



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

SEP 25 2014

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Edward A. Cohen
Thompson Coburn LLP
One US Bank Plaza
St. Louis, Missouri 63101

Dear Mr. Cohen:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves case docket no. CAA-05-2014-0050. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on SEP 25 2014.

Pursuant to paragraph 22 of the CAFO, Alter Recycling Company LLC must pay the civil penalty within 30 days of SEP 25 2014. Your check must display the docket number CAA-05-2014-0050.

Please direct any questions regarding this case to Louise Gross, Associate Regional Counsel at (312) 866-6844.

Sincerely,

A handwritten signature in cursive script that reads "Sarah Marshall".

Sarah Marshall, Chief
Air Enforcement and Compliance Assurance Section (MI/WI)

Enclosure

cc: Ann Coyle, Regional Judicial Officer/C-14J
Regional Hearing Clerk/E-19J
Louise Gross/C-14J
Eric Jones, Illinois Environmental Protection Agency



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:)	Docket No. CAA-05-2014-0050
)	
Alter Recycling Company LLC ¹)	Proceeding to Assess a Civil Penalty
Bartonville, Illinois)	Under Section 113(d) of the Clean Air Act,
)	42 U.S.C. § 7413(d)
Respondent.)	
_____)	

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at 40 C.F.R. Part 22.

2. Complainant is the Director of the Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 5.

3. Respondent, Alter Recycling Company LLC (ARC), is a limited liability company doing business in Illinois.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

¹ Though the Finding of Violation was issued to Alter Trading Corporation, the parties hereto agree that the proper entity for this matter is Alter Recycling Company LLC.

6. ARC consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. ARC admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. ARC waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

Statutory and Regulatory Background

9. Subchapter VI of the Act, 42 U.S.C. § 7671 *et seq.*, provides for the protection of stratospheric ozone. Section 608(b) of the Act, 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 such regulations covering the safe disposal of CFCs and HCFCs from small appliances and motor vehicle air conditioners 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.

10. Effective July 13, 1993, persons who take the final step in the disposal process (including but not limited to scrap recyclers) of small appliances and motor vehicle air conditioners (MVACs) must either recover the refrigerant in accordance with specific procedures or verify with signed statements that the refrigerant was properly recovered prior to receipt of the small appliance or MVAC. See 40 C.F.R. § 82.156(f). If verification statements are used, 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).

11. EPA's regulations for the protection of the stratospheric ozone, recycling and emissions reduction define "person" to include any individual or legal entity, including an individual or corporation.

12. 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.

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

Factual Allegations and Alleged Violations

14. ARC owns and operates a scrap metal recycling facility at 7000 S.W. Adams St., Bartonville, Illinois (the Facility).

15. ARC is a limited liability company organized and doing business in Illinois.

16. ARC is a "person," as defined by 40 C.F.R. § 82.152.

17. On October 12, 2012, EPA inspected the Facility to assess ARC's compliance with the CAA. During this inspection, ARC explained to the EPA inspectors the process used for accepting or rejecting refrigerant-containing small appliances and MVACs that are brought to the facility. ARC provided copies of its form entitled "Frequent Supplier of Refrigerant Certification," which ARC used for persons or entities with whom ARC did not have a long-standing business relationship. This form did not require ARC's suppliers to: 1) verify that the refrigerant has been previously evacuated; 2) identify the name and address of the person who removed the refrigerant; and 3) provide the date the refrigerant was removed. Thus, this form did not comply with the requirements of 40 C.F.R. § 82.156(f) for small appliances and MVACs received from suppliers with whom no long-standing business relationship could be established.

18. ARC is a person who takes the final step in the disposal process of small appliances and is subject to the requirements of 40 C.F.R. Part 82, Subpart F.

19. On May 9, 2013, EPA issued ARC² a Finding of Violation alleging that the practices found during the inspection and noted in paragraph 17 constituted a violation of 40 C.F.R. § 82.156.

20. On June 27, 2013, ARC conferred with EPA concerning the alleged violations.

Civil Penalty

21. Based on an analysis of the factors specified in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), the facts of this case and ARC's cooperation with EPA, Complainant has determined that an appropriate civil penalty to settle this action is \$14,871.

² See footnote 1.

22. Within 30 days after the effective date of this CAFO, ARC must pay the \$14,871 civil penalty by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

For checks sent by express mail, ARC must pay the \$14,871 civil penalty by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, Missouri 63101

The check must note ARC's name and the docket number of this CAFO. Respondent must send a notice of payment that states Respondent's name and the docket number of this CAFO to EPA at the following addresses when it pays the penalty:

Attn: Compliance Tracker (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

Louise Gross (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

Regional Hearing Clerk (E-19J)
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

23. This civil penalty is not deductible for federal tax purposes.

24. If ARC does not timely pay the entire payment as set forth in paragraph 22, above, the entire unpaid balance of the civil penalty shall become due and owing upon written notice by EPA to ARC of the delinquency. EPA may request the Attorney General of the United States to bring an action to collect any unpaid portion of the penalty with interest, nonpayment penalties and the United States enforcement expenses for the collection action under Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

25. ARC must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621(a)(2). ARC must pay the United States enforcement expenses, including but not limited to attorneys fees and costs incurred by the United States for collection proceedings. In addition, ARC must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue. This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter. 42 U.S.C. § 7413(d)(5).

General Provisions

26. This CAFO resolves ARC's liability only for federal civil penalties for the violations alleged in this CAFO.

27. The CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

28. This CAFO does not affect ARC's responsibility to comply with the CAA and other applicable federal, state and local laws. Except as provided in paragraph 26, above,

compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

29. ARC has signed an Administrative Consent Order to be issued under Section 113(a) of the CAA, 42 U.S.C. § 7413(a), in which it has agreed to take specific actions in order to achieve and maintain compliance with 40 C.F.R. § 82.156(f).

30. This CAFO constitutes an "enforcement response," as that term is used in EPA's Clean Air Act Stationary Civil Penalty Policy, to determine ARC's "full compliance history" under Section 113(e) of the CAA, 42 U.S.C. § 7413(e).

31. The terms of this CAFO bind ARC, its successors and assigns.

32. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

33. Each party agrees to bear its own costs and attorneys fees in this action.

34. This CAFO constitutes the entire agreement between the parties.

Alter Recycling Company LLC, Respondent

9/16/14
Date

Don H. Martin
Don H. Martin
LLC Manager
Alter Recycling Company LLC

United States Environmental Protection Agency, Complainant

9/19/14
Date

George T. Czerniak
George T. Czerniak
Director
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5

Consent Agreement and Final Order
In the Matter of: Alter Recycling Company LLC
Docket No. CAA-05-2014-0050

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

9/22/2014
Date



Susan Hedman
Regional Administrator
U.S. Environmental Protection Agency
Region 5

Consent Agreement and Final Order
In the Matter of: Alter Recycling Company, LLC
Docket No. CAA-05-2014-0050

Certificate of Service

I certify that I filed the original and one copy of the Consent Agreement and Final Order (CAFO), docket number CAA 05 2014 0050 with the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, Illinois 60604, and that I mailed the second original copy to Respondent by first-class, postage prepaid, certified mail, return receipt requested, by placing it in the custody of the United States Postal Service addressed as follows:

Edward A. Cohen
Thompson Coburn LLP
One US Bank Plaza
St. Louis, Missouri 63101

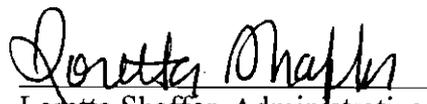
I certify that I delivered a correct copy of the CAFO by intra-office mail, addressed as follows:

Ann Coyle
Regional Judicial Officer (C-14J)
U.S. Environmental Protection Agency
77 W. Jackson Boulevard
Chicago, Illinois 60604

I also certify that I mailed a correct copy of the CAFO by first-class mail to:

Eric Jones, Manager
Bureau of Air, Compliance and Enforcement Section
Illinois Environmental Protection Agency
P.O. Box 19506
Springfield, Illinois 62794

On the 25 day of September 2014.


Loretta Shaffer, Administrative
Program Assistant
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER:

70091680 0000 7676 2397