

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

IN THE MATTER OF:)

Thomasville Ford Lincoln Mercury, Inc.)
Thomasville, GA)

Respondent.)

Docket No. CAA-04-2008-1505(b)

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CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action/Jurisdictional Statements

1. This is a civil penalty proceeding pursuant to Section 113(d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(d), and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), codified at 40 C.F.R. Part 22. Complainant is the Director of the Air, Pesticides and Toxics Management Division, Region 4, United States Environmental Protection Agency (EPA). Respondent is Thomasville Ford Lincoln Mercury, Inc., (hereinafter, "Respondent").

2. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

3. The authority to take action under Section 113(d) of CAA, 42 U.S.C. § 7413(d), is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under the CAA to the Regional Administrators by EPA Delegation 7-6-A. The Regional Administrator, Region 4, has redelegated this authority to the Director, Air, Pesticides, and Toxics Management Division, by EPA Region 4 Delegation 7-6-A. Pursuant to that delegation, the Director of the Air, Pesticides and Toxics Management Division has the authority to commence an enforcement action as the Complainant in this matter.

4. Respondent is a corporation doing business in the State of Georgia.

5. Respondent is a "person" as defined in CAA § 302(e), 42 U.S.C. § 7602(e).

6. Respondent performs "service for consideration," as defined at 40 C.F.R. § 82.32(g), at its service facility located at 1515 East Jackson St., Thomasville, GA 31792.

7. Respondent performs "service involving refrigerant," as defined at 40 C.F.R. § 82.32(h), at its service facility located at 1515 East Jackson St., Thomasville, GA 31792.

8. Section 609(c) of the CAA, 42 U.S.C. § 7671h(c), and the regulations promulgated at 40 C.F.R. Part 82, Subpart B, establish that no person repairing or servicing motor vehicle air conditioners (MVACs) for consideration may perform any service on a MVAC involving the refrigerant for such air conditioner unless such person has been properly trained and certified.

9. Regulation 40 C.F.R. § 82.34(a) states that no person repairing or servicing MVACs for consideration, and no person repairing or servicing MVAC-like appliances, may perform any service involving the refrigerant for such MVAC or MVAC-like appliance unless any such person repairing or servicing an MVAC has been properly trained and certified by a technician certification program approved by the Administrator pursuant to § 82.40.

10. Section 609(d) of the CAA, 42 U.S.C. § 7671h(d), and regulations promulgated at 40 C.F.R. Part 82, Subpart B, establish that any person servicing MVAC systems shall certify to the Administrator that such person has acquired, and is properly using, approved equipment and that each individual authorized to use the equipment is properly trained and certified.

11. Regulation 40 C.F.R. § 82.42(a) states no later than January 1, 1993, any person repairing or servicing motor vehicle air conditioners for consideration shall certify to the Administrator that such person has acquired, and is properly using, approved equipment and that each individual authorized to use the equipment is properly trained and certified.

12. Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and 40 C.F.R. Part 19, EPA may assess a penalty of not more than \$32,500 for each violation of Section 609 of CAA, 42 U.S.C. § 7671h, that occurred after March 15, 2004.

II. Factual Allegations

13. EPA alleges that, on more than one occasion from March 1, 2006, through March 15, 2007, Respondent performed service for consideration involving the refrigerant of MVAC systems without the use of properly trained and certified technicians. Respondent violated CAA § 609(c), 42 U.S.C. § 7671h(c), and 40 C.F.R. § 82.34(a) by failing to use properly trained and certified technicians while performing service for consideration involving the refrigerant of a MVAC system.

14. EPA alleges that Respondent failed to certify in a timely manner to EPA that persons performing service were using approved refrigerant recovery/recycling equipment. Respondent violated CAA § 609(d), 42 U.S.C. § 7671h(d), and 40 C.F.R. § 82.42(a) by failing to certify in a timely manner that they have acquired and were properly using approved refrigerant recovery/recycling equipment.

III. Consent Agreement

15. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set out in Paragraphs 1 through 12 above, but Respondent neither admits nor denies the factual allegations set out in Paragraphs 13 and 14 above.

16. As provided in 40 C.F.R. §22.18(b)(2), Respondent waives any right to contest the allegations listed above and its right to appeal the proposed final order accompanying this consent agreement.

17. Respondent consents to the assessment of and agrees to pay the civil penalty as set forth in this CAFO.

18. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance at all of its automotive repair facilities that perform MVAC work with all relevant MVAC requirements of the CAA at Section 609.

19. Compliance with this CAFO shall resolve the alleged violations contained herein, and EPA hereby releases Respondent from all liability for the violations of Section 609 alleged herein. This CAFO shall not otherwise affect any liability of Respondent, if any, to the United States. Other than as expressed herein, neither EPA nor Complainant waives any right to bring an enforcement action against Respondent for violation of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or to pursue criminal enforcement for allegations of violations not contained in this CAFO.

20. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of the CAA.

IV. Final Order

21. Respondent is assessed a civil penalty of **FOUR THOUSAND NINE HUNDRED AND FORTY FIVE DOLLARS (\$4,945.00)** plus interest for three months, **TWENTY SEVEN DOLLARS AND TEN CENTS (27.10)**.

22. Respondent shall make 3 monthly installment payments in the amount of **ONE THOUSAND SIX HUNDRED FIFTY SEVEN DOLLARS AND THIRTY SEVEN CENTS (\$1,657.37)**.

23. The first installment is to be paid within 30 days of the effective date of the CAFO, and subsequent payments every 30 days thereafter, until the final payment is made.

24. Respondent shall identify each payment as: 1 of 3, 2 of 3, and 3 of 3.

25. Respondent shall pay the penalty by forwarding a cashier's or certified check, payable to: "Treasurer, United States of America," to the following address:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

The check shall reference on its face the name of the Respondent and the Docket Number of the CAFO.

26. At the time of payment, Respondent shall send a separate copy of the check, and a written statement that payment has been made in accordance with this CAFO, to the following persons at the following addresses:

Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

Ms. Laurie Savoy
Air, Pesticides and Toxics Management Division
Air and EPCRA Enforcement Branch
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303

Ms. Saundi Wilson (OEA)
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303

27. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for the civil penalty payment made pursuant to paragraph 22.

28. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty from the date of entry of this CAFO, if the penalty is not paid by the date required. Interest will be assessed at the rate established by the Secretary of Treasury pursuant to 31 U.S.C. § 3717. A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorney fees. In addition, a penalty charge may be assessed on any portion of the debt that remains delinquent more than ninety (90) days after payment is due.

29. Complainant and Respondent shall bear their own costs and attorney fees in this matter.

30. This CAFO shall be binding upon the Respondent, its successors and assigns.

31. The following individual represents EPA in this matter and is authorized to receive service for EPA in this proceeding:

Ms. Laurie Savoy
Air, Pesticides and Toxics Management Division
Air and EPCRA Enforcement Branch
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303
(404) 562-9201

32. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally bind that party to it.

V. Effective Date

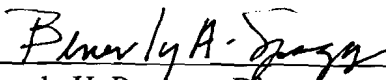
33. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

Thomasville Ford Lincoln Mercury, Inc.

By:  Date: 8/22/08
Mr. Robert Ramhofer, Jr.
President

U.S. Environmental Protection Agency

By:  Date: 8/15/07
Beverly H. Banister, Director
Air, Pesticides and Toxics Management Division,
Region 4

APPROVED AND SO ORDERED this 22nd day of October, 2007.


Susan B. Schub
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that on the date set out below I filed the original and one copy of the foregoing Consent Agreement and Final Order and served a true and correct copy of the foregoing Consent Agreement and Final Order, in the Matter of: Thomasville Ford Lincoln Mercury, Inc., Docket No. CAA-04-2008-1505(b), on the parties listed below in the manner indicated:

Robert D. Howell, P.C.
800 First Street, S.E.
Moultrie, GA 31768

(Via Federal Express)

Karol Berrien
U.S. EPA Region 4
61 Forsyth Street
Atlanta, GA 30303

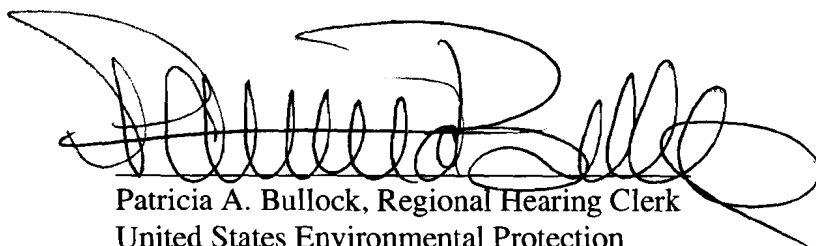
(Via EPA's internal mail)

Laurie Savoy
Air, Pesticides and Toxics Management Division
Air and EPCRA Enforcement Branch
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303

(Via EPA's internal mail)

Date:

10-24-07



Patricia A. Bullock, Regional Hearing Clerk
United States Environmental Protection
Agency, Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, GA 30303
(404)562-9511

EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

TO BE COMPLETED BY THE ORIGINATING OFFICE:

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Saundi J Wilson on 10/22/07
(Name) (Date)

in the OEH at (404) 562-9504
(Office) (Telephone Number)

Non-SF Judicial Order/Consent Decree
USAO COLLECTS

Administrative Order/Consent Agreement
FMO COLLECTS PAYMENT

SF Judicial Order/Consent Decree
DOJ COLLECTS

Oversight Billing - Cost Package required
Sent with bill

Not sent with bill

Other Receivable

Oversight Billing - Cost Package not required

This is an original debt

This is a modification

PAYEE: Thomasville Ford Lincoln Mercury
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 4945
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: CAA 04 2008 1505(b)

The Site Specific Superfund Account Number: _____

The Designated Regional/Headquarters Program Office: _____

TO BE COMPLETED BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number is: _____ Date _____

If you have any questions, please call: _____ of the Financial Management Section at: _____

DISTRIBUTION:

A. **JUDICIAL ORDERS:** Copies of this form with an attached copy of the front page of the **FINAL JUDICIAL ORDER** should be mailed to:

- | | |
|--|------------------------------|
| 1. Debt Tracking Officer
Environmental Enforcement Section
Department of Justice RM 1647
P.O. Box 7611, Benjamin Franklin Station
Washington, D.C. 20044 | 2. Originating Office (EAD) |
| | 3. Designated Program Office |

B. **ADMINISTRATIVE ORDERS:** Copies of this form with an attached copy of the front page of the Administrative Order should be to:

- | | |
|---------------------------|------------------------------|
| 1. Originating Office | 3. Designated Program Office |
| 2. Regional Hearing Clerk | 4. Regional Counsel (EAD) |