



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 Wynkoop Street  
DENVER, CO 80202-1129  
Phone 800-227-8917  
<http://www.epa.gov/region08>

AUG - 6 2008

Ref: 8ENF-AT

**CERTIFIED MAIL:**  
**RETURN RECEIPT REQUESTED**

David Koscove, Owner  
Colorado Industrial Recycling, Inc.  
2730 East Las Vegas Street  
Colorado Springs, Colorado 80306

Re: Compliance Order

Dear Mr. Koscove:

Enclosed is an administrative order requiring that you comply with certain requirements of the regulations implementing the Clean Air Act ("CAA").

You are hereby served with a Compliance Order (referred to as the "Order") pursuant to section 113(a)(3)(B) of the CAA, 42 U.S.C. § 7413(a)(3)(B), as amended on November 15, 1990.

The Environmental Protection Agency ("EPA") finds in the Order that Colorado Industrial Recycling, Inc. failed to comply with the implementing regulations associated with the "Stratospheric Ozone Protection" requirements of Subchapter VI, section 608 of the CAA, 42 U.S.C. § 7671g. The requirements of these regulations, which are found at 40 C.F.R. part 82, Subpart F (Recycling and Emissions Reduction), are set forth in the attached Order. The Order requires compliance with the CAA and applicable regulations.

Violation of the Order may lead to the commencement of a civil action for permanent or temporary injunction, or to assessment and recovery of a civil penalty of not more than \$32,500 per day for each violation, or both, pursuant to section 113(b) of the CAA, 42 U.S.C. § 7413(b), and 40 C.F.R. part 19. In issuing this Order, EPA does not waive its right to seek injunctive relief or civil penalties of up to \$32,500 per day for each day of violation under section 113(b) of the CAA for any and all violations, or both injunctive relief and civil penalties.

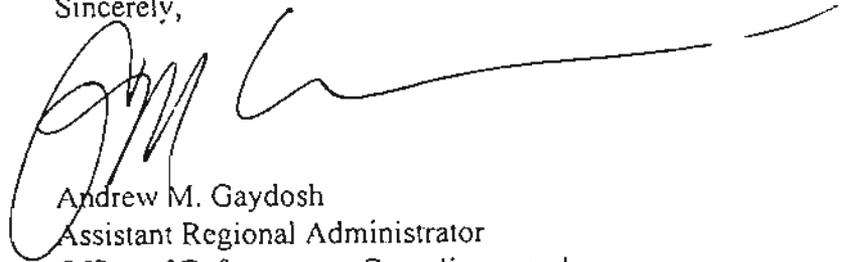
This Order will become effective thirty (30) calendar days from the date of your receipt of the Order, allowing you thirty (30) days in which to request a conference with EPA. Whether or not you request a conference, you may confer informally with EPA concerning the alleged violations.

If you have any questions or would like to request a conference, please contact:

David Cobb (8ENF-AT)  
Technical Enforcement Program  
U.S. EPA-Region 8  
1595 Wynkoop Street  
Denver, CO 80202-1129  
(303) 312-6592  
(303) 312-6409 – fax  
cobb.david@epa.gov

EPA urges your prompt attention to these matters.

Sincerely,



Andrew M. Gaydosh  
Assistant Regional Administrator  
Office of Enforcement, Compliance and  
Environmental Justice

Enclosure

bcc: David Cobb, US EPA, 8ENF-AT  
Marc Weiner, US EPA, 8ENF-L

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8  
Docket No. CAA-08-2008-0026

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IN THE MATTER OF: )  
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Colorado Industrial Recycling, Inc. )  
2730 East Las Vegas Street )  
Colorado Springs, Colorado 80306 )  
)  
Respondent. )  
)

**COMPLIANCE ORDER**

**STATUTORY AUTHORITY**

This COMPLIANCE ORDER (referred to as the "ORDER") is issued pursuant to section 113(a)(3)(B) of the Clean Air Act ("CAA"), 42 U.S.C. section 7413(a)(3)(B), as amended. This ORDER is issued by the Assistant Regional Administrator for the Office of Enforcement, Compliance and Environmental Justice of the United States Environmental Protection Agency ("EPA"), Region 8, who has been properly delegated the authority by the Administrator of the EPA to proceed with this action.

**FINDINGS OF VIOLATION**

The following findings apply to and are incorporated by reference into this COMPLIANCE ORDER:

1. Colorado Industrial Recycling ("Respondent") is a business in good standing and registered to conduct business in the State of Colorado with the Colorado Secretary of State's Office.
2. At all times relevant to this action, Respondent owns and operates the facility located at 2730 East Las Vegas Street, Colorado Springs, Colorado ("the facility.")
3. At all times relevant to this action, Respondent is a "person" as defined by section 302(e) of the CAA, 42 U.S.C. § 7602(e), and thus subject to regulation.
4. On April 15, 2008 ("the inspection"), Jeffrey Kimes and David Cobb, authorized EPA inspectors, ("the inspectors"), conducted an inspection of Respondent's facility, with the consent of Respondent, to determine compliance with the CAA and its implementing regulations.

5. During the inspection the inspectors observed that Respondent takes the final step in the disposal of appliances and small appliances normally containing refrigerants.

6. During the inspection the inspectors observed that Colorado Industrial Recycling does not have certified, self-contained recovery or recycling equipment available at its place of business.

7. During the inspection the inspectors found that on April 15, 2008, Colorado Industrial Recycling accepted for disposal motor vehicles containing air conditioning units which normally contain refrigerant without verification that the refrigerant which had not leaked previously had been properly evacuated from the appliance in accordance with applicable EPA regulations.

8. During the inspection the inspectors found that on or around April 15, 2008, Colorado Industrial Recycling accepted for disposal small appliances normally containing refrigerant without verification that refrigerant which had not leaked previously had been properly evacuated from the appliance in accordance with applicable EPA regulations.

9. During the inspection the inspectors observed that Colorado Industrial Recycling disposed of one large appliance without having at least one piece of certified, self-contained recovery or recycling equipment available at its place of business, as required by applicable EPA regulations.

### **STATUTORY AND REGULATORY FRAMEWORK**

The following items apply to and are incorporated by reference into the Counts of this COMPLIANCE ORDER:

10. Under the regulations implementing the "Stratospheric Ozone Protection" requirements of Subchapter VI, section 608 of the CAA, 42 U.S.C. § 7671g, found at 40 C.F.R. § 82.152, an "appliance" is defined as any device which contains and uses a refrigerant and which is used for household or commercial purposes, including any air conditioner, refrigerator, chiller, or freezer.

11. Under the regulations referenced in Paragraph 10 above, a "small appliance" is defined as any appliance that is fully manufactured, charged, and hermetically sealed in a factory with five (5) pounds or less of a class I or class II substance used as a 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 and packaged terminal air heat pumps), dehumidifiers, under-the-counter ice makers, vending machines, and drinking water coolers.

12. Under the regulations reference in Paragraph 10 above, “disposal” is defined as the process leading to and including the discharge, deposit, dumping or placing of any discarded appliance into or on any land or water.

13. Under the regulations reference in Paragraph 10 above, “motor vehicle air conditioner (MVAC)” is defined as any appliance that is a motor vehicle air conditioner as defined in 40 C.F.R. part 82, subpart B.

14. 40 C.F.R. § 82.156(f) requires 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, MVACs, or MVAC-like appliances, must either recover all remaining refrigerant or verify that the refrigerant has been evacuated from the appliance or shipment of appliances previously. Such verification must include 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 appliance or shipment of appliances in accordance with 40 C.F.R. 82.156(g) or (h), as applicable. This statement must include the name and address of the person who recovered the refrigerant and the date the refrigerant was recovered or a contract that refrigerant will be removed prior to delivery.

15. 40 C.F.R. 82.156(b) requires that all persons disposing of appliances except small appliances, MVACs, and MVAC-like appliances must have at least one piece of certified, self-contained recovery or recycling equipment available at their place of business.

16. 40 C.F.R. § 82.154(a) prohibits persons disposing of appliances from knowingly venting or otherwise releasing into the environment any refrigerant or substitute with the exception of the substitutes listed at 40 C.F.R. § 82.154(a)(i) – § 82.154(a)(vi).

## **DESCRIPTION OF VIOLATIONS**

### **I**

17. During the inspection the EPA inspectors observed Respondent taking the final step in the disposal of MVAC’s normally containing refrigerants.

18. During the inspection the EPA inspectors verified that Respondent failed to recover refrigerant (R-12) from a 1983 Subaru GL (VIN: JF2AM53B5DF444711; Colorado License Plate #: WSS-272).

19. Respondent took the final step in the disposal process of the MVAC described in the preceding paragraph without either recovering the refrigerant or verifying that refrigerant had been properly removed in violation of 40 C.F.R. § 82.156(f)(1) and (2).

20. Respondent, by failing to comply with conduct required by 40 C.F.R. § 82.156, has engaged in conduct prohibited by 40 C.F.R. § 82.154(a).

## II

21. During the inspection the EPA inspectors observed Respondent taking the final step in the disposal of small appliances normally containing refrigerants.

22. During the inspection the EPA inspectors observed that Respondent failed to recover refrigerant from a General Electric air conditioning unit, a small appliance, containing R-22 refrigerant prior to disposal.

23. Respondent took the final step in the disposal process of the small appliance described in the preceding paragraph without either recovering the refrigerant or verifying that refrigerant had been properly removed in violation of 40 C.F.R. §§ 82.156(f)(1) and (2).

24. Respondent, by failing to comply with conduct required by 40 C.F.R. § 82.156, has engaged in conduct prohibited by 40 C.F.R. § 82.154(a).

## III

25. The CAA regulations governing Stratospheric Ozone Protection require Respondent to have at least one piece of certified, self-contained recovery or recycling equipment available at their place of business when they dispose large appliances.

26. During the inspection the EPA inspectors observed Respondent disposed of one large appliance (York Air Conditioner Model H2CB048506C) without having at least one piece of certified, self-contained recovery or recycling equipment available at its place of business in violation of 40 C.F.R. § 82.156(b).

## COMPLIANCE ORDER

Pursuant to section 113(a)(3)(B) of the CAA, 42 U.S.C. section 7413(a)(3)(B), and upon the basis of available information, EPA hereby issues the following ORDER:

27. Within thirty (30) days of receipt of this COMPLIANCE ORDER, for every small appliance, room air conditioner, MVAC or MVAC-like appliance accepted, the Respondent must either recover any remaining refrigerant in accordance with 40 C.F.R. sections 82.156(f)(1); or verify that the refrigerant has been previously evacuated from the appliance or shipment of appliances in accordance with 40 C.F.R. section 82.156(f)(2). Such verification must include 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 in accordance with 40 C.F.R. section 82.156(g) or (h) as applicable. This statement must include the name and address of the person who recovered the refrigerant and the date the refrigerant was recovered or a contract that the refrigerant will be removed prior to delivery. Copies of these signed verification statements must be maintained on site for three years in accordance with 40 C.F.R. section 82.166(i) and (m). The Respondent must maintain for three years copies of customer invoices and receipts documenting the sale or transfer of appliances, motor vehicles and recovered refrigerants.

28. Within thirty (30) days of receipt of this COMPLIANCE ORDER, if Respondent accepts any appliances that are not small appliances, MVACs, nor MVAC-like appliances, Respondent must maintain at least one piece of certified, self-contained, recovery or recycling equipment at the Respondent facility in accordance with 40 C.F.R. 82.156(b) and evacuate appliances in accordance with 40 C.F.R. 82.156(a)(3).

29. In accordance with 40 C.F.R. section 82.154(a), Respondent may not knowingly vent or otherwise release into the environment any refrigerant or substitute from such appliances while disposing of appliances.

30. The Respondent shall provide EPA with confirmation that the above requirements of CAA section 608 and 40 C.F.R. part 82 have been met within thirty (30) days of receipt of this COMPLIANCE ORDER by providing the Agency with:

- a) a complete narrative description of the process that will be used by Colorado Industrial Recycling to verify the proper recovery of refrigerant from appliances and motor vehicles;
- b) if a verification statement form will be provided to suppliers to verify refrigerant recovery, a blank copy of this statement form, including fields to enter the name and address of the person who recovered the refrigerant and the date recovered;
- c) if contracts are provided to suppliers to verify refrigerant recovery, a blank copy of such a contract;
- d) a completed "Refrigerant Recovery or Recycling Device Acquisition Certification Form" (OMB #2060-0256) if Colorado Industrial Recycling obtains recovery equipment and intends to recover refrigerants from appliances and motor vehicles;
- e) a blank copy of the log that will be used by Colorado Industrial Recycling if Colorado Industrial Recycling intends to remove refrigerants from small appliances or appliances (such log should include a signature of the person removing the refrigerant, the date removed, a description of the appliance, model and serial number); and,

- f) copies of all current, signed and dated supplier contracts or agreements that the refrigerant will be removed prior to delivery.

All submissions shall be mailed to:

David Cobb, 8ENF-AT  
U.S. Environmental Protection Agency  
1595 Wynkoop Street  
Denver, Colorado 80202-1129

### ENFORCEMENT

31. Issuance of this ORDER does not preclude any other action by EPA to redress past or future violations of the CAA, including either of the following:

- a. An administrative penalty complaint pursuant to section 113(d) of the CAA, 42 U.S.C. section 7413(d), for civil penalties of up to \$32,500 per day for each violation during the period the facility is not in compliance; or
- b. A civil action pursuant to section 113(b) of the CAA, 42 U.S.C. section 7413(b), for injunctive relief or civil penalties of up to \$32,500 per day for each violation during the period the facility is not in compliance, or both.

32. Pursuant to section 120 of the CAA, 42 U.S.C. section 7420, EPA is also authorized to assess noncompliance penalties to recover the economic benefit which any person obtained by not complying with the CAA.

33. In addition, under section 306(a) of the CAA, 42 U.S.C. section 7606(a), the regulations promulgated at 40 C.F.R. part 15; and Executive Order 11738, facilities used in federal contracts, grants, or loans must be in full compliance with the CAA and all implementing regulations. Violation of the CAA may result in the subject facility being declared ineligible for participation in any federal contract, grant, or loan.

34. Pursuant to section 113(a)(3) of the CAA, 42 U.S.C. section 7413(a)(3), failure to comply with this ORDER may lead to a civil action to obtain compliance or an action for civil and criminal penalties.

**OPPORTUNITY FOR CONFERENCE**

35. In accordance with section 113(a)(4) of the CAA, 42 U.S.C. section 7413(a)(4), we are offering the Respondent an opportunity for a conference to discuss this ORDER. The request for such a conference must be made no later than thirty (30) calendar days from the date of receipt of this ORDER. If you wish to make arrangements for a conference, please contact David Cobb, Office of Enforcement, Compliance and Environmental Justice, U.S. EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202, 303-312-6592. By offering the opportunity for a conference or participating in one, EPA does not waive or limit its right to any remedy available under the CAA.

**EFFECTIVE DATE**

This ORDER shall become effective immediately upon receipt by Respondent of this ORDER.

Date: 8/5/08

  
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Andrew M. Gaydosh  
Assistant Regional Administrator  
Office of Enforcement, Compliance and  
Environmental Justice