

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III**

IN THE MATTER OF:)
) Docket No. CAA-03-2012-0240
Murphy's Auto Body)
2050 East Main St.)
Salem, Virginia 24153) Proceeding Under Section 113(d)
) of the Clean Air Act
RESPONDENT)
_____)

REGIONAL HEARING CLERK
EPA REGION III, PHILA. PA

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CONSENT AGREEMENT

I. Preliminary Statement

1. This Consent Agreement is entered into by the Director of the Air Division, U.S. Environmental Protection Agency ("EPA") Region III (sometimes called the "Complainant" in this document), and Murphy's Auto Body ("Respondent") and is filed with the accompanying Final Order. This Consent Agreement and Final Order are being issued under the authority of Section 113 of the Clean Air Act ("CAA" or "the Act"), 42 U.S.C. § 7413, and certain regulations called the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits ("Consolidated Rules of Practice"). The Consolidated Rules of Practice are found in the Code of Federal Regulations at 40 C.F.R. Part 22.
2. This Consent Agreement and the accompanying Final Order alleges and resolves alleged violations by Murphy's Auto Body of Clean Air Act regulations informally known as the Auto Body Coater regulations, which are found at 40 C.F.R. Part 63, Subpart HHHHHH (6H), and formally called the "National Emission Standards for Hazardous Air Pollutants (NESHAPs) for Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources."

II. General Provisions

3. The Auto Body Coater Regulations became effective on January 9, 2008.

III. Findings of Fact and Conclusions of Law

4. Murphy's Auto Body owns and operates a facility located at 2050 East Main St., Salem, Virginia (the "Facility").
5. In the course of its business, Murphy's Auto Body performs, among other things, painting and/or coating operations to motor vehicles.

6. The Auto Body Coater regulations apply to “area sources” that, among other things, perform: paint stripping using chemical strippers containing methylene chloride (MeCl) for paint removal; auto body refinishing operations encompassing spray application of coatings to motor vehicles; or spray applications of coatings that contain the target hazardous air pollutant (“target HAP”). See 40 C.F.R. § 63.11170.
7. The federal Clean Air Act defines an “area source” as a stationary source of Hazardous Air Pollutants (“HAPs”) that is not a “major source” of HAPs, is not located at a major source, and is not a part of a major source of HAP emissions. See Section 112(a)(2) of the Act, 42 U.S.C. § 7412(a)(2). This definition of area source is also in the Auto Body Coater regulations. See 40 C.F.R. § 63.11170(b).
8. A “major source” of HAPs is defined in Section 112(a)(1) of the Act, 42 U.S.C. § 7412(a)(1), as “any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit . . . 10 tons per year or more of any [HAP] or 25 tons per year or more of any combination of [HAPs]. The Auto Body Coater Regulations have a similar definition of major source of HAPs. See 40 C.F.R. § 63.11170(b).
9. Based upon information gained during an EPA inspection, Murphy’s Auto Body is an “area source” of HAPs because it emits some HAP when it is spray applying surface coatings to auto bodies or motor vehicle components, but not more than 10 tons per year of any HAP or 25 tons per year of any combination of HAPs. See 40 C.F.R. § 63.11170.
10. Murphy’s Auto Body is therefore subject to the Auto Body Coater Regulations because it is an area source of HAPs that applies surface coatings as discussed in paragraph 9 above.
11. The Auto Body Coater Regulations require that a notification, called an “Initial Compliance Notification,” be sent to the Administrator of the Environmental Protection Agency by January 11, 2010 for existing affected sources, or 180 days after the initial startup of new affected sources. See 40 CFR § 63.11175(a) As a source that is subject to the Auto Body Coater regulations, Murphy’s Auto Body is required to maintain a copy of the Initial Compliance Notification on file in paper or electronic format, as required by the regulation at 40 CFR § 63.11177(d).
12. All painting and coating operations that take place at a facility subject to the Auto Body Coater regulations must take place in a spray booth, preparation station, and/or mobile enclosure meeting certain requirements found at 40 CFR § 63.11173(e)(2).
13. Any spray booth, mobile enclosure, or preparation station at a facility subject to the Auto Body Coater Regulations must be fitted with filters that meet a demonstrated capture efficiency of 98%. See 40 CFR § 63.11173(e)(2)(i). In addition, 40 CFR § 63.11177(b) requires that documentation of the filter capture efficiency be maintained on file at the facility.

14. The Auto Body Coater regulations also require that persons performing the spray coating operations be certified in the proper application of coatings, and that these certifications be kept on file. See 40 CFR § 63.11173(e)(1) and 40 CFR § 63.11177(a).
15. All spray applied coatings at a facility subject to the Auto Body Coater regulations must be applied in accordance with the requirements found at 40 CFR § 63.11173(e)(3), which include using a high volume, low pressure (HVLP) spray gun, electrostatic application, airless spray gun, air-assisted airless spray gun, or an equivalent technology.
16. The Auto Body Coater regulations require that an existing affected source, such as Murphy's Auto Body, must comply with the Auto Body Coating requirements by January 10, 2011. See 40 CFR § 63.11172(b).
17. Authorized EPA personnel inspected Murphy's Auto Body on December 6, 2011.
18. During the December 6, 2011 inspection, EPA personnel observed the following:
 - a. Mr. Robby Murphy, the owner/operator, was unable to provide the records required to be maintained on site by the Auto Body Coater regulations, including the Initial Compliance Notification, painter certifications, and/or filter efficiency documentation. This is a violation of 40 CFR §§ 63.11177(d), 63.11177(a), and 63.11177(b).
 - b. Spraying or coating operations were taking place in a spray booth, but one of four filters had been removed from the booth. This is a violation of 40 CFR § 63.11173(e)(2).

IV. Settlement Recitation, Settlement Conditions and Civil Penalty

19. Murphy's Auto Body and the Director of the Air Division, U.S. Environmental Protection Agency ("EPA") Region III, enter into this Consent Agreement and accompanying Final Order for the purpose of fully resolving all violations set forth in Section III above through the effective date of this Consent Agreement and Final Order.
20. Murphy's Auto Body admits the jurisdictional allegations of this Consent Agreement. Murphy's Auto Body neither admits nor denies the findings of fact in this Consent Agreement, except for the jurisdictional allegations of the previous sentence.
21. By signing this Consent Agreement, Murphy's Auto Body waives any right to contest the allegations in this Consent Agreement and its right to appeal the Final Order accompanying this Consent Agreement.
22. In full and final settlement of the allegations set forth in Section III above of this Consent Agreement, and in consideration of each provision of this Consent Agreement and the accompanying Final Order, Murphy's Auto Body consents to the assessment

and payment of a civil penalty in the amount of \$250, within the time frame and method specified below.

23. The settlement amount of \$250 is based upon Complainant's consideration of the Clean Air Act statutory penalty factors set forth at Section 113(e), as well as the Clean Air Act Stationary Source civil penalty policy.
24. Murphy's Auto Body shall pay the civil penalty of \$250 no later than thirty (30) days after the effective date of this Consent Agreement and accompanying Final Order. The effective date is the day on which the Consent Agreement and Final Order, signed by all parties, is filed with the EPA Region III Regional Hearing Clerk. Failure to pay within 30 days of the effective date will result in the assessment of interest, administrative costs and late payment penalties.
25. Payment of the civil penalty set forth in Paragraph 22 shall be made by cashier's check or certified check. All checks shall be made payable to "Treasurer, United States of America" and shall be mailed to the attention of:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000
Contact: Eric Volck (513) 487-2105

Any check sent by overnight delivery shall be sent to:

U.S. Bank
Overnight Lockbox 979077
U.S. Environmental Protection Agency
Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101
Contact: (314) 418-1028

An on-line internet payment option is also available through the United States Department of Treasury. This payment option can be accessed from www.pay.gov. Enter sfo 1.1 in the search field, open form and complete the required fields.

26. The penalty payment check must also reference Murphy's Auto Body and the docket number of this matter, which is CAA-03-2012-0240. At the same time payment is made, a copy of the check shall be mailed to Lydia Guy, Regional Hearing Clerk (3RC00), and to Doug Snyder, Assistant Regional Counsel (3RC10) at the following address:

U.S. EPA Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

27. Murphy's Auto Body agrees not to deduct for federal tax purposes the civil penalty amount, and any additional amount paid pursuant to this Consent Agreement and Final Order.
28. Murphy's Auto Body and EPA agree to pay its own costs and attorney fees.
29. Payment of the penalty amount in the manner set forth in this Consent Agreement, along with any applicable interest or late penalty fees, shall constitute full and final satisfaction of all civil claims for penalties for the specific violations set forth in Section III of this Consent Agreement. However, payment of the penalty in compliance with this Consent Agreement and accompanying Final Order shall not be a defense to any action commenced at any time for any other violation of any federal laws and regulations administered by the U.S. EPA.
30. If Murphy's Auto Body fails to make timely payment of the civil penalty or any portion of the civil penalty provided herein, EPA may refer this matter to the United States District Attorney for enforcement of this Consent Agreement and Final Order in the appropriate United States District Court. This is in addition to the late penalty payment charges described above.

V. Reservation of Rights

31. This Consent Agreement and the accompanying Final Order resolve only the civil claims for the specific violations alleged in Section III of this Consent Agreement through the effective date of this Consent Agreement and Final Order. EPA reserves the right to commence action against any person, including Murphy's Auto Body, in response to any condition the EPA determines may present an imminent and substantial endangerment to the public health, public welfare or the environment. Nor shall anything in this Consent Agreement and Final Order be construed to limit the United States' authority to pursue criminal sanctions. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth at 40 C.F.R. § 22.18(c). Further, Complainant reserves any rights and remedies available to it under the CAA, the regulations promulgated thereunder, and any other federal laws or regulations for which Complainant has jurisdiction, to enforce the provisions of this Consent Agreement and Final Order following its filing with the Regional Hearing Clerk.

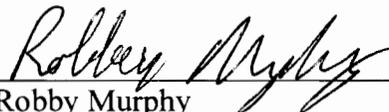
VI. Effective Date

32. The effective date of this Consent Agreement and Final Order is the date on which the Consent Agreement and Final Order is filed with the Regional Hearing Clerk of EPA Region III.

VII. Execution

33. The person signing this Consent Agreement on behalf of Murphy's Auto Body acknowledges and certifies by his/her signature that he/she is fully authorized to enter into this Consent Agreement and to legally bind Murphy's Auto Body to the terms and conditions of this Consent Agreement and Final Order.

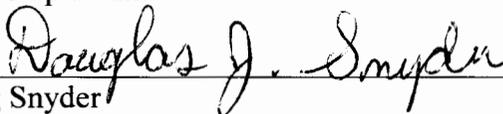
For Murphy's Auto Body:



Robby Murphy
Owner

Aug. 21-12
Date

For Complainant:



Doug Snyder
Assistant Regional Counsel
U.S. EPA Region III

9/5/12
Date

The Air Protection Division, United States Environmental Protection Agency, Region III, recommends that the Regional Administrator of U.S. EPA Region III or his designee issue the accompanying Final Order.

Date: 9/6/2012



Diana Esher, Director
Air Protection Division

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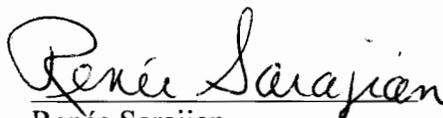
FINAL ORDER

The Preliminary Statement, Findings of Fact and Conclusions of Law, and all other sections and terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated herein as if set forth at length.

NOW THEREFORE, pursuant to Section 113 of the Clean Air Act ("CAA"), as amended, 42 U.S.C. § 7413, and 40 C.F.R. Part 22, Respondent Murphy's Auto Body is hereby ordered to pay a civil penalty in the amount of two hundred fifty dollars (\$250.00), as set forth in the Consent Agreement. Payment of this civil penalty shall be made in accordance with paragraphs 24 through 26 of the attached Consent Agreement.

The effective date of the accompanying Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk of U.S. EPA Region III, following signature by the Regional Judicial Officer.

Date: 9/20/12


Renée Sarajian
Regional Judicial Officer

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CERTIFICATE OF SERVICE

The undersigned certifies that on the date shown below, the original of the signed Consent Agreement and Final Order in this matter was filed with the Regional Hearing Clerk of EPA Region III, and a true and correct copy was mailed to Respondent, Murphy's Auto Body, at the address shown above.

9/20/2012
Date

Doug Snyder
Doug Snyder
Assistant Regional Counsel

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