

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII

06 JUN -5 PM 2:44

901 N. 5th STREET

KANSAS CITY, KANSAS 66101

ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

BEFORE THE ADMINISTRATOR

In the Matter of

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)

E&P Automotive

)

d/b/a Tuffy Auto Service Centers

)

Docket No. CAA-07-2006-0151

4824 SW 9th Street

)

Des Moines, IA 50315

)

)

Respondent

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CONSENT AGREEMENT AND FINAL ORDER

The U.S. Environmental Protection Agency (EPA), Region VII and E&P Automotive d/b/a Tuffy Auto Service Centers (Respondent) have agreed to a settlement of this action before filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).

FACTUAL ALLEGATIONS

Jurisdiction

1. This proceeding is an administrative action for the assessment of civil penalties instituted pursuant to Section 113(d) of the Clean Air Act, (hereinafter "the Act"), 42 U.S.C. § 7413(d).
2. This Consent Agreement and Final Order serves as notice that EPA has reason

E&P Automotive
d/b/a Tuffy Auto Service Centers

to believe that Respondent has violated certain "Stratospheric Ozone Protection" requirements of Subchapter VI, at Section 609(c) of the Act, 42 U.S.C. 113(d)(2)(A).

Parties

3. The Complainant, by delegation from the Administrator of the EPA, and the Regional Administrator, EPA, Region VII, is the Director of the Air, RCRA, and Toxics Division, EPA, Region VII.

4. The Respondent is E&P Automotive d/b/a Tuffy Auto Service Centers, 4824 SW 9th Street, Des Moines, Iowa 50315.

Alleged Violations

5. The Complainant hereby states and alleges that Respondent has violated the Act and federal regulations promulgated thereunder, as follows:

6. Respondent is, and at all times referred to herein, was a "person" as defined at 42 U.S.C. § 7602(e).

7. On or about June 2, 2005, an inspection was conducted of Respondent's facility at SW 9th Street in Des Moines, Iowa. A request for information under Section 114 of the Act was issued to Respondent on August 5, 2005. Respondent responded to the information request on September 6, 2005. Records provided at the time of the inspection and in response to the information request indicated that Respondent operates five separate locations. Those locations are 4824 SW 9th Street; 5701 Douglas Avenue; 2135 Grand Avenue; and 16000 Hickman in Des Moines and 814 S. Duff in Ames, Iowa.

8. 40 C.F.R. § 82.34(a)(2) requires persons repairing or servicing a motor vehicle air conditioners (MVACs) appliance to perform such service unless they have been properly trained and certified by a technician certification program approved by the

E&P Automotive
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Administrator.

9. Records provided at the time of the inspection and in response to the information request indicated there are or were at least nine or more technicians actively performing service on MVACs at the Respondent's locations without proper technician certification.

10. 40 C.F.R. § 82. 42(b)(2) requires any person who owns approved refrigerant recycling equipment must retain records demonstrating that all persons authorized to operate the equipment are currently certified.

11. Respondent failed to maintain records for technicians who performed service showing that they had been properly certified.

12. Respondent's failure to comply with 40 C.F.R. § 82. 34(a)(2), is a violation of § 609(c) of the Act, 42 U.S.C. § 7671h(c).

13. Respondent's failure to comply with 40 C.F.R. § 82. 42(b)(2), is a violation of § 609(c) of the Act, 42 U.S.C. § 7671h(c).

14. Pursuant to Section 113(d) of the Act, 42 U.S.C. § 7413(d), and based upon the facts stated in paragraphs 7 through 13, a civil penalty of Thirty-one Thousand Nine Hundred and Forty-eight Dollars (\$31,948.00) was proposed.

CONSENT AGREEMENT

15. For purposes of this proceeding, Respondent admits the jurisdictional allegations set forth above.

16. Respondent admits the factual allegations set forth above.

17. Respondent waives its right to a judicial or administrative hearing on any issue of fact or law set forth above and its right to appeal the Final Order accompanying

E&P Automotive
d/b/a Tuffy Auto Service Centers

this Consent Agreement.

18. Respondent and EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorney's fees.

19. Respondent certifies by the signing of this Consent Agreement and Final Order that to the best of Respondent's knowledge, it is presently in compliance with all requirements of the Act and all regulations promulgated thereunder.

20. Nothing in this Consent Agreement shall be construed as a release from, or to insulate Respondent from, any other action under any law and/or regulation administered by the U.S. Environmental Protection Agency.

21. Each signatory of this Agreement certifies that he or she is fully authorized to enter into the terms of this Consent Agreement and Final Order.

FINAL ORDER

Pursuant to Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d), and upon information contained in this Consent Agreement, IT IS HEREBY ORDERED THAT:

1. Respondent, in settlement of the allegations set forth in the Complaint, shall pay by cashier's or certified check, a civil penalty, for the violation cited therein, in the amount of Five Hundred Dollars (\$500.00), payable to the "Treasurer, United States of America", and such check shall be mailed to:

Mellon Bank
US EPA Region 7
PO Box 371099M
Pittsburgh, PA 15251

E&P Automotive
d/b/a Tuffy Auto Service Centers

A copy of the check shall be mailed to:

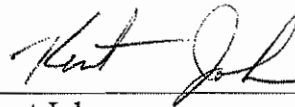
Kent Johnson
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency
901 North 5th Street
Kansas City, Kansas 66101

3. The effective date of this Order shall be the date on which it is signed by the Regional Judicial Officer.

4. This executed Consent Agreement and Final Order shall be filed with the Regional Hearing Clerk, U.S. Environmental Protection Agency, 901 North 5th Street, Kansas City, Kansas, 66101.

COMPLAINANT:

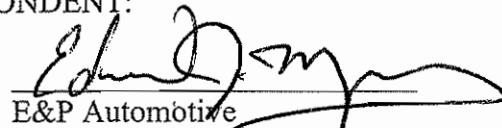
UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY



Kent Johnson
Attorney
Office of Regional Counsel

Date: 6/2/06

RESPONDENT:



E&P Automotive
Tuffy Auto Service Centers

Date: 5-5-06

E&P Automotive
d/b/a Tuffy Auto Service Centers

IT IS SO ORDERED. This Order shall become effective immediately.

Karina Borromeo

Karina Borromeo
Regional Judicial Officer
U.S. Environmental Protection Agency
Region VII

Date: June 5, 2006

IN THE MATTER OF E&P Automotive, d/b/a Tuffy Auto Service Centers, Respondent
Docket No. CAA-07-2006-0151

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

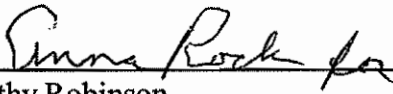
Copy hand delivered to:

Kent Johnson
Senior Assistant Regional Counsel
901 N. 5th Street
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Edward Meyers
Tuffy Auto Service Centers
4824 SW 9th Street
Des Moines, Iowa 50315

6/15/06
Dated


Kathy Robinson
Regional Hearing Clerk