

Refrigerant Recovery/Air Enforcement: U.S. Department of Justice Enters into Consent Decree with Oklahoma/Texas Scrap Recycling Operation



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The United States Department of Justice and the United States Environmental Protection Agency announced in a January 7th news release that they entered into a Consent Decree (“CD”) with Derichebourg Recycling USA Inc. (“Derichebourg”) to resolve alleged violations of Title VI of the Clean Air Act and certain regulations which include 40 CFR §§ 82.154 and 82.155.

The CD provides that Derichebourg operates 10 scrap metal recycling facilities in Texas and Oklahoma.

A United States District Court (Southern District of Texas) Complaint filed simultaneously with the CD alleges that Derichebourg failed to recover refrigerant from appliances and motor vehicle air conditioners before disposal or verify with the supplier that the refrigerant had been properly recovered prior to delivery. The Complaint also alleged that Derichebourg accepted certain appliances and motor vehicles containing or having once contained refrigerant and failed to recover such refrigerant prior to disposal to ensure the refrigerant had been properly recovered.

United States Environmental Protection Agency regulations under Section 608 of the Clean Air Act address the handling and recycling of refrigerants used in certain types of equipment.

Derichebourg does not admit any liability to the United States arising out of the transactions or occurrences alleged in the Complaint.

Besides a civil penalty of \$442,500, the CD also requires that Derichebourg:

- Implement a Refrigerant Recovery Management Program at its 10 United States facilities
- Provide notice to its suppliers that all refrigerants, if not being recovered by Derichebourg, must be recovered properly from appliances and motor vehicle air conditioners
- Reject any appliance or vehicle where there is evidence of unlawful refrigerant venting
- Provide an educational handout to its customers on compliant handling of refrigerant-containing items
- Complete an environmental mitigation project that involves ensuring the destruction of all R-12 refrigerant that Derichebourg collects at its 10 facilities for the duration of the CD

The CD appendices include:

- Appendix A – Sample Signed Statement
- Appendix B – Sample Qualifying Contract

- Appendix C – Notice for Use with Retail Sources, Individuals and Peddlers

A copy of the CD can be downloaded [here](#).