



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

Leo Chen
Manager
ESR Scrap Metal Recycler
3309 E. Governor John Sevier Highway
Knoxville, Tennessee 37914

Re: Finding of Violation
ESR Scrap Metal Recycler
Knoxville, Tennessee

Dear Mr. Chen:

The U.S. Environmental Protection Agency is issuing the enclosed Finding of Violation (FOV) to ESR Scrap Metal Recycler (you) related to activities at your Knoxville, Tennessee facility. 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.

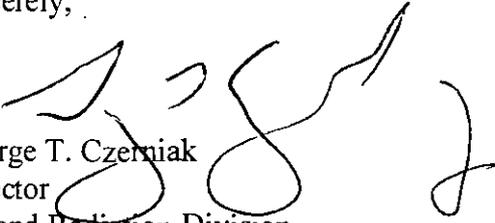
We are offering you an opportunity to confer with us, either in person or by telephone, about the violations alleged in the FOV. The conference will give you the opportunity to present information on the specific findings of violation, the efforts you have taken to comply, and the steps you will take 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 Jeffrey Bratko. You may call him at (312) 886-6816 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,


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:

**ESR Scrap Metal Recycler
Nashville, Tennessee**

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

)
)
) **FINDING OF VIOLATION**

) **EPA-5-14-COE-18**
)
)
)

FINDING OF VIOLATION

The U.S. Environmental Protection Agency (EPA) finds that ESR Scrap Metal Recycler is violating the Clean Air Act, 42 U.S.C. § 7401 *et seq.* (CAA). Specifically, ESR Scrap Metal Recycler 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, association, State, municipality, political subdivision of a State, and any agency, department, or instrumentality of the United States 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, Subpart F, Recycling and Emissions Reduction.
4. 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 motor vehicle air conditioners (MVAC). 40 C.F.R. § 82.150(b).
5. 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).
6. 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.

7. 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

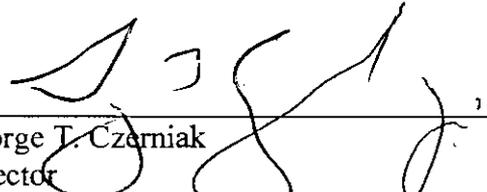
8. ESR Scrap Metal Recycler owns and/or operates a scrap metal recycling facility at 3309 E. Governor John Sevier Highway, Knoxville, Tennessee (the facility).
9. At all times pertinent to this finding of violation, ESR Scrap Metal Recycler is a “person” that took the final step in the disposal process of a small appliance, room air conditioner, MVAC, or MVAC-like appliance.
10. On May 6, 2014, EPA inspected the facility to assess ESR Scrap Metal Recycler’s compliance with regulations governing the handling of refrigerant under the CAA.
11. During the May 6, 2014, inspection, EPA observed refrigerators, air conditioners, and components of refrigeration and air conditioning systems at the facility.
12. During the May 6, 2014, inspection, an ESR Scrap Metal Recycler representative stated that ESR Scrap Metal Recycler does not own or operate refrigerant recovery equipment at the facility. However, the facility representative said that on occasion, if they receive refrigerators that still have the refrigerant lines intact, they set those aside and have a friend who is a heating, ventilation and air conditioning system technician recover the refrigerant. That is done on a sporadic basis.
13. During the May 6, 2014, inspection, an ESR Scrap Metal Recycler representative stated that ESR Scrap Metal Recycler does not have contracts with or require written statements from its suppliers verifying that refrigerant had been properly recovered prior to the delivery of appliances to its facility.

Finding of Violation

14. ESR Scrap Metal Recycler's failure to either recover refrigerant from small appliances, MVACs and MVAC-like appliances as described above, or to verify via a signed statement that refrigerant had been properly recovered, violates 40 C.F.R § 82.156(f) and therefore violates section 608 of the CAA.

9/15/14

Date



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-18, by Certified Mail, Return Receipt Requested, to:

Leo Chen
Manager
ESR Scrap Metal Recycler
3309 E. Governor John Sevier Highway
Knoxville, Tennessee 37914

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:

7009 1680 0000 7676 2168