

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Civil Action No.
)	
v.)	
)	
THE KROGER CO.)	
)	
)	
Defendant.)	

COMPLAINT

The United States of America, by authority of the Attorney General of the United States and through the undersigned attorneys, acting at the request of the Administrator of the United States Environmental Protection Agency (“EPA”), files this Complaint and alleges as follows:

STATEMENT OF THE CASE

1. Defendant (“Kroger” or “Defendant”) owns and operates approximately 2,700 grocery stores across the United States, including stores in this judicial district.
2. Kroger uses ozone-depleting substances (“ODS”) in some of its commercial refrigeration appliances to chill its food display cases, in some of its industrial process refrigeration appliances to manufacture food products, and in some of its comfort cooling appliances to cool its stores.
3. Once ODS are released at the Earth’s surface, they migrate upwards to the stratosphere, where ultraviolet (“UV”) radiation from the sun converts them into reactive gases that destroy ozone.
4. The depletion of ozone results in less protection from the sun’s rays and more exposure to UVB radiation, which can cause the development of skin cancer and cataracts.

5. Kroger has failed to properly manage the use of ozone-depleting refrigerants at certain of its stores and manufacturing facilities and thus emitted more ODS than permitted under applicable regulations set forth in 40 C.F.R. Part 82, Subpart F, §§ 82.150-82.169 (Recycling and Emission Reduction) (Subpart F Regulations) promulgated pursuant to Section 608 of the Act, 42 U.S.C. § 7671g.

6. This is a civil action brought against Kroger for violations of the Clean Air Act (the “Act”), 42 U.S.C. §§ 7401-7671q.

7. The United States seeks injunctive relief and the assessment of civil penalties for violations of Section 608 of the Act, 42 U.S.C. § 7671g (National Recycling and Emission Reduction Program), and the commercial and industrial process refrigerant repair and recordkeeping regulations promulgated thereunder, set forth in the Subpart F Regulations, related to Kroger’s failure to properly manage the use of ozone-depleting refrigerants in its stores.

JURISDICTION AND VENUE

8. This Court has jurisdiction over the subject matter of this action pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), and 28 U.S.C. §§ 1331, 1345, and 1355.

9. Venue is proper in this district pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), and 28 U.S.C. §§ 1391(b) and (c), and 1395(a), because some of the violations alleged in the Complaint occurred in, and Defendant conducts business in, this judicial district.

NOTICE AND AUTHORITY

10. The United States Department of Justice has authority to bring this action on behalf of the Administrator of EPA pursuant to 28 U.S.C. §§ 516 and 519, and Section 305(a) of the Act, 42 U.S.C. § 7605(a).

11. Pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), notice of the commencement of this action has been given to the air pollution control agency for each state in which the violations in this Complaint are alleged to have occurred.

DEFENDANT

12. Defendant, a publicly traded Ohio corporation with its headquarters in Cincinnati, Ohio, is a “person” as defined at Section 302(e) of the Act, 42 U.S.C. § 7602(e), and 40 C.F.R. § 82.152, and within the meaning ascribed under Section 113 of the Act, 42 U.S.C. § 7413.

13. Defendant is a retail grocery chain that uses commercial refrigeration appliances, comfort cooling appliances, and industrial process refrigeration appliances, as defined in 40 C.F.R. § 82.152, to chill its food display cases and manufacture food for sale in its stores.

STATUTORY AND REGULATORY BACKGROUND

14. Title VI of the Clean Air Act mandates the elimination or control of emissions of ODS, including chlorofluorocarbons (“CFCs”) and hydrochlorofluorocarbons (“HCFCs”). 42 U.S.C. §§ 7671-7671q.

15. Section 608 of Title VI of the Act, 42 U.S.C. § 7671g, requires EPA to promulgate regulations establishing standards and requirements regarding the use and disposal of class I and class II substances during the service, repair, or disposal of appliances and industrial process refrigeration.

16. These Subpart F Regulations are codified at 40 C.F.R. Part 82, Subpart F, §§ 82.150-82.169 and were promulgated at 58 Fed. Reg. 28,660 (May 14, 1993), as amended at 59 Fed. Reg. 42,950 (Aug. 19, 1994), 59 Fed. Reg. 55,912 (Nov. 9, 1994), 60 Fed. Reg. 40,420 (Aug. 8, 1995), 68 Fed. Reg. 43,786 (July 24, 2003), 69 Fed. Reg. 11,946 (Mar. 12, 2004), 70 Fed. Reg. 1972 (Jan. 11, 2005), and 81 Fed. Reg. 82,272 (Nov. 18, 2016).

A. Leak Repair Requirements

17. The Clean Air Act classifies CFCs as class I refrigerants and HCFCs as class II refrigerants.

18. The Subpart F Regulations include leak repair requirements for commercial and industrial process refrigeration appliances that use ODS.

19. “Appliance” means “any device which contains and uses a class I or class II substance as a refrigerant and which is used for household or commercial purposes, including any air conditioner, motor vehicle air conditioner, refrigerator, chiller, or freezer.” 42 U.S.C. § 7671(1); 40 C.F.R. § 82.152 (2016). Effective Jan. 1, 2017, “appliance” also includes any device which contains and uses substitute refrigerants. 40 C.F.R. § 82.152 (2017).

20. “Comfort cooling” means “air-conditioning appliances used to provide cooling in order to control heat and/or humidity in occupied facilities.” 40 C.F.R. § 82.152 (2017).

21. “Commercial refrigeration” means “the refrigeration appliances utilized in the retail food and cold storage warehouse sectors. Retail food appliances include the refrigeration equipment found in supermarkets, convenience stores, restaurants, and other food service establishments. Cold storage includes the equipment used to store meat, produce, dairy products, and other perishable goods.” 40 C.F.R. § 82.152; *see also* 40 C.F.R. § 82.156(j).

22. “Industrial process refrigeration” means “complex customized appliances that are directly linked to the processes used in, for example, the chemical, pharmaceutical, petrochemical, and manufacturing industries.” 40 C.F.R. §§ 82.152, 82.156(j).

23. “Leak rate” means the rate at which an appliance is losing refrigerant, measured between refrigerant charges. The leak rate is expressed in terms of the percentage of the appliance’s full charge that would be lost over a 12-month period if the current rate of loss were

to continue over that period. The leak rate is calculated using either an annualizing method or rolling average method. 40 C.F.R. §§ 82.152, 82.156(j).

24. “Refrigerant” means “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.” 40 C.F.R. § 82.152; *see also* 40 C.F.R. § 82.156(j).

25. “Full charge” means the amount of refrigerant required for normal appliance operation as determined by using one or a combination of the following methods:

- i. Use of the equipment manufacturer’s determination of the full charge;
- ii. Use of appropriate calculations based on component sizes, density of refrigerant, volume of piping, and other relevant considerations;
- iii. Use of actual measurements of the amount of refrigerant added to or evacuated from the appliance, including for seasonal variance; and/or
- iv. Use of an established range based on the best available data regarding the normal operating characteristics and conditions for the appliance, where the midpoint of the range will serve as the full charge.

40 C.F.R. § 82.152; *see also* 40 C.F. R. § 82.156(j).

Leak Repair Requirements Pre-January 1, 2019

26. Prior to January 1, 2019, the leak repair regulations applied to owners and operators of commercial and industrial refrigeration appliances normally containing more than 50 pounds of refrigerant. 40 C.F.R. § 82.156(i).

27. For commercial and industrial process refrigeration appliances, the owner or operator must take action where the annual leak rate exceeds 35 percent. Within 30 days of when the owner or operator discovers (or should have discovered a leak if the owners intentionally shielded themselves from information which would have revealed a leak), the owner or operator must either (i) repair the leak so that the annual leak rate is below 35 percent or (ii) prepare and

implement a plan to retrofit or retire the appliance within one year of the plan's date. 40 C.F.R. § 82.156(i)(1), (6), (9).

28. Pursuant to 40 C.F.R. § 82.156(i)(3), upon conclusion of repairs to a leaking industrial process refrigeration appliance, the owner or operator must perform an initial verification test demonstrating that the leaks have been repaired. The owner or operator must conduct a follow-up verification leak test, in accordance with 40 C.F.R. §§ 82.152, 82.156(j), within thirty days following the initial verification test. 40 C.F.R. §§ 82.156(i)(3), (j); 82.152.

29. If the follow-up verification test reveals that the annual leak rate is more than 35 percent, the owner or operator must (1) notify EPA within 30 days of the follow-up verification test of the failed follow-up verification test in accordance with 40 C.F.R. § 82.166(n), and (2) prepare a plan to retrofit or retire the appliance within 30 days of the failed follow-up verification test and complete the retrofit or retirement within one year of the plan's date. 40 C.F.R. § 82.156(i)(3), (6), (9).

Leak Repair Requirements Post-January 1, 2019

30. Effective January 1, 2019, the leak repair regulations apply to appliances with a full charge of 50 or more pounds of refrigerant. 40 C.F.R. § 82.157(a).

31. For commercial refrigeration appliances, the owner or operator must take action where the annual leak rate exceeds 20 percent. Within 30 days of when refrigerant is added to an appliance exceeding the applicable leak rate, the owner or operator must either (i) identify and repair the leak so that the annual leak rate is below 20 percent or (ii) create a one-year retrofit or retirement plan. 40 C.F.R. § 82.157(c), (d), (h).

32. For industrial process refrigeration appliances, the owner or operator must take action where the annual leak rate exceeds 30 percent. Within 30 days of when refrigerant is added to an appliance exceeding the applicable leak rate, the owner or operator must either (i)

identify and repair the leak so that the annual leak rate is below 30 percent or (ii) create a one-year retrofit or retirement plan. 40 C.F.R. § 82.157(c), (d), (h).

33. For both commercial and industrial process refrigeration appliances, leaks will be presumed to be repaired if there is no further refrigerant addition for 12 months after the repair or if leak inspections performed in accordance with 40 C.F.R. § 82.157(g) do not find any leaks in the appliance. 40 C.F.R. § 82.157(d)(2).

34. For commercial and industrial process refrigeration appliances, repair of leaks must be documented by both an initial and a follow-up verification test or tests. 40 C.F.R. § 82.157(d)(2).

35. Leak inspections are required for appliances that exceed the leak rate. 40 C.F.R. § 82.157(g).

36. During a leak inspection, all visible and accessible components of an appliance must be inspected. 40 C.F.R. § 82.157(g)(3).

B. Recordkeeping Requirements

37. To ensure that owners and operators can determine when they must act under the leak repair requirements, the Subpart F Regulations also impose recordkeeping requirements for commercial and industrial process refrigeration appliances normally containing 50 or more pounds of refrigerant.

Recordkeeping Requirements Pre-January 1, 2019

38. Prior to January 1, 2019, the applicable recordkeeping provisions required owners or operators to keep servicing records of appliances containing more than 50 pounds of refrigerant for a minimum of three years. Those records must document the date and type of service, as well as the quantity of refrigerant added. 40 C.F.R. § 82.166(k).

Recordkeeping Requirements Post-January 1, 2019

39. Effective January 1, 2019, the owner or operator must maintain a record for each time an appliance with a full charge of 50 or more pounds is maintained, serviced, repaired, or disposed of for three years. The record must include:

- i. The identity and location of the appliance;
- ii. The date of the maintenance, service, repair, or disposal performed;
- iii. The part(s) of the appliance being maintained, serviced, repaired, or disposed;
- iv. The type of maintenance, service, repair, or disposal performed for each part;
- v. The name of the person performing the maintenance, service, repair, or disposal;
- vi. The amount and type of refrigerant added to the appliance;
- vii. The full charge of the appliance; and
- viii. The leak rate and the method used to determine the leak rate (with some exceptions).

40 C.F.R. § 82.157(l)(2).

40. Effective January 1, 2019, owners or operators are required to keep records for three years of leak inspections that include the date of inspection, the method(s) used to conduct the leak inspection, the location of each leak that was identified, and a certification that all visible and accessible parts of the appliance were inspected. 40 C.F.R. § 82.157(l)(3).

41. Effective January 1, 2019, owners and operators must maintain records for three years of the dates and results of all initial and follow-up verification tests. Records must include the location of the appliance, the date(s) of the verification tests, the location(s) of all repaired

leaks that were tested, the type(s) of verification test(s) used, and the results of those tests. 40 C.F.R. § 82.157(l)(5).

42. Owners or operators are required to maintain retrofit or retirement plans for three years. 40 C.F.R. § 82.157(l)(6).

C. Enforcement Provisions

43. The Clean Air Act authorizes EPA to bring a civil action against any person who has violated any requirement of Title VI of the Clean Air Act or its implementing regulations. 42 U.S.C. § 7413(a)(3)(C) and 7413(b)(2).

44. Any person who violates Title VI of the Clean Air Act is subject to civil penalties of up to \$124,426 per day for each violation occurring after November 2, 2015, and assessed on or after January 8, 2025. 42 U.S.C. § 7413(b); 40 C.F.R. § 19.4.

FACTUAL ALLEGATIONS

45. Defendant owns or operates commercial refrigeration appliances to chill its food display cases at many of its approximately 2,700 stores across the United States.

46. Defendant owns or operates industrial process refrigeration appliances at some of its manufacturing facilities in the United States.

47. Some of Defendant's commercial refrigeration appliances, including those identified in Exhibits A and B, use HCFCs, a class II refrigerant.

48. On August 8, 2018, EPA issued an information request to Defendant pursuant to 42 U.S.C. § 7414(a), requesting a list of all comfort cooling appliances, commercial refrigeration appliances, and industrial process refrigeration appliances normally containing more than 50 pounds of a class I or class II ozone-depleting substance at all stores or manufacturing facilities owned or operated by Defendant or any of its subsidiaries ("First Information Request").

49. On October 9, 2018, Defendant submitted its responses to the First Information Request, identifying 4,646 commercial refrigeration and industrial process refrigeration appliances and comfort cooling appliances that used refrigerants regulated under the Subpart F Regulations and identifying the full charge of each appliance.

50. As of April 29, 2026, Defendant informed EPA that it owns and operates 24,627 commercial refrigeration and comfort cooling appliances across 2,734 stores that are subject to the Subpart F regulations.

51. On March 4, 2019, EPA issued a second information request pursuant to 42 U.S.C. § 7414, requesting detailed information regarding the addition of class I or class II ozone-depleting substances during the previous four- and one-half year period, the refrigerant leak rate and formula used, and retrofit or retirement plans for comfort cooling, commercial refrigeration, and industrial process refrigeration appliances located at 120 stores and manufacturing facilities (“Second Information Request”) containing full charge of at least 50 pounds of refrigerant.

52. Prior to January 1, 2019, Defendant owned and operated commercial refrigeration and industrial process refrigeration appliances and comfort cooling appliances, including those identified in Exhibits A and B, containing at least 50 pounds of refrigerant at full charge.

53. After January 1, 2019, Defendant owned and operated commercial refrigeration and industrial process refrigeration appliances and comfort cooling appliances, including those identified in Exhibits A and B, with a full charge of 50 or more pounds of refrigerant.

54. Defendant uses the annualizing method to calculate leak rate.

55. Many of Defendant’s commercial refrigeration appliances are “appliances” within the meaning of Section 601(1) of the Act, 42 U.S.C. § 7671(1), and/or 40 C.F.R. § 82.152 (2016) and 40 C.F.R. § 82.152 (2017), and “commercial refrigeration” equipment within the meaning of 40 C.F.R. § 82.152.

56. The United States issued to Defendant a Finding of Violation under Section 113(a)(1) of the Clean Air Act, 42 U.S.C. § 7671(a)(1) on March 31, 2020.

FIRST CLAIM FOR RELIEF

Failure to Repair Leaking Appliances, 40 C.F.R. §§ 82.156(i) and 82.157

57. Paragraphs 1 through 56 are realleged and incorporated herein by reference.

58. Defendant owns and operates each “commercial refrigeration” appliance identified in Exhibit A within the meaning of 40 C.F.R. §§ 82.152 and 82.156(j).

59. Defendant’s commercial refrigeration appliances identified in Exhibit A are “appliances” within the meaning of 42 U.S.C. § 7671(1) and 40 C.F.R. §§ 82.152 and 82.156(j).

60. Defendant owns and operates each “industrial process refrigeration” appliance identified in Exhibit A within the meaning of 40 C.F.R. §§ 82.152 and 82.156(j).

61. Defendant’s industrial process refrigeration appliances identified in Exhibit A are “appliances” within the meaning of 42 U.S.C. § 7671(1) and 40 C.F.R. §§ 82.152 and 82.156(j).

Pre-2019 Violations

Commercial Refrigeration

62. On at least 14 occasions before January 1, 2019, Defendant discovered a refrigerant leak in a commercial refrigeration appliance at a time when such appliance had an annual leak rate in excess of 35 percent. *See* Exhibit A.

63. Defendant failed to either (i) repair the leaks in the appliance within 30 days of discovery and bring the annual leak rate below 35 percent or (ii) prepare and implement a plan to retrofit or retire the appliance, in violation of 40 C.F.R. § 82.156(i)(1) and (9).

Industrial Process Refrigeration

64. On at least 2 occasions before January 1, 2019, Defendant discovered a refrigerant leak in an industrial process refrigeration appliance at a time when such appliance had an annual leak rate of more than 35 percent. *See* Exhibit A.

65. Defendant failed to either (i) repair the leaks in the appliance within 30 days of discovery and bring the annual leak rate below 35 percent or (ii) prepare a one-year plan for retrofit or retirement for the appliance, in violation of 40 C.F.R. § 82.156(i)(1) and (9).

Violations Beginning January 1, 2019—Commercial Refrigeration

66. On at least six occasions on or after January 1, 2019, refrigerant was added to a commercial refrigeration appliance owned and operated by Defendant that caused the appliance to exceed the applicable leak rate of 20 percent. *See* Exhibit A.

67. Defendant failed to either (i) repair the appliance such that the leak rate was brought below 20 percent within 30 days of when the refrigerant was added or (ii) prepare a one-year plan for retrofit or retirement for the appliance, in violation of 40 C.F.R. § 82.157(c), (d), and (h).

68. Unless enjoined, the types of violations alleged in this Claim will continue.

69. The violations set forth above subject Defendant to injunctive relief and a civil penalty of up to \$124,426 per day for each violation. 42 U.S.C. § 7413(b); 40 C.F.R. § 19.4.

SECOND CLAIM FOR RELIEF

Failure to Maintain Adequate Servicing Records, 40 C.F.R. § 82.166(k) and (m)

70. Paragraphs 1 through 56 are realleged and incorporated herein by reference.

71. Defendant owns and operates each “commercial refrigeration” appliance identified in Exhibit B within the meaning of 40 C.F.R. §§ 82.152 and 82.156(j).

72. Defendant’s commercial refrigeration appliances identified in Exhibit B are “appliances” within the meaning of 42 U.S.C. § 7671(1) and 40 C.F.R. §§ 82.152 and 82.156(j).

73. On at least 17 occasions, Defendant failed to keep records documenting the quantity of refrigerant added to an appliance in violation 40 C.F.R. § 82.166(k) and/or to maintain such records for at least three years in violation of 40 C.F.R. § 82.166(m). *See* Exhibit B.

74. Unless enjoined, the types of violations alleged in this Claim will continue.

75. The violations set forth above subject Defendant to injunctive relief and a civil penalty of up to \$124,426 per day for each violation. 42 U.S.C. § 7413(b); 40 C.F.R. § 19.4.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, the United States, respectfully requests that this Court:

1. Order Defendant to take appropriate action to remedy and prevent violations of Section 608 of the Act, 42 U.S.C. § 7671g, and the regulations promulgated thereunder, 40 C.F.R. Part 82, Subpart F, at its stores, including steps to mitigate emissions associated with the violations alleged above;

2. Assess civil penalties against Defendant of up to \$124,426 per day for each violation per day.

3. Award the United States its costs and expenses incurred in this action; and

4. Grant such other relief as this Court deems just and proper.

Respectfully submitted,

THE UNITED STATES OF AMERICA

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Environment and Natural Resources Division

s/Steven D. Ellis
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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

United States of America

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) Steven D. Ellis, Environmental Enforcement Section, Environment and Natural Resources Division, U.S. Department of Justice, PO Box 7611, Washington, DC

DEFENDANTS

The Kroger Co.

County of Residence of First Listed Defendant Hamilton (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Kevin N. McMurray, FBT Gibbons, 301 East Fourth Street, Suite 3300, Cincinnati, OH 43215. Phone: (614) 464-1211

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- PTF DEF Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Table with columns: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Personal Injury, Labor, Intellectual Property Rights, etc.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 42 U.S.C. Section 7671g. Brief description of cause: Alleging violations of refrigerant leak repair and recordkeeping requirements for refrigerants

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE April 29, 2026 SIGNATURE OF ATTORNEY OF RECORD s/Steven D. Ellis (Colorado #12255)

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related cases, if any. If there are related cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff)
)
v.)
)
THE KROGER CO.,)
)
Defendant.)
)

EXHIBIT A TO COMPLAINT
TABLE OF LEAK RATE VIOLATIONS

The Kroger Company, Cincinnati, Ohio. Summary of Leak Rate Violations.

Location of Appliance	Appliance Designation	Appliance Type	Date of First Refrigerant Addition	Date of Second Refrigerant Addition	Leak Rate	Violation Start Date	Violation End Date
300 Atlantic Ave, Pittsburg, CA	3024044	CRA	12/4/2014	2/4/2015	111%	3/7/2015	6/18/2015
3425 Cascade Rd SW, Atlanta, GA	011465RACKA	CRA	4/1/2015	5/13/2015	111.70%	6/13/2015	6/8/2017
181 S Highway 27, Somerset, KY	3217358	CRA	2/27/2015	6/4/2015	74.10%	7/5/2015	12/2/2016
4015 SW 10th Ave, Topeka, KS	4036404	CRA	5/20/2015	7/1/2015	141.10%	8/1/2015	1/22/2016
2385 E Windmill Ln, Las Vegas, NV	3423165	CRA	1/20/2016	4/14/2016	38.20%	5/15/2016	8/6/2016
2385 E Windmill Ln, Las Vegas, NV	3423164	CRA	2/16/2016	4/15/2016	55.00%	5/16/2016	1/5/2017
3200 W Century Blvd, Inglewood, CA	3007282	CRA	4/29/2016	6/21/2016	206.60%	7/22/2016	5/22/2017
181 S Highway 27, Somerset, KY	3217365	CRA	3/22/2016	7/18/2016	45.70%	8/18/2016	5/22/2017
1091 S Hoover St, Los Angeles, CA	3007378	CRA	4/11/2016	1/31/2017	66.80%	3/3/2017	11/17/2017
3425 Cascade Rd SW, Atlanta, GA	011465RACKB	CRA	2/9/2017	4/19/2017	79.30%	5/20/2017	7/11/2017
300 Atlantic Ave, Pittsburg, CA	3024044	CRA	3/7/2017	5/3/2017	164.70%	6/3/2017	10/17/2017
23849 West Rd, Brownstown, MI	3482686	CRA	8/21/2017	9/26/2017	95.10%	10/27/2017	2/21/2018
23849 West Rd, Brownstown, MI	3482686	CRA	2/21/2018	4/6/2018	129.50%	5/7/2018	6/13/2018
Home Chef 1055 E. Cooley Ave., San Bernardino, CA	Vilter VMC	IPRU	6/7/2018	7/16/2018	48.70%	8/16/2018	10/5/2018
3425 Cascade Rd SW, Atlanta, GA	011465RACKB	CRA	3/6/2018	9/12/2018	41.20%	10/13/2018	2/15/2019
K.B. Specialty Foods, 1225 N Broadway St., Greensburg, IN	Pasta Chiller – S/N A03A00023	IPRU	8/7/2017	9/15/2017	516.50%	10/16/2017	10/18/2017
18518 Kuykendahl Rd. Spring, Texas	3315677	CRA	11/8/2017	6/29/2018	151.40%	7/30/2018	6/12/2019
300 Atlantic Ave, Pittsburg, CA	3024044	CRA	6/12/2018	6/30/2018	347.6	7/31/2018	6/15/2020
3425 Cascade Rd SW, Atlanta, GA	011465RACKA	CRA	4/23/2019	7/1/2019	56.70%	8/1/2019	3/27/2020
2385 E. Windmill Lane, Las Vegas, NV	3423238	CRA	1/20/2020	2/20/2020	47.10%	3/22/2020	12/20/2021
1608 Marion Mount Gilead Rd, Marion, Ohio	3443367	CRA	6/8/2020	10/12/2020	57.60%	11/12/2020	4/28/2021
965 Poplar St, Nelsonville, Ohio	3447324	CRA	9/15/2020	12/23/2020	76.50%	1/23/2021	8/14/2023

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff)
)
v.)
)
THE KROGER CO.,)
)
Defendant.)
)

EXHIBIT B TO COMPLAINT
TABLE OF RECORDKEEPING VIOLATIONS