7. The form used by BMR to collect information from customers about the removal of refrigerants from refrigerant-containing appliances requires the customers to provide their names only. BMR does not collect the name or address of the person who recovered the refrigerant, or the date the refrigerant was removed.

Findings of Violation

8. For the above reasons, EPA finds that BMR has violated 40 C.F.R. § 82.156.

Date

2/5/13


George T. Czerniak
Director
Air and Radiation Division

CERTIFICATE OF MAILING

Eloretta Shaffer
I, ~~Loretta Shaffer~~, certify that I sent a Finding of Violation, No. EPA-5-13-MI-03, by Certified Mail, Return Receipt Requested, to:

Mr. Dennis Rook
President
Benton Metal Recycling
1256 Milton Street
Benton Harbor, Michigan, 49022

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

Mary Douglas Supervisor
Air Quality Division, Kalamazoo District
Michigan Department of Environmental Quality
7953 Adobe Road
Kalamazoo, Michigan 49009-5026

On the 8 day of February 2013.

Eloretta Shaffer
for: Eloretta Shaffer
Administrative Program Assistant
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER: 7009 1680 0000 7669 7491