UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
999 18TH STREET- SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
http://www.epa.gov/region08

Ref: 8ENF-AT

MAR 24 2006

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Charles Wolfskill
P.O. Box 110202
Aurora, CO 80042-0202

Re: Compliance Order, Docket No. CAA-08-2006-0003

Dear Mr. Wolfskill:

Enclosed is a Compliance Order ("Order"), that the United States Environmental Protection Agency, Region 8 ("EPA") is issuing to you under the authority of section 113(a)(3)(B) of the Clean Air Act ("CAA"), 42 U.S.C. § 7413(a)(3)(B). In the Order, EPA finds you in violation of section 608(c) of the CAA, 42 U.S.C. § 7671g(c), and regulations set forth in 40 C.F.R. Part 82, Subpart F, pertaining to recycling and emissions reductions of refrigerants.

The Order requires that you immediately comply with all the requirements of sections 608(c) of the CAA, 42 U.S.C. §§ 7671g(c), and 40 C.F.R. §§ 82.154(a)(1) and 82.161(f).

Please be advised that the issuance of this Order does not preclude the initiation of any action authorized under law for failure to comply with the Order, including the assessment of an administrative penalty and the filing of civil or criminal actions in the U.S. District Court. Failure to comply with the requirements of the Order is a violation of the Order. Please also be advised that the issuance of this Order does not preclude the initiation of administrative penalty proceedings or civil or criminal actions in the U.S. District Court for the violations cited in the Order or for any other violations that you may have committed prior to or may commit after the issuance of the enclosed Order.

In accordance with section 113(a)(4) of the CAA, 42 U.S.C. § 7413(a)(4), the Order will not take effect until you have had an opportunity to confer with EPA concerning the findings set forth in the Order. As stated in the Order, the request for such a conference must be made no later than thirty (30) calendar days from the date of your receipt of the Order. A request for a conference must follow the procedures set forth in the Order.

Please review the Order carefully. If you have any questions, the most knowledgeable persons on my staff are Cindy Beeler, Environmental Engineer, (for technical issues) who can be reached at (303) 312-6204, and David Rochlin, Enforcement Attorney, (for legal issues) who can be reached at (303) 312-6892.

Sincerely,

Michael T. Bauer for

Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

Enclosure

cc: Irina Shulman, Sears
Richard Casey, Sears

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2006 MAR 24 PM 2:02
FILED
EPA REGION VIII
HEARING CLERK

IN THE MATTER OF:	)	**COMPLIANCE ORDER**
	)	[42 U.S.C. § 7413(a)(3)(B)]
Charles Wolfskill	)	
P.O. Box 110202	)	
Aurora, Colorado, 80042-0202.	)	Docket No. **CAA-08-2006-0003**
	)	
Respondent.	)	
	)	

I. STATUTORY AUTHORITY

1. This Compliance Order ("Order") is issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA") by section 113(a)(3)(B) of the Clean Air Act ("CAA"), 42 U.S.C. § 7413(a)(3)(B), as amended on November 15, 1990, for violation of the "Stratospheric Ozone Protection" requirements of Subchapter VI, at section 608 of the CAA, 42 U.S.C. § 7671g, and the "Protection of Stratospheric Ozone" regulations found at 40 C.F.R. Part 82, Subpart F (Recycling and Emissions Reduction). Carol Rushin, Assistant Regional Administrator, Office of Enforcement, Compliance, and Environmental Justice, EPA, Region 8, has been duly authorized to issue this Order.

2. Consistent with section 113(a)(4) of the CAA, 42 U.S.C. § 7413(a)(4), a copy of this Order has been sent to the Colorado Department of Public Health and Environment's Division of Air Quality.

II. FINDINGS

A. Respondent.

3. Respondent is Mr. Charles Wolfskill.

4. At all times relevant to this action, Respondent was a "person" within the meaning of section 302(e) of the CAA, 42 U.S.C. § 7602(e).

5. Respondent was employed by Sears, Roebuck & Company (hereinafter referred to as the "Employer") at Employer's District 8181 service facility located at 930 East 104th Avenue, Thornton, Colorado, 80233, during all or a portion of the time period from February 17, 2004, to May 13, 2005.

6. At all times relevant to this action, Respondent's work included the repairing and/or servicing of household appliances.

B. Citizen Tip.

7. On May 7, 2005, Mr. Kris Casper of 1153 Cheyenne Place, Parker, Colorado, 80138, had his home refrigerator repaired by the Respondent.

8. During the May 7, 2005 repair, Mr. Casper witnessed the Respondent puncture the tube coming from the compressor of the refrigerator thereby allowing the HFC-134a refrigerant contained therein to vent to the atmosphere.

C. EPA Inspection.

9. On August 31, 2005, EPA Inspector Cindy Beeler conducted an inspection of the Employer's District 8181 service facility from which the Respondent was dispatched.

10. During the August 31, 2005 inspection, Mr. Frank Mufic, General Manager of Sears District Unit 8181, told Ms. Beeler that he had asked the Respondent about the venting,

that the Respondent admitted he had vented the refrigerant, and the Respondent was then terminated by the Employer.

D. Servicing of Appliances - Generally.

11. Title VI of the CAA sets out requirements and prohibitions related to Stratospheric Ozone Protection. Section 608 of the CAA, 42 U.S.C. § 7671g, is contained within Title VI and sets forth requirements and prohibitions regarding the use and disposal of class I, class II and their alternative substances during the service, repair, or disposal of appliances and industrial process refrigeration. Section 608 is supported by regulations promulgated pursuant to the authorities set forth in that section.

E. Maintaining, Servicing, or Repairing Appliances.

12. Under section 608(c)(1) of the CAA, 42 U.S.C. § 7671g(c)(1), it shall be unlawful for any person, in the course of maintaining, servicing, repairing, or disposing of an appliance, to knowingly vent or otherwise knowingly release or dispose of any class I or class II substance used as a refrigerant in such appliance in a manner which permits such substance to enter the environment.

13. Under section 608(c)(2) of the CAA, 42 U.S.C. § 7671g(c)(2), effective November 15, 1995, paragraph § 7671g(c)(1) shall also apply to the venting, release, or disposal of any substitute substance for a class I or class II substance. 40 C.F.R. § 82.154(a)(1), in pertinent part, similarly provides: "No person maintaining, servicing, repairing, or disposing of appliances may knowingly vent or otherwise release into the environment any refrigerant or substitute from such appliances ...".

14. Under 40 C.F.R. § 82.152, "substitute" means "any chemical or product, whether existing or new, that is used by any person as an EPA approved replacement for a class I or class II ozone-depleting substance in a given refrigeration or air-conditioning end-use".

15. 40 C.F.R. Part 82, subpart A, appendix A lists CFC-12 as a class I controlled substance. The Final Rule, 40 C.F.R. Parts 9 and 82, 59 Federal Register 13044, (March 18, 1994), states that HFC-134a is acceptable as a substitute for CFC-12 in retrofitted and new household refrigerators.

16. In repairing and/or servicing the household refrigerator referenced in Paragraph 9 of this Complaint, the Employee knowingly vented the substitute refrigerant contained within as directly prohibited by 40 C.F.R. §§ 82.154(a)(1) and (a)(2).

F. Technician Certification.

17. Under 40 C.F.R. § 82.161(a), "Effective May 15, 1995, all technicians must be certified by an approved technician certification program ...".

18. Under 40 C.F.R. § 82.152, technician means "any person who performs maintenance, service, or repair, that could be reasonably expected to release refrigerants from appliances, except for MVACs, into the atmosphere".

19. The Employer was the certifying organization for the Respondent and operates an EPA approved technician certification program.

20. Under 40 C.F.R. § 82.161(f), "Failure to abide by any of the provisions in this subpart may also result in revocation or suspensions of the certificate".

III. ORDER

21. Based upon the foregoing FINDINGS, and pursuant to the authority vested in the Administrator of the EPA by section 113(a)(3)(B) of the CAA, 42 U.S.C. § 7413(a)(3)(B), as properly delegated to the Assistant Regional Administrator of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8, it is hereby ORDERED:

22. Respondent shall comply with all the requirements of sections 608(c) of the CAA, 42 U.S.C. §§ 7671g(c), and 40 C.F.R. § 82.154(a)(1) and § 82.161(f).

23. To comply with the requirements of 82.161(f) the Respondent must relinquish any and all Section 608 technician certifications received. This should entail returning the Respondent's certification card(s) to Cindy Beeler of EPA Region 8 (999 18th Street, Suite 500, Denver, CO 80202-2466).

IV. ENFORCEMENT

24. Issuance of this Order does not preclude any other action by EPA to redress past or future violations of the CAA by Respondent, including the violations that are the subject of this Order, under any provision of law including either of the following:

a. an administrative penalty complaint pursuant to section 113(d) of the CAA, 42 U.S.C. § 7413(d), for penalties of not more than $32,500 per day of violation; or

b. a civil action pursuant to section 113(b) of the CAA, 42 U.S.C. § 7413(b), for injunctive relief, or civil penalties of not more than $32,500 per day for each violation, or both.

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

V. OPPORTUNITY FOR CONFERENCE

26. In accordance with section 113(a)(4) of the CAA, 42 U.S.C. § 7413(a)(4), EPA hereby offers the Respondent an opportunity for a conference to discuss the Order. The request for such a conference must be made no later than thirty (30) calendar days from the date Respondent receives this Order. If Respondent wishes to make arrangements for a conference, please contact:

David Rochlin, Enforcement Attorney (8ENF-L)
U.S. EPA, Region 8
999 18th Street, Suite 300
Denver, Colorado 80202-2466
Telephone: (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.

VI. EFFECTIVE DATE

27. This Order shall become effective thirty (30) calendar days after Respondent's receipt of the Order, unless Respondent requests an opportunity to confer with EPA, in which case the Order shall become effective on the third business day after the conference unless EPA issues a modification to the Order.

Date: 3/24/06

Michael T. Risner for
Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance,
and Environmental Justice
U.S. EPA, Region VIII
999 18th Street, Suite 300
Denver, Colorado 80202-2466

cc: Ms. Irina Shulman
Director, Compliance & ISO
Sears, Home Services
3333 Beverly Road
Hoffman Estates, IL 60192-3322

Mr. Richard Casey
3333 Beverly Road
(#B6-347A, Dept. 766X)
Hoffman Estates, IL 60179