

Press Release



New Era Group, Inc. is a Washington, D.C.-based consultancy firm that represents reclaimers, alternative refrigerant manufacturers, and refrigerant distributors affected by the Environmental Protection Agency's rules phasing out ozone-depleting chemicals. New Era Group announced today that several of these companies have notified EPA of their intent to sue to compel the Agency to correct regulatory defects that have resulted in excessive production of ozone-depleting chemicals. That overproduction has created substantial risks of unnecessary and avoidable emissions of ozone-depleting chemicals as well as carbon and has severely restricted the development of reclamation, alternative refrigerant production, and conservation capabilities, which are needed in order to minimize the environmental harms associated with these chemicals.

The Notice of Intent to Sue demands that EPA correct failure to fulfill two mandatory and non-discretionary legal duties:

1. to base its findings of fact regarding existing inventory, product need, reclamation capacity, and alternative refrigerant availability on either actual facts or a statistically valid survey; and
2. to disclose the information upon which these critical findings are based and the analytical methodology which has been applied.

According to the Notice, despite many demands, EPA has refused to use its powers under the Clean Air Act to obtain reliable information to support its findings. Instead, it has continued to rely on *back-room, off-the-record, ex parte communications* with a small group of large manufacturers as the basis for its regulatory decisions.

Further, according to the Notice, the Agency has refused to disclose either the facts obtained through these back-room communications or the analysis which has been applied to derive conclusions from them.

While the reclaimers, alternative refrigerant manufacturers, and refrigerant distributors acknowledged steps taken by EPA to conduct a limited survey of certain manufacturers and to publish a summary of the survey results (which steps EPA took in response to petitions for reconsideration of EPA's April 3, 2013 rule phasing out ozone-depleting chemicals), the survey does not ask the necessary questions; it is not sufficient to obtain a statistically valid sample; and the analysis being

Press Release



applied continues to be undisclosed and based on *back room, off-the record ex parte communications*.

Litigation will be initiated if these deficiencies are not corrected within the 60-day notice period.

New Era says it will forward a copy of the Notice to EPA's Inspector General and request that the IG investigate the legality and propriety of the Agency's actions.