



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAR 29 2019

REPLY TO THE ATTENTION OF

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Darren Engbring
Environmental Manager
Alter Trading Corporation
1640 W. Bruce Street
Milwaukee, Wisconsin 53204

Re: Finding of Violation
Alter Trading Corporation, Madison, Wisconsin
Alter Metal Recycling, Eau Claire, Wisconsin

Dear Mr. Engbring:

The U.S. Environmental Protection Agency is issuing the enclosed Finding of Violation (FOV) to Alter Trading Corporation. (you) under Section 113(a) of the Clean Air Act, 42 U.S.C. § 7413(a). We find that you have violated the Clean Air Act (CAA), 42 U.S.C. § 7401 *et seq.*, specifically the regulations for the Protection of Stratospheric Ozone at 40 C.F.R. Part 82, Subpart F, at your facilities in Madison and Eau Claire, Wisconsin. EPA promulgated these regulations as required by Section 608 of the CAA, 42 U.S.C. § 7671g.

Section 113 of the Clean Air Act gives us several enforcement options. These options include issuing an administrative compliance order, issuing an administrative penalty order, and bringing a judicial civil or criminal action.

We are offering you an opportunity to confer with us about the violations alleged in the FOV. The conference will give you an opportunity to present information on the specific findings of violation, any 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.

Please plan for your technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

The EPA contacts in this matter are Scott Connolly and Jason Schenandoah. You may contact Mr. Connolly at (312) 886-1493 or at connolly.scott@epa.gov, or Mr. Schenandoah at (312) 886-9506 or at schenandoah.jason@epa.gov to request a conference. Your attorney may contact

Jillian Rountree, Office of Regional Counsel, at rountree.jillian@epa.gov. You should make the request for a conference within 10 calendar days following receipt of this letter. We should hold any conference within 30 calendar days following receipt of this letter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ed Nam", is written over the printed name.

Edward Nam

Director

Air and Radiation Division

Enclosure

cc: Maria Hill, Chief Compliance, Enforcement, and Emission Inventory Section, WDNR

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. As specified at 40 C.F.R. § 82.150(a), the purpose of the regulations is to reduce emissions of class I and class II refrigerants and their non-exempt substitutes to the lowest achievable level during the service, maintenance, repair, and disposal of appliances.
2. Under 40 C.F.R. § 82.152, an appliance is any device which contains and uses a class I or class II substance or substitute as a refrigerant and which is used for household or commercial purposes, including any air conditioner, motor vehicle air conditioner (MVAC), refrigerator, chiller, or freezer. For a system with multiple circuits, each independent circuit is considered a separate appliance.
3. Under 40 C.F.R. § 82.152, an MVAC is an appliance that is a motor vehicle air conditioner as defined in 40 C.F.R. § 82.32(d), which states that MVAC “means mechanical vapor compression refrigeration equipment used to cool the driver’s or passenger’s compartment of any motor vehicle. This definition is not intended to encompass the hermetically sealed refrigeration systems used on motor vehicles for refrigerated cargo and the air conditioning systems on passenger buses using HCFC-22 refrigerant.”
4. Under 40 C.F.R. § 82.152, an MVAC-like appliance is a mechanical vapor compression, open-drive compressor appliance with a full charge of 20 pounds or less of refrigerant

used to cool the driver's or passenger's compartment of off-road vehicles or equipment. This includes, but is not limited to, the air-conditioning equipment found on agricultural or construction vehicles. This definition is not intended to cover appliances using R-22 refrigerant.

5. Under 40 C.F.R. § 82.152, a small appliance is any appliance that is fully manufactured, charged, and hermetically sealed in a factory with five (5) pounds or less of 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, portable air conditioners, and packaged terminal air heat pumps), dehumidifiers, under-the-counter ice makers, vending machines, and drinking water coolers.
6. Under 40 C.F.R. § 82.154(a)(1), no person maintaining, servicing, repairing, or disposing of appliances may knowingly vent or otherwise release into the environment any refrigerant or substitute from such appliances, with certain exceptions not relevant to this matter. *See also* 42 U.S.C. § 7671g(c).
7. Under 40 C.F.R. § 82.155(b), the final processor—i.e., persons who take the final step in the disposal process (including but not limited to scrap recyclers and landfill operators) of a small appliance, MVAC, or MVAC-like appliance—must either:
 - (1) Recover any remaining refrigerant from the appliance in accordance with 40 C.F.R. § 82.155(a); or
 - (2) Verify using a signed statement or a contract that all refrigerant that had not leaked previously has been recovered from the appliance or shipment of appliances in accordance with 40 C.F.R. § 82.155(a). If using a signed statement, it must include the name and address of the person who recovered the refrigerant and the date the refrigerant was recovered. If using a signed contract between the supplier and the final processor, it must either state that the supplier will recover any remaining refrigerant from the appliance or shipment of appliances in accordance with 40 C.F.R. § 82.155(a) prior to delivery or verify that the refrigerant had been properly recovered prior to receipt by the supplier.¹
8. Under 40 C.F.R. § 82.155(b)(2)(i), it is violation of 40 C.F.R. Part 82, Subpart F to accept a signed statement or contract if the person receiving the statement or contract knew or had reason to know that the signed statement or contract is false.
9. Under 40 C.F.R. § 82.155(b)(2)(iii), if all refrigerant has leaked out of the appliance, the final processor must obtain a signed statement that all the refrigerant in the appliance had

¹ In the Preamble to the original rule and in revisions to 40 C.F.R. Part 82 Subpart F, EPA described under what circumstances a contract was appropriate and when a disposer should use a signed statement: “EPA notes here that a contract is appropriate for businesses to streamline transactions in cases where they maintain long-standing business relationships. A contract would be entered into prior to the transaction, such as during the set-up of a customer account, not simultaneously with the transaction. A signed statement is more appropriate for one-off transactions between the supplier and the final processor.” 81 Fed. Reg. 82,272 at 82,309 (Nov. 18, 2016).

leaked out prior to delivery to the final processor and recovery is not possible. "Leaked out" in this context means those situations in which the refrigerant has escaped because of system failures, accidents or other unavoidable occurrences not caused by a person's negligence or deliberate acts such as cutting refrigerant lines.

FACTUAL BACKGROUND

10. In many circumstances, when refrigerant recovery equipment is used on a small appliance, that process leaves easily recognizable signs indicative that proper recovery has occurred, including but not limited to: for any appliance with visible refrigerant lines, puncture marks on refrigerant lines; for refrigerators, air conditioners and some freezers with refrigerant lines hidden behind metal, plastic, or cardboard panels, those coverings will be removed and puncture marks will be visible.
11. Alter owns and/or operates scrap metal recycling facilities (Facilities) at the following locations:
 - a. Alter Trading Corporation, 4400 Sycamore Ave, Madison, Wisconsin (Madison Facility); and,
 - b. Alter Metal Recycling, 3532 White Ave, Eau Claire, Wisconsin (Eau Claire Facility).
12. At its Facilities, Alter accepts for recycling and disposal, among other things, small appliances and MVACs that contain or once contained refrigerant.
13. EPA conducted unannounced inspections of the Facilities on November 15, 2018.

FINDINGS and VIOLATIONS

Madison Facility

14. The Madison Facility operates a metal shredder to prepare vehicles and appliances, including small appliances and MVACs, for recycling and is the final processor in the disposal process for these items.
15. At the time of the inspection, Alter did not operate refrigerant recovery equipment to recover refrigerant from small appliances at its Madison Facility. It had recently begun refrigerant recovery from vehicles.
16. At the time of the inspection, Alter's representatives and signage stated it would accept small appliances at its Madison Facility only if the refrigerants are no longer in the units.
17. Alter representatives stated that it requires all suppliers to sign a Material Supplier Certification contract prior to acceptance of small appliances and MVACs.

18. Alter representatives stated that it sometimes requires suppliers to sign a "Documentation of Refrigerant Removal" verification statement for some loads of scrap metal containing small appliances.
19. The blank verification statement form supplied by Alter does not contain entries for the name and address of the person recovering the refrigerant, and it does not contain an entry for the date that refrigerant was recovered.
20. At the time of the inspection, EPA inspectors observed appliances clearly visible on a pile of metal to be recycled at the Madison Facility. These appliances had cut refrigeration lines and no evidence of proper refrigerant recovery.
21. In addition, EPA inspectors observed appliances clearly visible on a pile of metal to be recycled at the Madison Facility. These appliances were in the pile waiting to go to the shredder and had visible indications of intact refrigerant circuits, with no evidence of proper refrigerant recovery.
22. By accepting a signed statement or contract to verify recovery of refrigerant from suppliers at the Madison Facility for appliances from which refrigerant had not been recovered, but that had cut refrigeration lines clearly visible or that still contained refrigerant, Alter accepted a signed statement or contract that it knows or has reason to know is false.
23. By accepting a signed statement or contract that it knows or has reason to know is false, Alter violated 40 C.F.R § 82.155(b)(2)(i) at the Madison Facility.
24. By accepting a signed statement to verify that refrigerants have been recovered without the name and address of the person who recovered the refrigerant or the date the refrigerant was recovered, Alter violated 40 C.F.R. § 82.155(b)(2) at the Madison Facility.
25. By failing to recover refrigerants from appliances during scrap recycling 40 C.F.R. § 82.155(a) or otherwise ensuring it accepted only appliances with already-recovered refrigerant, Alter violated 40 C.F.R. § 82.155(b)(1) at the Madison Facility.
26. By failing to recover refrigerant from intact appliances during scrap recycling, Alter vented or otherwise released into the environment the refrigerant from such appliances, and violated 40 C.F.R § 82.154(a) at the Madison Facility.

Eau Claire Facility

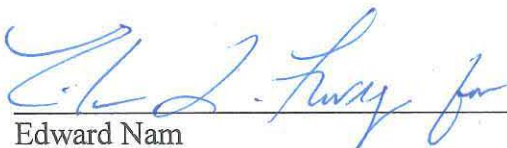
27. The Eau Claire Facility operates a metal shredder to prepare vehicles and appliances, including small appliances and MVACs, for recycling and is the final processor in the disposal process for these items.

28. Alter representatives stated that it requires all suppliers to sign a Material Supplier Certification contract prior to acceptance of small appliances and MVACs.
29. At the time of the inspection, EPA inspectors observed appliances clearly visible on a pile of metal to be recycled at the Eau Claire Facility. These appliances had cut or intact refrigeration lines and no evidence of proper refrigerant recovery.
30. By accepting a signed statement or contract to verify recovery of refrigerant from suppliers at the Eau Claire Facility for appliances from which refrigerant had not been recovered, but that had cut refrigeration lines clearly visible or that still contained refrigerant, Alter accepted a signed statement or contract that it knows or has reason to know is false.
31. By accepting a signed statement or contract that it knows or has reason to know is false, Alter violated 40 C.F.R § 82.155(b)(2)(i) at the Eau Claire Facility.
32. By accepting a signed statement to verify that refrigerants have been recovered without the name and address of the person who recovered the refrigerant or the date the refrigerant was recovered, Alter violated 40 C.F.R. § 82.155(b)(2) at the Eau Claire Facility.

ENVIRONMENTAL IMPACT OF VIOLATIONS

33. These violations caused emissions of ozone depleting substances, including chlorofluorocarbons (CFCs) and hydrochlorofluorocarbons (HCFCs).
34. CFCs and HCFCs are known to contribute to the depletion of the stratospheric ozone layer, which protects life on Earth from the sun's harmful ultraviolet radiation (UV).
35. UV radiation has been associated with adverse health effects, including skin cancer, cataracts and immune suppression. UV radiation may also have adverse effects on plant life and aquatic ecosystems.

5/19/19
Date


Edward Nam

Director

Air and Radiation Division

CERTIFICATE OF MAILING

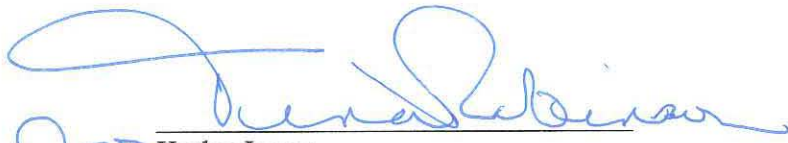
I certify that I sent a Finding of Violation, No. EPA-5-19-COE-02, by Certified Mail, Return Receipt Requested, to:

Darren Engbring
Alter Trading Corporation
1640 W. Bruce Street
Milwaukee, Wisconsin 53204

I also certify that I sent copies of the Finding of Violation by email to:

Maria Hill, Chief
Compliance, Enforcement, and Emission Inventory Section
Air Management Program
Environmental Protection Division
Wisconsin Department of Natural Resources
Maria.Hill@wisconsin.gov

On the 29th day of March, 2019



Kathy Jones
Program Technician
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER: 70181830000054145861