



Voice of the Recycling Industry™

Compliance Requirements for Refrigerant Recovery



June 2020

Compliance Under EPA's Refrigerant Recovery Regulations (40 CFR Part 82) (June 24, 2020)

Essential Compliance Requirement:

When “**Small appliances and MVAC units**” are delivered to your facility for recycling, you must:

1. **Recover** the refrigerant properly yourself
- or**
2. **Verify** that the refrigerant has been properly recovered.

Recyclers must also **Notify** suppliers of appliances that refrigerant must be properly recovered from appliances prior to delivery.

The rest of this document will help you understand the meaning of each of the four items highlighted above in red for purposes of compliance with EPA requirements.

What is a Small Appliance and MVAC?

Small appliances are devices that contain and use 5 lbs or less of a refrigerant and that are used for commercial or household purposes, including air conditioners, refrigerators, chillers, vending machines, ice makers, dehumidifiers, and freezers.

MVAC/MVAC-like units are motor vehicle air conditioners, including AC units in off-road vehicles or equipment provided that the charge is 20 pounds or less.

Items that are specifically exempt from coverage as appliances or MVACs are:

- Certain appliances using any of the following refrigerants: R-441A, Isobutane (R-600a), Propane (R-290) and ammonia (these are “exempt refrigerant”; all others are “non-exempt” refrigerant);
- Appliances received at a recycling facility in such a condition that the entire refrigerant system has been removed.¹
 - Appliances received at the facility that have been crushed, flattened, or otherwise demolished.²

¹ EPA Applicability Determination Index (ADI) Document C040001 (August 27, 1996). EPA has further stated “items that have had the entire refrigerant circuit removed, such as the outer housing of an air conditioner or the structural shell of a refrigerator, are not subject to the safe disposal regulations, as these items do not meet the definition of appliance.” 81 Fed. Reg. 82309 (Nov. 18, 2016).

² “If a disposal facility receives an appliance which has been put through a process in which refrigerant should have been previously recovered to avoid a release during processing or the refrigerant was otherwise released during that processing,

- Shredded material, baled scrap, and crushed cars.³

Small appliances, MVACs, and MVAC-like appliances (henceforth, “appliances” for brevity) that have some of their refrigerant system missing (e.g., compressor removed) are regulated the same as intact appliances⁴. Likewise, removed refrigerant components (e.g., compressor or coil) are regulated the same as intact appliances⁵.

Recovery of the Refrigerant by the Recycler

If you choose to recover the refrigerant yourself, the below rules must be followed:

- You must use recovery equipment that has been certified to meet minimum recovery standards found in Section 82.155(a) of EPA’s regulations.
- The technician does not have to be certified but should be trained to operate the equipment according to the manufacturer’s instructions.
- The recovered refrigerant is required to be sold or transferred to a person qualified to receive it i.e., a certified technician.

Under this option you can also use a 3rd-party contractor to properly recover the refrigerant, however if you elect this option the contractor must be a certified technician.

If you have appliances awaiting recovery by an employee or 3rd party contractor, it is important that they be staged in a secure, well-marked area. This will help to ensure that proper recovery happens prior to further handling and avoid an inadvertent violation of the venting prohibition.

Verification that the Refrigerant has been Properly Removed

If you choose not to recover the refrigerants yourself, the regulations require that **you** verify the prior proper recovery of the refrigerant using either:

- A signed statement (typically used for occasional suppliers and peddlers), or
- A contract (typically used for regular customers).

You can choose to use different methods for different suppliers (i.e., verification statements for some suppliers and contracts for regular suppliers).

EPA believes that these appliances are no longer subject to the safe disposal regulations. For example, appliances that have been crushed, flattened or otherwise demolished are no longer considered subject to the safe disposal requirements. The person responsible for compliance with the safe disposal regulations is the entity upstream that conducted the processing where the appliance was crushed, flattened or otherwise demolished and where the refrigerant would have been previously recovered in accordance with the regulations.” EPA ADI Document C040001 (August 27, 1996).

³ 81 Fed. Reg. 82309 (Nov. 18, 2016).

⁴ “If a disposal facility receives an appliance in which some of the components of the refrigerant circuit have been removed (e.g., the compressor), EPA believes that these types of appliances are subject to the safe disposal regulations.” EPA ADI Document C040001 (August 27, 1996).

⁵ “If a disposal facility receives portions of the refrigerant circuit (e.g., the compressor) rather than the appliance shell, EPA believes that the refrigerant system is an appliance as it is a ‘device which contains or uses a class I or class II substance as a refrigerant’.” EPA ADI Document C040001 (August 27, 1996).

Verification Option 1: Signed Statement

Signed statements (also called verification statements) are most often used for occasional suppliers, or peddlers. The signed statement must include:

- Name and address of the person who recovered the refrigerant, and
- Date the refrigerant was recovered

Sample Signed Statement

[PLACE ON COMPANY LETTERHEAD]

Notwithstanding any warranty or limitation of warranty herein, Seller certifies that to the best of Seller's knowledge, 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) -- [Check One]

- ☐ that had not leaked previously has been recovered from the appliance or shipment of appliances delivered under this sale in accordance with 40 CFR Part 82.155(a). The non-exempt refrigerant has been recovered by (name) _____, located at (address) _____, on (day, month, year) _____.

- ☐ had "leaked out" (as defined in 40 CFR Part 82.155(b)(2)(iii)) of the appliance or shipment of appliances delivered under this sale prior to delivery and could not possibly be recovered.

Seller further agrees to indemnify and hold [company name] harmless from any claim, penalty, fine, fee, cost, attorney's fees, or other liability resulting in whole or in part from seller's breach of this certification.

Seller: _____
Company: _____
Address: _____
City, State, Zip Code: _____
Authorized Signature: _____
Date Signed: _____

Verification Option 2: By Contract

Verification by contract is often used by recyclers for their regular suppliers of appliances, and they need not specify a period of time for which the contract is to be in effect. However, the contract must state that the supplier will either:

1. Recover any remaining refrigerant properly from the appliance or shipment of appliances prior to delivery, or
2. Verify that the refrigerant had been properly recovered prior to its receipt by the supplier.

Sample Contract 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 non-exempt 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 non-exempt refrigerant had been properly recovered prior to receipt by the Seller. Seller further agrees to indemnify and hold (Company name) harmless from any claim, penalty, fine, fee, cost, attorney's fees, or other liability resulting in whole or in part from seller's breach of this certification."

General Questions & Answers Regarding Verification (whether by contract or signed statement):

1. How long should verification statements/contracts be kept on file?
A recycler must keep all signed statements and contracts for at least **3 years**. The statements and contracts must be kept on site, in hard copy or in electronic format.
2. What if the supplier says the refrigerant leaked out by accident or other unavoidable occurrence? You must still obtain a verification statement from the supplier of an appliance from which all refrigerant had leaked out accidentally.

According to EPA:

"[i]f all the refrigerant has leaked out of the appliance, the final processor must obtain a signed statement that all the refrigerant in the appliance had 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" §82.155(b)(2)(iii)

3. Can a recycler accept for recycling an appliance whose line has been cut? You can accept such an appliance, as long as the certification is obtained. **However, if you believe that the certification may be false, you should not accept the appliance and consider contacting the nearest EPA Regional Office.**⁶

According to EPA:

"In answer to your question as to whether a scrap processor may accept appliances whose lines have been cut, the answer is yes, as long as the required signed statement from the supplier is obtained. If scrap processors believe that the statement is false and that the refrigerant was deliberately vented into the atmosphere, EPA encourages them to forward that information to the nearest EPA Regional office for investigation and appropriate enforcement."

Warning: If you have reason to believe that a Verification is False, Do not accept it!

EPA's regulations are very specific that a recycler may not accept a signed statement or contract that is **false or likely to be false**. According to §82.155(b)(2)(i), "[i]t is a violation of this subpart 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."

4. If stickers or markings are used to show that an appliance has been evacuated does that satisfy the verification requirement? No, stickers and the like have no regulatory meaning and is only for the recycler's own benefit.

5. Is an appliance that is missing some components of the refrigerant circuit regulated the same as an intact appliance? Yes!

According to EPA:

"If a disposal facility receives an appliance in which some of the components of the refrigerant circuit have been removed (e.g., the compressor), EPA believes that these types of appliances are subject to the safe disposal regulations".

6. Is a component of an appliance's refrigerant circuit (e.g., compressor), once removed from the appliance, exempt from these regulations? No!

According to EPA:

"If a disposal facility receives portions of the refrigerant circuit (e.g., the compressor) rather than the appliance shell, EPA believes that the refrigerant system is an appliance as it is a 'device which contains or uses a class I or class II substance as a refrigerant.' Therefore, the person who takes the final step for that refrigerant system must comply with the safe disposal requirements."

⁶ EPA Applicability Determination Index (ADI) Document C960016 (August 6, 1993). Letter from John B. Rasnic, EPA Director Stationary Source Compliance Division to Robin Wiener, Director of Environmental Compliance, ISRI.

Notification to all Suppliers

Regardless of the method used for verification, recyclers must notify their suppliers that refrigerant must be properly recovered from appliances in accordance with Section 82.155(a) prior to delivery. EPA allows for a number of different means of notification, including:

- Signs. This can be satisfied by posting a sign at the entrance to the facility stating that “all automobiles and appliances which may contain refrigerants must have had the refrigerant properly recovered in accordance with Section 82.155(a) prior to entering the facility, and that knowing releases and venting are violations of the Clean Air Act.”

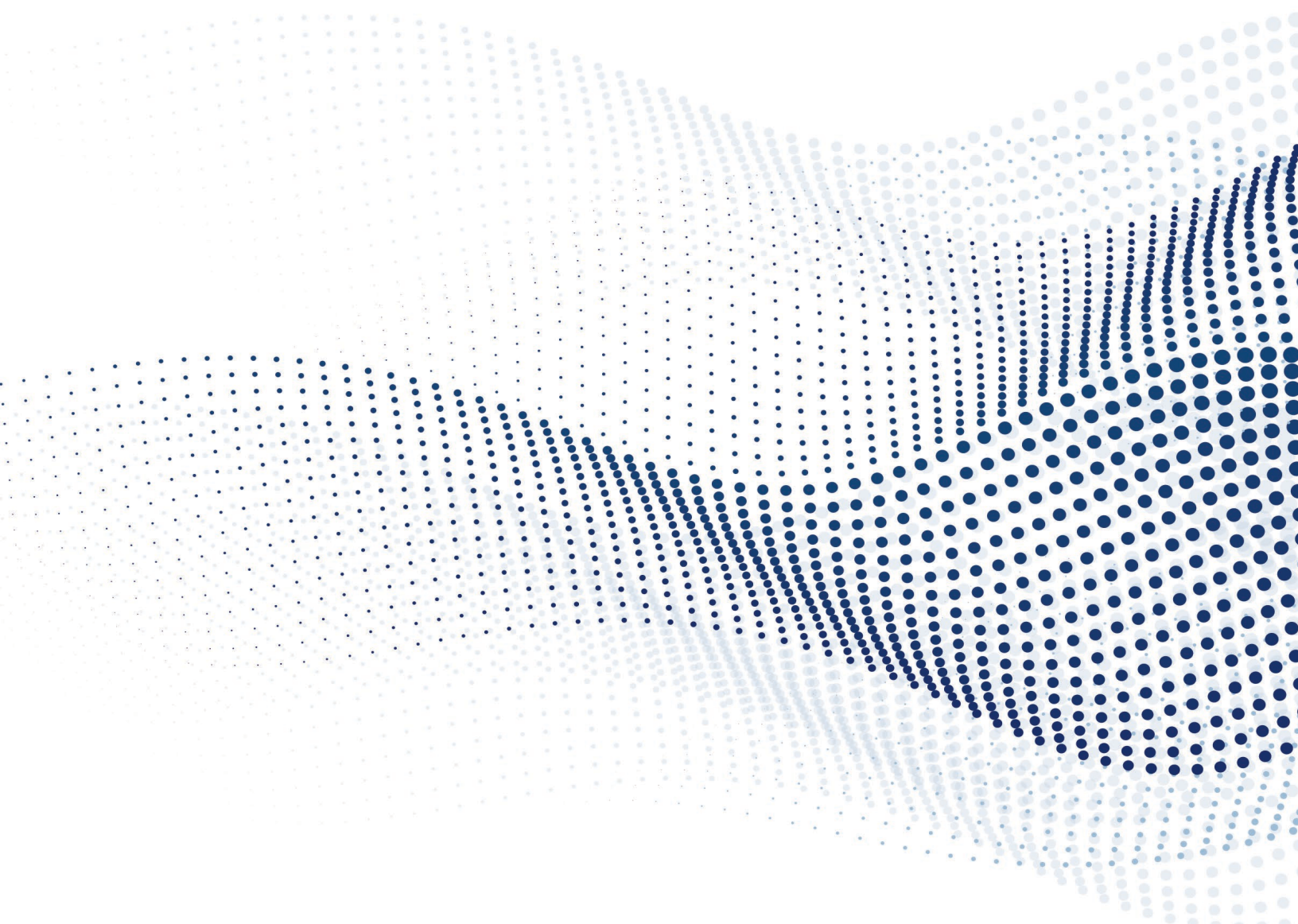
OR

- Letters to suppliers. Send a letter to your regular suppliers specifying that refrigerants must be properly recovered from all appliances and MVACs in accordance with Section 82.155(a) prior to delivery to your facility. It should also state that the Clean Air Act prohibits the knowing release or venting of refrigerants during the disposal/recycling of an appliance. Keep a copy of the letter in your files for recordkeeping purposes.

OR

- “Other equivalent means”

Questions? Please contact David Waggoner, ISRI’s Chief Scientist / Director of Environmental Management at 202-662-8533 or dwaggoner@isri.org.



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