



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

**AUG 28 2008**

4APT-AEEB

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mr. Randy Nichols  
General Manager  
Belk Ford Mercury Toyota, Inc.  
447 Highway 6 West  
Oxford, MS 38655-9068

Re: Consent Agreement and Final Order  
Docket No. CAA-04-2008-1524(b)

Dear Mr. Nichols:

Enclosed please find an executed copy of the Consent Agreement and Final Order (CAFO) that resolves the Clean Air Act matter (Docket No. CAA-04-2008-1524(b)), involving Belk Ford Mercury Toyota, Inc. The CAFO was filed with the Regional Hearing Clerk, as required by 40 C.F.R. Part 22 and became effective when filed. Please note that the CAFO requires that payment be made within 30 days of receipt of this executed CAFO.

Also enclosed, please find a copy of the "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts you on notice of your potential duty to disclose to the Security and Exchange Commission (SEC) any environmental enforcement actions taken by the EPA. If you have any questions with regard to the SEC's environmental disclosure requirements, you may refer to the contact phone number at the bottom of the SEC Notice.

If you have any other questions, please call Mr. Todd M. Groendyke at (404) 562-8262.

Sincerely,

A handwritten signature in black ink that reads "Beverly A. Spagg".

Beverly A. Spagg

Chief

Air and EPCRA Enforcement Branch

Enclosures



7. 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.

8. 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.

9. Section 609(d) of the CAA, 42 U.S.C. § 7671h(d), and the regulations promulgated at 40 C.F.R. Part 82, Subpart B, state that persons performing service on MVAC systems for consideration shall certify to the Administrator that such persons have acquired, and are properly using, approved equipment and that each individual authorized to use the equipment is properly trained and certified.

10. Regulation 40 C.F.R. § 82.42(a) states that persons performing service on MVAC systems for consideration shall certify to the Administrator no later than January 1, 1993, that such persons have acquired, and are properly using, approved equipment and that each individual authorized to use the equipment is properly trained and certified.

11. 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

12. EPA alleges that, on more than one occasion from June 28, 2005, through September 17, 2007, at its service facility located at 447 Highway 6 West, Oxford, MS 38655-9068, 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.

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

## III. Consent Agreement

14. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set out in Paragraphs 1 through 11 above, but Respondent neither admits nor denies the factual allegations set out in paragraphs 12 through 13 above.

15. 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.

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

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

18. 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.

19. 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

20. Respondent is assessed a civil penalty of **THREE THOUSAND NINE HUNDRED AND TWENTY FIVE DOLLARS (\$3,925.00)** which shall be paid **within thirty (30) days** after the date Belk Ford Mercury Toyota, Inc. receives a copy of the fully executed CAFO.

21. 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.**

22. 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

Mr. Todd Groendyke  
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

23. 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 17.

24. 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.

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

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

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

Mr. Todd Groendyke  
Air, Pesticides and Toxics Management Division  
Air and EPCRA Enforcement Branch  
U.S. EPA - Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303  
(404) 562-8262

28. 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

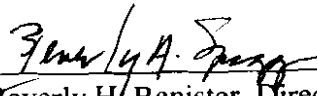
29. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

**AGREED AND CONSENTED TO:**

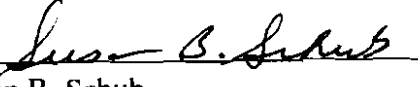
**Belk Ford Mercury Toyota, Inc.**

By:  Date: 8/18/08  
Randy Nichols  
General Manager

**U.S. Environmental Protection Agency**

By:  Date: 8/14/08  
Beverly H. Banister, Director  
Air, Pesticides and Toxics Management Division,  
Region 4

**APPROVED AND SO ORDERED** this day of August 27, 2008.

  
Susan B. Schub  
Regional Judicial Officer

CERTIFICATE OF SERVICE

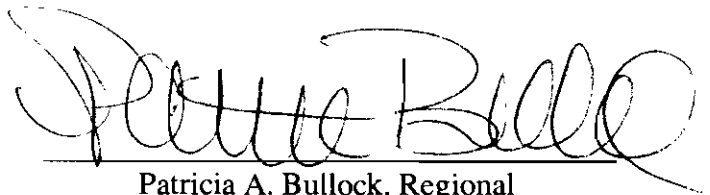
I hereby certify that on the date set out below I filed the original and one copy of the foregoing Consent Agreement and Final Order and served a true and correct copy of the foregoing Consent Agreement and Final Order, in the Matter of: Belk Ford Mercury Toyota, Incorporated, Docket No. CAA-04-2008-1524(b), on the parties listed below in the manner indicated:

Randy Nichols (Via Certified Mail)  
Belk Ford Mercury Toyota, Inc.  
447 Highway 6 West  
Oxford, MS 38655-9068

Elizabeth O'Sullivan (Via EPA's internal mail)  
U.S. EPA Region 4  
61 Forsyth Street  
Atlanta, GA 30303

Todd Groendyke (Via EPA's internal mail)  
Air, Pesticides and Toxics Management Division  
Air and EPCRA Enforcement Branch  
U.S. EPA Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303

Date: 8-28-08



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 Wilson on 8/27/08  
(Name) (Date)

in the Region 4, ORC, OEA at (404) 562-9504  
(Office) (Telephone Number)

- |  |  |
|--|--|
| <input type="checkbox"/> Non-SF Judicial Order/Consent Decree<br>USAO COLLECTS | <input checked="" type="checkbox"/> Administrative Order/Consent Agreement<br>FMO COLLECTS PAYMENT |
| <input type="checkbox"/> SF Judicial Order/Consent Decree<br>DOJ COLLECTS      | <input type="checkbox"/> Oversight Billing - Cost Package required:<br>Sent with bill              |
| <input type="checkbox"/> Other Receivable                                      | <input type="checkbox"/> Not sent with bill  |
| <input type="checkbox"/> This is an original debt                              | <input type="checkbox"/> Oversight Billing - Cost Package not required                             |
|  | <input type="checkbox"/> This is a modification  |

PAYEE: Berk Ford Mercury Toyota, Inc  
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 3925  
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: CAA 04-2008-1524(B)

The Site Specific Superfund Account Number: \_\_\_\_\_

The Designated Regional/Headquarters Program 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<br>Environmental Enforcement Section<br>Department of Justice RM 1647<br>P.O. Box 7611, Benjamin Franklin Station<br>Washington, D.C. 20044 | 2. Originating Office (EAD)<br>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<br>2. Regional Hearing Clerk | 3. Designated Program Office<br>4. Regional Counsel (EAD) |
|--|---|

**EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM  
PROGRAM SPECIFIC INFORMATION  
PROGRAM: \_\_\_\_\_**

**Case Docket Control Number: \_\_\_\_\_**

**Total Amount Due: \_\_\_\_\_**

\_\_\_\_\_ **Full payment due 30 days after issuance date of \_\_\_\_\_**

\_\_\_\_\_ **Installment payments to be paid:**

**Amount Due:**

**Date Due:**

\$ \_\_\_\_\_

\_\_\_\_\_

\$ \_\_\_\_\_

\_\_\_\_\_

\$ \_\_\_\_\_

\_\_\_\_\_

\$ \_\_\_\_\_

\_\_\_\_\_