



REGION 5

CHICAGO, IL 60604

VIA ELECTRONIC MAIL
DELIVERY RECEIPT REQUESTED

Lisa Dunn, General Manager
Becker Iron & Metal, Inc.
ldunn@beckermetal.com

Re: Finding of Violation
Becker Iron and Metal, Inc.
Venice, Illinois

Dear Lisa Dunn:

The U.S. Environmental Protection Agency is issuing the enclosed Finding of Violation (FOV) to Becker Iron and Metal, Inc. (you) under Section 113(a) of the Clean Air Act, 42 U.S.C. § 7413(a). We find that you are violating the Clean Air Act (CAA), 42 U.S.C. §§ 7401 – 7671q, specifically the regulations for the Protection of Stratospheric Ozone at 40 C.F.R. Part 82, Subpart F at your Venice, Illinois facility.

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 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. The EPA contact in this matter is Natalie Topinka. You may contact her at (312) 886-3853 or topinka.natalie@epa.gov to request a conference. You should make the request within 10 calendar days following receipt of this letter. We should hold any conference within 30 calendar days following receipt of this letter.

Sincerely,

Nathan Frank
Supervisor,
Air Enforcement and Compliance Assurance Section (IL/IN)

Enclosures:

Finding of Violation

cc: Kent Mohr, Manager
Compliance Section
Bureau of Air
Illinois Environmental Protection Agency
Kent.Mohr@Illinois.gov

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:	)	
	)	
Becker Iron and Metal, Inc.	)	FINDING OF VIOLATION
Venice, Illinois	)	
	)	EPA-5-24-COE-03
Proceedings Pursuant to	)	
the Clean Air Act,	)	
42 U.S.C. §§ 7401 et seq.	)	

FINDING OF VIOLATION

The U.S. Environmental Protection Agency finds that Becker Iron and Metal, Inc. (Becker) is violating Section 608 of the Clean Air Act, 42 U.S.C. § 7671g. Specifically, Becker is violating the Protection of Stratospheric Ozone, Recycling and Emissions Reduction Program at 40 C.F.R. Part 82, Subpart F as follows:

Regulatory Authority

1. On May 14, 1993, in accordance with Section 608 of the Clean Air Act (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. See 58 FR 28712.
2. As specified at 40 C.F.R. § 82.105(a), the purpose of the regulations is to reduce emissions of class I and class II ozone-depleting substances and their non-exempt substitutes to the lowest achievable level during the service, maintenance, repair, and disposal of appliances.
3. Under 40 C.F.R. § 82.152, “appliance” means 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, refrigerator, chiller, or freezer. For a system with multiple circuits, each independent circuit is considered a separate appliance.
4. Under 40 C.F.R. § 82.152, “class I” refers to ozone-depleting substances that is listed in 40 C.F.R. Part 82, Subpart A, Appendix A.
5. Under 40 C.F.R. § 82.152, “class II” refers to an ozone-depleting substance that is listed in 40 C.F.R. Part 82, Subpart A, Appendix B.
6. Under 40 C.F.R. § 82.152, “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; (3) the vandalism of any appliance such that the refrigerant is released into the environment or would be released into the environment if it had not been recovered prior to the destructive activity; (4) the disassembly of any appliance for reuse of its component parts; or (5) the recycling of any appliance for scrap.

7. Under 40 C.F.R. § 82.152, “motor vehicle air conditioner” (MVAC) means any appliance that is a motor vehicle air conditioner as defined in 40 C.F.R. Part 82, Subpart B.

8. Under 40 C.F.R. § 82.152, “MVAC-like appliance” means a mechanical vapor compression, open-drive compressor appliance with a full charge of 20 lbs or less of refrigerant used to cool the driver’s or passenger’s compartment of off-road vehicles or equipment.

9. Under 40 C.F.R. § 82.152, “recover” means to remove refrigerant in any condition from an appliance and to store it in an external container without necessarily testing or processing it in any way.

10. Under 40 C.F.R. § 82.152, “refrigerant” means, for purposes of 40 C.F.R. Part 82, Subpart F, any substance, including blends and mixtures, consisting in part or whole of a class I or class II ozone-depleting substance or substitute that is used for heat transfer purposes and provides a cooling effect.

11. Under 40 C.F.R. § 82.152, “refrigerant circuit” means the parts of an appliance that are normally connected to each other (or are separated only by internal views) and are designed to contain refrigerant.

12. Under 40 C.F.R. § 82.152, “self-contained recovery equipment” means refrigerant recovery and/or recycling equipment that is capable of removing the refrigerant from an appliance without the assistance of components contained in the appliance.

13. Under 40 C.F.R. § 82.152, “small appliance” means 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.

14. Under 40 C.F.R. § 82.154(a), no person maintaining, servicing, repairing, or disposing of an appliance may knowingly vent or otherwise release into the environment any refrigerant or substitute for such appliances, with certain exemptions not relevant to this matter.

15. 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), which requires that persons recovering refrigerant from a small appliance, MVAC, or MVAC-like appliance for purposes of disposal of these appliances must evacuate refrigerant to the levels in 40 C.F.R. § 82.156(b) through (d) using recovery equipment that meets the standards in 40 C.F.R. § 82.158(e) through (g), or 40 C.F.R. Part 82 Subpart B, as applicable; 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 of 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.

16. Under 40 C.F.R. § 82.155(b)(2)(i), it is a violation of this subpart to accept a signed contract if the person receiving the statement or contract knew or had reason to know that the signed statement or contract is false.

17. Under 40 C.F.R. § 82.155(b)(2)(ii), the final processor must notify suppliers of appliances that refrigerant must be properly recovered in accordance with 40 C.F.R. § 82.155(a) before delivery of the items to the facility. The form of this notification may be signs, letters to suppliers, or other equivalent means.

18. Under 40 C.F.R. § 82.155(b)(2)(iii), if all the refrigerant has leaked out of the appliance, the final processor must obtain a signed statement that all the refrigerant in the appliance 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.

19. Under 40 C.F.R. § 82.155(c), the final processor of a small appliance, MVAC, or MVAC-like appliance must keep a copy of all the signed statements or contracts obtained under 40 C.F.R. § 82.155(b)(2), in hard copy or in electronic format, for three (3) years.

Factual Background

20. Becker owns and/or operates a scrap metal recycling facility at 1310 Broadway, Venice, Illinois (Facility).

21. At the Facility, Becker accepts for recycling and disposal, among other things, small appliances, and is therefore subject to requirements at 40 C.F.R. Part 82, Subpart F.

22. EPA inspected Becker's Facility on September 22, 2023 (Inspection).

23. At the time of the Inspection, Becker stated that it accepts small appliances at its Facility from commercial customers and members of the general public (retail customers).

24. At the time of the Inspection, Becker stated it accepts small appliances at its Facility if the sealed unit (compressor) has been removed and the item therefore no longer contains refrigerant.

25. At the time of the inspection, Becker stated that it does not accept intact small appliances for recycling at its Facility and therefore does not recover refrigerant from any small appliance delivered to the Facility for recycling.

26. At the time of the inspection, Becker stated that it uses a contract for commercial customers to attest that the customer will recover the refrigerant from appliances or verify its recovery prior to delivery of the item to Becker. EPA obtained a blank copy of this contract via email from Becker on September 29, 2023.

27. At the time of the Inspection, Becker stated that it requires its retail customers to sign a scale ticket that includes the language "Seller certifies that all non-exempt refrigerant (including but not limited to chlorofluorocarbons (CFCs), hydrochlorofluorocarbons (HCFCs), and hydrofluorocarbons (HFCs), as defined in 40 CFR Part 82, Subpart F, pursuant to the Clean Air Act Amendments), that has not leaked previously will be recovered from appliances to be delivered under this contract of sale prior to delivery. Seller further certifies that Seller either will recover any remaining refrigerant from the appliance or shipment of appliances under this contract in accordance with 40 CFR Part 82.155(a) prior to delivery or verify that the refrigerant had been properly recovered prior to receipt by the Seller." Becker does not require retail customers who deliver small appliances to the Facility to provide the name and address of the person who recovered the refrigerant from the small appliance and the date it was recovered.

28. During the Inspection, EPA observed a large pile of refrigerators that had been delivered to the Facility for recycling. Many of the refrigerators in the pile retained the compressor or had the back panel covering the refrigerant circuitry intact.

29. During the Inspection, EPA obtained a copy of a customer brochure in the Facility office, titled "Quality, Environmental and Health & Safety (QEH&S) Management System – Information for Customers" that included the language "...we do not accept the following: ... Any scrap, inside or out, containing fluids such as oils, gas, refrigerants, paint, tar, etc."

30. During the Inspection, EPA observed and photographed a sign at the main entrance to the Facility that stated "Becker Iron & Metal Does Not Accept: Material with Compressors Attached: Refrigerators, Vending Machines, A/C Units, etc."

Violations

31. By failing to recover refrigerants from appliances during scrap recycling, Becker violated 40 C.F.R. § 82.155(b)(1) at its Venice, Illinois Facility.

32. By accepting a signed statement or contract that Becker knew or had reason to know was false, Becker violated 40 C.F.R. § 82.155(b)(2)(i) at its Venice, Illinois Facility.

33. By failing to verify, using a signed statement or contract, that all refrigerant that had not leaked previously had been recovered from the appliance or shipment of appliances accepted from retail customers, Becker violated 40 C.F.R. § 82.155(b)(2) at its Venice, Illinois Facility.

34. By failing to notify retail customers of appliances that refrigerant must be properly recovered in accordance with 40 C.F.R. § 82.155(a) before delivery of items to the facility, using signs, letters to suppliers, or other equivalent means, Becker violated 40 C.F.R. § 82.155(b)(2)(ii).

Environmental Impact of Violations

35. These violations have caused or can cause excess emissions of ozone depleting substances, including chlorofluorocarbons (CFCs) and hydrofluorocarbons (HCFCs).

36. CFCs and HCFCs have been shown to contribute to the depletion of the stratospheric ozone layer, which protects life on Earth from the sun's harmful ultraviolet radiation (UV).

37. 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.

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division