



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

AE-17J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

John Suchon, General Manager
Metal Dynamics Detroit LLC
3100 Lonyo Avenue
Detroit, Michigan 48029-1089

Dear Mr. Suchon:

This is to advise you that the U.S. Environmental Protection Agency has determined that Metal Dynamics Detroit LLC's facility at 3100 Lonyo Avenue, Detroit, Michigan (Metal Dynamics) is in violation of the Clean Air Act (CAA). A list of the requirements violated is provided below. We are today issuing to you a Finding of Violation (FOV) for these violations.

Section 608 of the CAA requires the Administrator of EPA to promulgate regulations establishing standards and requirements regarding the use and disposal of Class I and Class II ozone-depleting substances. In accordance with Section 608 of the CAA, which required EPA to promulgate regulations regarding the use and disposal of ozone-depleting substances, EPA promulgated regulations at 40 C.F.R. Part 82, Subpart F, applicable to recycling and emissions reductions of ozone-depleting substances. 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, motor vehicle air conditioner (MVAC), or MVAC-like appliance are required to:

- 1) Recover any remaining refrigerant from the appliance, or
- 2) Verify, through signed statements, that the refrigerant has been evacuated from the appliance or shipment of appliances previously.

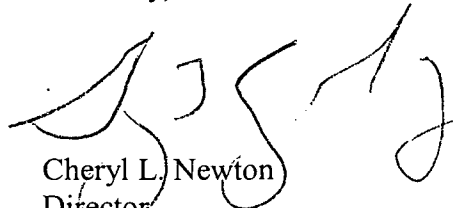
EPA finds that Metal Dynamics has violated the above listed regulations from 40 C.F.R. Part 82, Subpart F.

Section 113 of the CAA gives us several enforcement options to resolve these violations, including: issuing an administrative compliance order, issuing an administrative penalty order, bringing a judicial civil action, and bringing a judicial criminal action. Section 113 of the CAA

provides you with the opportunity to request a conference with us about the violations alleged in the FOV. This conference will provide you a chance to present information on the identified violations, any efforts you have taken to comply, and the steps you will take to prevent future violations. Please plan for your facility's technical and management personnel to take part in these discussions. You may have an attorney represent and accompany you at this conference.

The EPA contact in this matter is Jeffrey Gahris. You may call him at (312) 886-6794 if you wish 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. EPA hopes that this FOV will encourage Metal Dynamic's compliance with the requirements of the CAA.

Sincerely,


Cheryl L. Newton
Director
Air and Radiation Division

Enclosure

**U.S. Environmental Protection Agency
Region 5**

IN THE MATTER OF:

Metal Dynamics Detroit LLC.
Detroit, Michigan

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

FINDING OF VIOLATION

EPA-5-09-MI- 04

FINDING OF VIOLATION

Metal Dynamics Detroit (“you” or “Metal Dynamics”) owns and operates a scrap recycling facility at 3100 Lonyo Avenue, Detroit, Michigan (the “facility”).

The U.S. Environmental Protection Agency is sending this Finding of Violation (FOV or notice) to you for failing to reduce emissions of ozone-depleting substances as required at 40 C.F.R. Part 82, Subpart F of the Clean Air Act (CAA).

Section 113 of the Act provides you with the opportunity to request a conference with us to discuss the violations alleged in the FOV. This conference will provide you a chance to present information on the identified violations, any efforts you have taken to comply, and the steps you will take to prevent future violations. Please plan for Metal Dynamic’s technical and management personnel to take part in these discussions. You may have an attorney present to represent you at this conference.

Explanation of Violations

1. Metal Dynamics (and its predecessor Mars Industries) as the person who took the final step in the disposal process of small appliances and motor vehicle air conditioning units (MVACs) at the Lonyo Street facility, is subject to a portion of the regulations for the Protection of Stratospheric Ozone located at 40 C.F.R. Part 82, Subpart F. The Subpart F regulations contain Recycling and Emissions Reduction requirements for ozone depleting substances. The purpose of the 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 in accordance with Section 608 of the Clean Air Act. 40 C.F.R. § 82.150(a). Among the practices required by the regulations is the requirement that 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, motor vehicle air conditioner (MVAC), or MVAC-like appliance:

- a. Recover any remaining refrigerant from the appliance in accordance with specific procedures described in 40 C.F.R. § 82.156, or
 - b. Verify that the refrigerant has been evacuated from the appliance or shipment of appliances previously. Such verifications must provide 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 in accordance with specific procedures. This statement must include the name and address of the person who recovered the refrigerant and the date the refrigerant was recovered. Under certain situations a contract that refrigerant will be removed prior to delivery may be used instead of a verification statement. 40 C.F.R. § 82.156(f).
 - c. In addition, the signed statements obtained pursuant to 40 C.F.R. § 82.156(f)(2) must be maintained on-site by the entities that take the final step in the disposal process of appliances for a minimum of three years. 40 C.F.R. §§ 82.166(i) and (m).
2. EPA issued two information requests, one to Mars Industries (Mars), and one to Metal Dynamics under section 114 of the Clean Air Act, signed February 5, 2007 and February 7, 2008, respectively. In responding to an EPA information request on March 10, 2008, Metal Dynamics stated that it purchased Mars on May 22, 2007.
3. On May 11, 2006, and October 11, 2007, EPA inspected the facility to determine its compliance with the above-identified regulations. EPA observed peddlers delivering small appliances to the facility. Facility personnel used bulldozers and other equipment to push the small appliances into piles and place them in trucks for transportation off-site. The small appliances were mangled and dented. There was also a bin of automotive air conditioning compressors at the facility.
4. Mars and Metal Dynamics indicated that they shipped the small appliances to either Fritz or Ferrous Process and Trading. Information from these companies indicate that the small appliances were received mangled and dented and without verification statements.
5. Mars, in its response dated March 1, 2007, stated that it received 100 to 150 refrigerators and 30 to 40 air conditioners per week from January 1, 2004, until approximately March 1, 2007. Also, in its response to the 114 request, Mars admitted that it did not collect verification statements from its suppliers during this time period and did not have refrigeration recovery equipment.
6. EPA issued an information request to Metal Dynamics signed February 7, 2008. Metal Dynamics, in its response, stated that it often receives small appliances from its customers.

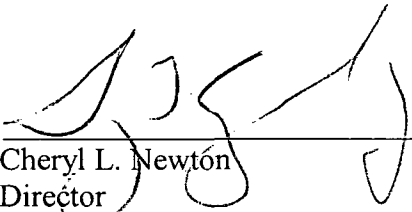
It also indicated that Mars first began to require its customers to sign certification statements on their receipts on or around December 7, 2006.

7. Metal Dynamics also provided copies of receipts for the month of October 2007. Some of the receipts were not signed, other receipts were signed in places on the form that did not clearly indicate a certification by the customers, nor that the customers had managed the refrigerants properly prior to delivery to Mars or Metal Dynamics.
8. The certification statements on the receipts were not verification statements attesting that the refrigerant had been evacuated and/or recovered by customers prior to delivery of their appliance(s) to Mars or Metal Dynamics. These statements did not include both the name and address of the person who recovered the refrigerant, nor the date the refrigerant was recovered, as required at 40 C.F.R. Part 82, Subpart F.

Environmental Impact of Violations

Violations of the standards for ozone-depleting substances lead to an increase in the depletion of stratospheric ozone (the "ozone layer"). The ozone layer protects humans as well as many plants and animals by filtering harmful ultraviolet radiation from the sun.

12/5/08
Date


Cheryl L. Newton
Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Tracy Jamison, certify that I sent a Finding of Violation, No. EPA-5-09-MI-04, by Certified Mail, Return Receipt Requested, to:

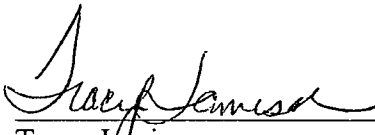
John Suchon, General Manager
Metal Dynamics Detroit LLC
3100 Lonyo Avenue
Detroit, Michigan 48029-1089

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

Thomas Hess, Enforcement Supervisor
Michigan Department of Environmental Quality – Air Quality Division
525 W. Allegan (Constitution Hall, 4th Floor, North)
P.O. Box 30242
Lansing, Michigan 48909-7742

Teresa Seidel, District Supervisor
Michigan Department of Environmental Quality
Southeast Michigan District
27700 Donald Court
Warren, Michigan 48092-2793

on the 8 day of November, 2008.


Tracy Jamison
Office Automation Clerk
AECAS, (MI/WI)

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0006 0161 1771