



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

SEP 27 2011

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

REPLY TO THE ATTENTION OF:

Greg Hutchison
Plant Manager Milan Plant
Automotive Components Holdings, LLC
800 County Street
Milan, Michigan 48160

Re: In the Matter of: Automotive Components Holdings, LLC
Docket No. CAA-05-2011-0055

Dear Mr. Hutchison:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves CAA-05-2011-0055. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on SEP 27 2011.

Pursuant to paragraph 32 of the CAFO, Automotive Components Holdings, LLC must pay the civil penalty within 30 days of October 27, 2011. Your check must display the case name, case docket number CAA-05-2011-0055 and the billing document number 2751103A054.

Please direct any question regarding this case to Jeffrey Cahn, Office of Regional Counsel, 312-886-6670.

Sincerely,

Sara Breneman

Sara Breneman
Air Enforcement and Compliance Assurance Branch,
(MI/WI)

Enclosure

cc: Regional Hearing Clerk, E-19J
Marcy Toney, Regional Judicial Officer, C-14J
Jeffrey Cahn, C-14J
Chris Hare, MDEQ
Tom Hess, MDEQ

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)
)
Automotive Components Holdings, LLC)
Milan, Michigan,)
Respondent.)
_____)

Docket No. CAA-05-2011-0055

**Proceeding to Assess a Civil Penalty
Under Section 113(d) of the Clean Air
Act, 42 U.S.C. § 7413(d)**

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Consent Agreement and Final Order

Preliminary Statement

**REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY**

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b), and 22.18(b)(2) and (3) of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (Consolidated Rules), as codified at 40 C.F.R. Part 22.
2. Complainant is the Director of the Air and Radiation Division, U. S. Environmental Protection Agency, Region 5.
3. Respondent is Automotive Components Holdings, LLC (ACH or Respondent), a corporation doing business in Michigan.
4. Pursuant to 40 C.F.R. § 22.13(b), where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO).
5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. ACH consents to entry of this CAFO and the assessment of the specified civil penalty, and agrees to comply with the terms of the CAFO.

Jurisdiction and Waiver of Right to Hearing

7. ACH admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in the CAFO.

8. ACH waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

Statutory and Regulatory Background

9. Section 608 of the Act, 42 U.S.C. § 7471g, requires the Administrator of EPA (the Administrator) to promulgate regulations establishing standards and requirements regarding the use and disposal of “Class I” and “Class II” ozone-depleting substances.

10. On May 14, 1993, in accordance with Section 608 of the Act, EPA promulgated regulations at 40 C.F.R. Part 82, Subpart F, applicable to Recycling and Emissions Reduction (the Subpart F regulations).

11. 40 C.F.R. § 82.150(b) provides that the Subpart F regulations apply to any “person” servicing, maintaining, or repairing “appliances,” as those terms are defined at 40 C.F.R. § 82.152.

12. The Subpart F regulations, at 40 C.F.R. § 82.156(i)(2), require that an owner or operator of industrial process refrigeration equipment normally containing more than 50 pounds of refrigerant must have leaks repaired if the appliance is leaking at a rate such that the loss of refrigerant will exceed 35 percent of the total charge during a 12-month period. Repairs must bring annual leak rates to below 35 percent during a 12-month period.

13. The Subpart F regulations, at 40 C.F.R. § 82.156(i)(9), require that owners or operators of industrial process refrigeration equipment must repair leaks pursuant to 40 C.F.R. § 82.156(i)(2) within 30 days after discovery of the leak.

14. The Subpart F regulations, at 40 C.F.R. § 82.156(i)(3), require that an owner or operator of industrial process refrigeration equipment conduct an initial verification test at the conclusion of the repairs.

15. The Subpart F regulations, at 40 C.F.R. § 82.156(i)(3), require that an owner or operator of industrial process refrigeration equipment conduct a follow-up verification test within 30 days of the initial verification test.

16. The Subpart F regulations, at 40 C.F.R. § 82.156(i)(6), state that an owner or operator of industrial process refrigeration equipment are not required to repair a leak within 30 days of discovering the exceedance of the applicable leak rate, or within 30 days of a failed follow-up verification test if they develop a one-year retrofit and retirement plan for the leaking appliance. The plan must be dated and kept at the site of the appliance.

17. The Subpart F regulations, at 40 C.F.R. § 82.156(i)(3)(ii), require that an owner or operator of industrial process refrigeration equipment must retrofit or retire such equipment within one year of failing the follow-up verification test.

18. The Subpart F regulations, at 40 C.F.R. § 82.156(i)(3)(iii), require that an owner or operator of industrial process refrigeration equipment that fails a follow-up verification test must notify EPA within 30 days of the failed follow-up verification test.

19. The Administrator may assess a civil penalty of up to \$27,500 per day of violation, up to a total of \$220,000, for violations that occurred from January 31, 1997 through March 15, 2004, up to \$32,500 per day of violation, up to a total of \$270,000, for violations that

occurred from March 16, 2004 through January 12, 2009, and up to \$37,500 per day of violation, up to a total of \$295,000, for violations that occurred after January 12, 2009, under Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

20. Section 113(d)(1) limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and the Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

21. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

Factual Allegations and Alleged Violations

22. ACH owns and operates a manufacturing facility for motor vehicle parts and accessories in Milan, Michigan (the Facility). The Facility contains an industrial process refrigeration unit with normal charge of over 50 pounds (Dryer #1). The industrial process refrigeration unit referenced above is an "appliance," as defined in 40 C.F.R. § 82.152, and use the class II refrigerant R-22.

23. Between April 7, 2008 and February 13, 2010, Dryer #1 experienced leaks that resulted in an annual leak rate exceeding 35 percent, in violation of 40 C.F.R. § 82.156(i)(2) and Section 608 of the Act, 42 U.S.C. § 7471g.

24. Between April 7, 2008 and February 13, 2010, ACH failed to perform initial verification tests on Dryer #1 to verify that the repairs performed had brought the leak rate to

below 35 percent, in violation of 40 C.F.R. § 82.156(i)(3) and Section 608 of the Act, 42 U.S.C. § 7471g.

25. Between April 7, 2008 and February 13, 2010, ACH failed to perform follow-up verification tests on Dryer #1 to verify that the repairs performed on the unit had brought the leak rate to below 35 percent, in violation of 40 C.F.R. § 82.156(i)(3) and Section 608 of the Act, 42 U.S.C. § 7471g.

26. Between April 7, 2008 and February 13, 2010, ACH failed to develop a retrofit or retirement plan for Dryer #1 when repairs performed on the unit were unable to bring the leak rate below 35 percent, in violation of 40 C.F.R. § 82.156(i)(6) and Section 608 of the Act, 42 U.S.C. § 7471g.

27. Between April 7, 2008 and February 13, 2010, ACH failed to retrofit or retire Dryer #1 following an exceedance of the applicable leak rate or a failed follow-up verification test, in violation of 40 C.F.R. § 82.156(i)(3)(ii) and Section 608 of the Act, 42 U.S.C. § 7471g.

28. Between April 7, 2008 and February 13, 2010, ACH failed to notify EPA of failed follow-up verification tests on Dryer #1, in violation of 40 C.F.R. § 82.156(i)(3)(iii) and Section 608 of the Act, 42 U.S.C. § 7471g.

Civil Penalty

29. In consideration of Respondent's agreement to perform a supplemental environment project (SEP), Complainant agrees to mitigate the proposed penalty of \$107,013.00 to \$26,750.00.

30. Within 30 days after the effective date of this CAFO, Respondent must pay the \$26,750.00 civil penalty by sending a cashier's or certified check, payable to "Treasurer, United States of America" to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

Or, for checks sent by express mail, by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, Missouri 63101

The check must note Automotive Components Holdings, LLC, the docket number of this CAFO, and the billing document number.

31. Respondent must send a notice of payment that states Automotive Components Holdings, LLC, the docket number of this CAFO, and the billing document number to the Compliance Tracker, Air Enforcement and Compliance Assurance Branch and to Jeff Cahn at the following addresses when it pays the civil penalty:

Attn: Compliance Tracker (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. EPA, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

Jeff Cahn (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 W. Jackson Boulevard
Chicago, IL 60604

32. This civil penalty is not deductible for federal tax purposes.

33. If Respondent does not pay timely the civil penalty, EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties, and the United States enforcement expenses for the collection action under Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

34. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue according to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter.

Supplemental Environmental Project

35. Respondent must complete a SEP designed to protect the environment by reducing the use of ozone-depleting substances which lead to an increase in the depletion of stratospheric ozone (the "ozone layer"). The ozone layer protects humans as well as many plants and animals by filtering harmful ultraviolet radiation from the sun.

36. At its Saline, Michigan facility, Respondent must complete the SEP as follows. Replace a 180-ton comfort cooling unit utilizing R-22 refrigerant, Chiller #6, with a 198 ton York model YCWLO198 water-cooled scroll chiller utilizing HFC-410a. The SEP will take more than six months to complete. A scope of work and schedule with required milestones are contained in Exhibit A.

37. Respondent must spend at least \$185,600.00 to purchase and install the equipment.

38. Respondent certifies that it is not required to perform or develop the SEP by any law, regulation, grant, order, or agreement or as injunctive relief as of the date it signs this CAFO. Respondent further certifies that it has not received, and is not negotiating to receive, credit for the SEP in any other enforcement action.

39. EPA may inspect the facility at any time to monitor Respondent's compliance with this CAFO's SEP requirements.

40. Respondent must submit the reports required by the scope of work to EPA according to the schedule in Exhibit A.

41. Respondent must submit a SEP completion report to EPA by May 30, 2012. This report must contain the following information:

- a. Detailed description of the SEP as completed;
- b. Description of any operating problems and the actions taken to correct the problems;
- c. Itemized cost of goods and services used to complete the SEP, documented by copies of invoices, purchase orders or canceled checks that specifically identify and itemize the individual cost of the goods and services;
- d. Certification that Respondent has completed the SEP in compliance with this CAFO; and

- e. Description of the environmental and public health benefits resulting from the SEP (quantify the benefits and pollution reductions, if feasible).

42. Respondent must submit all notices and reports required by this CAFO by first class mail to the Compliance Tracker in the Air Enforcement and Compliance Assurance Branch at the address provided in paragraph 33, above.

43. In each report that Respondent submits as provided by this CAFO, it must certify that the report is true and complete by including the following statement signed by one of its officers:

I certify that I am familiar with the information in this document and that, based on my inquiry of those individuals responsible for obtaining the information, it is true and complete to the best of my knowledge. I know that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

44. Following receipt of the SEP completion report described in paragraph 44, above, EPA must notify Respondent in writing that:

- a. It has satisfactorily completed the SEP and the SEP report;
- b. There are deficiencies in the SEP as completed or in the SEP report and EPA will give Respondent 30 days to correct the deficiencies; or
- c. It has not satisfactorily completed the SEP or the SEP report and EPA will seek stipulated penalties under paragraph 49.

45. If EPA exercises option b, above, Respondent may object in writing to the deficiency notice within 10 days of receiving the notice. The parties will have 30 days from EPA's receipt of Respondent's objection to reach an agreement. If the parties cannot reach an agreement, EPA will give Respondent a written decision on its objection. Respondent will comply with any requirement that EPA imposes in its decision. If Respondent does not complete the SEP as required by EPA's decision, Respondent will pay stipulated penalties to the United States under paragraph 49, below.

46. If Respondent violates any requirement of this CAFO relating to the SEP,

Respondent must pay stipulated penalties to the United States as follows:

- a. Except as provided in subparagraph b, below, if Respondent did not complete the SEP satisfactorily according to the requirements of this CAFO, including the schedule in Exhibit A, Respondent must pay a penalty of \$80,260.00.
- b. If Respondent did not complete the SEP satisfactorily, but EPA determines that Respondent made good faith and timely efforts to complete the SEP and certified, with supporting documents, that it spent at least 90 percent of the amount set forth in paragraph 39, Respondent will not be liable for any stipulated penalty under subparagraph a, above.
- c. If Respondent completed the SEP satisfactorily, but spent less than 90 percent of the amount set forth in paragraph 39, Respondent must pay a penalty of \$10,700.00.
- d. If Respondent did not submit timely the SEP completion report or any other report required by Exhibit A, Respondent must pay penalties in the following amounts for each day after the report was due until it submits the report:

<u>Penalty per violation per day</u>	<u>Period of violation</u>
\$100.00	1 st through 14 th day
\$200.00	15 th through 30 th day
\$300.00	31 st day and beyond

47. EPA's determinations of whether Respondent satisfactorily completed the SEP and whether Respondent made good faith and timely efforts to complete the SEP will bind Respondent.

48. Respondent must pay any stipulated penalties within 15 days of receiving EPA's written demand for the penalties. Respondent will use the method of payment specified in paragraph 32, above, and will pay interest, handling charges, and nonpayment penalties on any overdue amounts.

49. Any public statement that Respondent makes referring to the SEP must include the following language, "Automotive Components Holdings, LLC undertook this project under

the settlement of the United States Environmental Protection Agency's enforcement action against Automotive Components Holdings, LLC for violations of 40 C.F.R. § 82.156.”

50. For federal income tax purposes, Respondent will neither capitalize into inventory or basis, nor deduct any cost or expenditures incurred in performing the SEP.

General Provisions

51. This CAFO resolves only ACH's liability for federal civil penalties for the violations alleged in this CAFO.

52. The CAFO does not affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

53. This CAFO does not affect ACH's responsibility to comply with the Act and other applicable federal, state, and local laws. Compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

54. ACH certifies that it is complying fully with 40 C.F.R. Part 82, Subpart F.

55. This CAFO constitutes an “enforcement response” as that term is used in EPA's *Clean Air Act Stationary Source Civil Penalty Policy* to determine ACH's “full compliance history” under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

56. The terms of this CAFO bind ACH, its successors, and assigns.


57. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

58. Each party agrees to bear its own costs and attorneys' fees in this action.

59. This CAFO constitutes the entire agreement between the parties.

Automotive Components Holdings, LLC, Respondent

9/13/11
Date


[Responsible person's name, title]
Automotive Components Holdings, LLC
Viale Taliaferro
Secretary

United States Environmental Protection Agency, Complainant

9/21/11
Date



Cheryl L. Newton
Director
Air and Radiation Division
U.S. Environmental Protection Agency
Region 5

Exhibit A

Supplemental Environmental Project (SEP) Scope of Work and Schedule

Replace Chiller #6, Saline Plant

Respondent shall plan and implement the replacement of Chiller #6, Administration Building. Chiller #6 is currently a 180 ton air handling unit utilizing R-22. Respondent shall replace Chiller #6 with a 198 ton York model YCWLO198 water cooled scroll chiller utilizing HFC-410a. Respondent shall also upgrade the mechanical room used by Chiller #6 to ASHRAE Code 15 standards. Planning, design, installation, and the start of operation must be completed by April 30, 2012.

Replace Chiller #6, Saline Plant Report Schedule

Report of planning and design progress, must be submitted by December 31, 2011.
To review purchase and receipt of new Chiller must be submitted by March 30, 2012.

SEP COST

One-time costs associated with the project are estimated to be \$185,600.00. No additional annual maintenance costs are anticipated.

CONSENT AGREEMENT AND FINAL ORDER


In the Matter of: Automotive Components Holdings, LLC, Milan, Michigan

Docket No. CAA-05-2011-0055

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

9-22-11
Date



Susan Hedman
Regional Administrator
U.S. Environmental Protection Agency
Region 5

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U.S. ENVIRONMENTAL
PROTECTION AGENCY

Consent Agreement and Final Order
In the Matter of: Automotive Components Holdings, LLC
Docket No. CAA-05-2011-0055

Certificate of Service

I certify that I filed the original and one copy of the Consent Agreement and Final Order (CAFO), docket number CAA-05-2011-0055 with the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, Illinois 60604, and that I mailed a second original copy by first-class, postage prepaid, certified mail, return receipt requested, by placing it in the custody of the United States Postal Service addressed as follows:

Greg Hutchison
Plant Manager Milan Plant
Automotive Components Holdings, LLC
800 County Street
Milan, Michigan 48160

I certify that I mailed a copy of the CAFO by first-class mail, addressed as follows:

Scott Miller
Michigan Department of Environmental Quality
Jackson District Office
301 East Louis B Glick Highway
Jackson, Michigan 49201

Tom Hess
Michigan Department of Environmental Quality
Lansing District Office
Air Quality Division
P.O. Box 30260
Lansing, Michigan 48909

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PROTECTION AGENCY

I also certify that I delivered a copy of the CAFO by intra-office mail, addressed as follows:

Marcy Toney
Regional Judicial Officer
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard/Mail Code C-14J
Chicago, Illinois 60604

On the 27 day of September 2011.



Tracy Jamison
Office Automation Assistant,
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER:

7009 1680 0000 7670 4854
CAA 05 2011 0055

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