



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

1595 Wynkoop Street  
Denver, CO 80202-1129  
Phone 800-227-8917  
<http://epa.gov/region8>

Ref: ENF-AT

JUL 3 1 2007

CERTIFIED MAIL:  
RETURN RECEIPT REQUESTED

Dan Robertson  
Operations Manager  
Metal Management West, Inc  
3260 West 500 South  
Salt Lake City, UT 84104

Re: Clean Air Act Section 113 Compliance  
Order Docket No. CAA-08-2007-0001

Dear Mr. Robertson:

Enclosed is an administrative compliance order (Order) for violations of certain Clean Air Act requirements, relating to substances used as refrigerants.

The United States Environmental Protection Agency (EPA) alleges in this Order that Metal Management West, Inc. has failed to comply with the "Stratospheric Ozone Protection" requirements of Subchapter VI at Section 608(b) of the Clean Air Act (Act), U.S.C. Section 7671g(b). These requirements for the handling of Class I and Class II substances used as refrigerants are contained in regulations at 40 C.F.R. Part 82, Subpart F.

This Order requires Metal Management West, Inc. to demonstrate compliance with Section 608(b) and the implementing regulations. It is being issued by EPA, and not the Utah Department of Environmental Quality, because EPA has not authorized the State of Utah to implement these regulations.

Violation of this 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 Act, 42 U.S.C. Section 7413(b), or criminal sanctions pursuant to Section 113(c) of the Act, 42 U.S.C. Section 7413(c).

By 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 Act for any and all violations, or both injunctive relief and civil penalties.

This Order will become effective thirty calendar days from the date of your receipt of the Order, allowing you thirty 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. You may appear at the conference yourself, be represented by an attorney, or both.

If you have any technical questions, please contact:

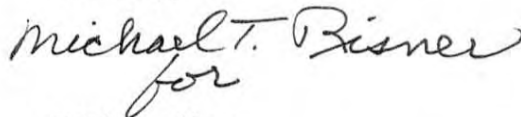
Greg Zurla, CFC Enforcement Coordinator  
U.S. EPA Region 8 (8ENF-AT)  
1595 Wynkoop, St  
Denver, CO 80202  
(303) 312-6182

Legal questions should be directed to:

David Rochlin, Enforcement Attorney  
EPA Region 8  
U.S. EPA Region 8 (8ENF-L)  
1595 Wynkoop, St  
Denver, CO 80202  
(303) 312-6892

I urge your prompt attention to this matter.

Sincerely,

Handwritten signature of Michael T. Bisner in cursive script, with the word "for" written below the signature.

Eddie A. Sierra  
Acting Assistant Regional Administrator  
Office of Enforcement, Compliance and  
Environmental Justice

Enclosure:

Compliance Order

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2007 JUL 31 AM 11:23

EPA REGION VIII  
HEARING CLERK

IN THE MATTER OF: )

)  
)  
Metal Management West, Inc. )  
3260 West 500 South )  
Salt Lake City, UT 84104 )  
Respondent. )

**COMPLIANCE ORDER**

**DOCKET NO. : CAA-08-2007-0001**

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 November 15, 1990. The issuer is 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 delegated by the Administrator of the EPA the authority to proceed with this action.

FINDINGS OF FACT

1. Respondent, Metal Management West, Inc., a multi-state company with a facility located in Salt Lake City, Utah ("Respondent" or "Metal Management West, Inc.").
2. Metal Management West, Inc. is a "person" as defined by Section 302(e) of the CAA, 42 U.S.C. Section 7602(e).
3. Between April 2004 and September 2006 Metal Management West, Inc. accepted shipments of appliances and motor vehicles without verification that refrigerant which had not leaked previously had been properly evacuated from the appliance in accordance with applicable EPA regulations. Metal Management West, Inc. has stated that they take the final step in the disposal process by shredding all appliances within 36 hours of receipt.

VIOLATIONS

4. Metal Management West, Inc. submitted written documentation to EPA to determine compliance with provisions of the Act regarding management and release of

substances depleting the stratospheric ozone layer. EPA's investigation determined that Metal Management West, Inc. failed to meet the verification requirements of 40 C.F.R. Section 82.156(f) by accepting shipments of appliances (including motor vehicles) without obtaining signed statements that refrigerant which had not leaked previously had been properly recovered.

5. Metal Management West, Inc. failed to meet the recordkeeping requirements to maintain copies of these signed verification statements on site for three years in accordance with 40 C.F.R. Section 82.166(i) and (m).

6. Accordingly, Metal Management West, Inc. failed to meet the safe disposal requirements of CAA Section 608(b) and 40 C.F.R. Part 82.

### 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:

1. Within thirty (30) days of receipt of this Compliance Order, the Respondent shall recover any remaining refrigerant from each accepted appliance (including motor vehicles) in accordance with 40 C.F.R. Section 82.156(f)(1); or verify that the refrigerant has been previously evacuated from the appliance or shipment of appliances in accordance with 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 from the appliances 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). In accordance with 40 C.F.R. Section 82.156(g), Respondent may not knowingly vent or otherwise release into the environment any refrigerant or substitute from such appliances while maintaining, servicing, repairing, or disposing of appliances. The term "appliance" is defined in 40 C.F.R. Section 82.152(a) as 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, refrigerator, chiller, or freezer. The term "motor vehicle air conditioner" is defined in 40 C.F.R. Section 82.152(a) as any appliance that is a motor vehicle air conditioner as defined in 40 C.F.R.

part 82, subpart B.

2. 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 blank copy of the verification form Metal Management West, Inc. uses to verify proper refrigerant recovery including fields to enter the name and address of the person who recovered the refrigerant and the date recovered, b) copies of signed, dated verification forms, as described in item 1, obtained from suppliers for a 24-hour time period, c) copies of all current, signed and dated supplier contracts that the refrigerant will be removed prior to delivery, d) records showing commencement of a quality control program to sample for the presence of refrigerant within appliance and motor vehicles to verify that suppliers have entered into good faith agreements to remove refrigerant, thus preventing its release to the environment by Metal Management West, Inc. This may include taking a random sample of appliances or inspection of appliances during an introductory period for new customers. Appliances provided by suppliers with crushed, baled, shredded, or visibly severed refrigeration circuits are not subject to the verification testing in this item. Materials shall be mailed to Greg Zurla, EPA Region 8 (8ENF-AT), 1595 Wynkoop Street, Denver, Colorado 80202.

### ENFORCEMENT

1. 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.

2. Pursuant to Section 120 of the CAA, 42 U.S.C. Section 7420, EPA is also authorized to assess noncompliance penalties aimed at recovering the economic benefit which any person received by not complying with the CAA.

3. In addition, under Section 306(a) of the CAA, 42 U.S.C. Section 7606(a); the

regulations promulgated thereunder at 40 C.F.R. Part 15; and Executive Order 11738, facilities to be utilized in federal contracts, grants, or loans must be in full compliance with the CAA and all regulations promulgated thereunder. Violation of the CAA may result in the subject facility being declared ineligible for participation in any federal contract, grant, or loan.

4. 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

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 Rochlin, Enforcement Attorney, Office of Enforcement, Compliance and Environmental Justice, U.S. EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202, (303) 312-6892. 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 thirty (30) calendar days after receipt by Respondent of this Order.

Date:

7/27/07

*for* Michael T. Sierra  
Eddie A. Sierra  
Acting Assistant Regional Administrator  
Office of Enforcement, Compliance and  
Environmental Justice  
U.S. EPA Region 8  
1595 Wynkoop Street  
Denver, CO 80202