



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

SEP 19 2012

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Patrick Kresnak
Environmental Director
International Automotive Components Group North America, LLC
1905 Beard Street
Port Huron, Michigan 48060

Dear Mr. Kresnak:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves International Automotive Components Group, North America, LLC (IAC), case docket no. CAA-05-2012-0049. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on SEP 19 2012.

Pursuant to paragraph 38 of the CAFO, IAC must pay the civil penalty within 30 days of SEP 19 2012. Your electronic funds transfer must display the case name International Automotive Components Group North America, LLC, the docket number CAA-05-2012-0049 and the billing document number 2751203A050.

Please direct any questions regarding this case to Padmavati Bending, Associate Regional Counsel, at (312) 353-8917.

Sincerely,

Sara Breneman

Sara Breneman
Section Chief, WI/MI
Air Enforcement and Compliance Assurance Branch

Enclosure

cc: Regional Judicial Officer/C-14J
Regional Hearing Clerk/E-19J
Padmavati Bending/C-14J
Teresa Seidel, Michigan Department of Environmental Quality
Tom Hess, Michigan Department of Environmental Quality
Joseph A. Gregg, Eastman & Smith LTD

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:) Docket No. CAA-05-2012-0049
)
IAC Port Huron, LLC)
Port Huron, Michigan) Proceeding to Assess a Civil Penalty
) Under Section 113(d) of the Clean Air Act,
) 42 U.S.C. § 7413(d)
Respondent.)
)
_____)

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the CAA), 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 (EPA), Region 5.

3. Respondent is IAC Port Huron, LLC ("IAC"), a corporation doing business in Michigan.

4. 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). 40 C.F.R. § 22.13(b).

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.

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6. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO without admission of any fault or liability.

Jurisdiction and Waiver of Right to Hearing

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

8. Respondent 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. Sections 501 through 507 of the Act, 42 U.S.C. §§ 7661 through 7661f, establish an operating permit program for major stationary sources and other sources made subject to Section 502(a) of the Act, 42 U.S.C. § 7661a(a).

10. Section 502(a) of the Act provides that after the effective date of any permit program approved or promulgated under this subchapter, “it shall be unlawful for any person to violate any requirement of a permit issued under this subchapter. . .”

11. Pursuant to Section 502(b) of the Act, 42 U.S.C. § 7661a(b), on July 21, 1992, EPA promulgated regulations establishing the minimum elements of a permit program to be administered by any air pollution control agency. 57 Fed. Reg. 32295 (July 21, 1992). These regulations are codified at 40 C.F.R. Part 70.

12. Section 502(d)(1) of the Act, 42 U.S.C. § 7661a(d)(1), requires that each State develop and submit for EPA’s approval a permit program under State law.

13. On December 4, 2001, EPA granted Michigan full approval of its Clean Air Act Permit Program. 66 Fed. Reg. 62949 (December 4, 2001). The program became effective on November 30, 2001.

14. R 336.1201 of the Michigan State Implementation Plan (SIP) states, “a person shall not install, construct, reconstruct, relocate, or alter any process, fuel-burning, or refuse-burning equipment, or control equipment pertaining thereto, which may be a source of an air contaminant, until a permit is issued by the commission. This shall be known as a permit to install and shall cover construction, reconstruction, relocation, and alteration of equipment where such is involved.” 45 Fed. Reg. 29790 (May 6, 1980).

15. R 336.1290 of Michigan state law provides for certain exemptions from the permit to install requirements of R 336.1201.

16. R 336.1116(g), General Provisions Definitions is part of the federally enforceable SIP for Michigan. 57 Fed. Reg. 24752 (June 11, 1992).

17. Under Section 113(a)(1) of the Act, 42 U.S.C. § 7413 (a)(1), the Administrator of EPA may issue an order requiring compliance to any person who has violated or is violating a SIP. The Administrator has delegated this authority to the Director of the Air and Radiation Division.

18. The Administrator of EPA may require any person who owns or operates an emission source to sample emissions and make reports under Section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1). The Administrator has delegated this authority to the Director of the Air and Radiation Division.

19. The Administrator of EPA (the Administrator) may assess a civil penalty of up to \$32,500 per day of violation up to a total of \$270,000 for violations that occurred after March 15, 2004 through January 12, 2009 and may assess a civil penalty of 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 CAA, 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. IAC owns and operates a headliner manufacturing facility (top panel inside vehicles) at 1905 Beard Street, Port Huron, Michigan.

23. IAC acquired ownership of the headliner manufacturing facility in April 2007 from Lear Corporation. At that time, the facility did not have an air permit.

24. IAC is a "person," as that term is defined in R 336.1116(g), General Provisions Definitions.

25. IAC's headliner manufacturing lines are "process equipment," as that term is defined in R 336.1116(n), General Provisions Definitions.

26. The process equipment at IAC's facility includes, but is not limited to: six UROCORE lines, three AzDel lines, multiple assembly lines, a lamination line, and a foam manufacturing line.

27. Emissions from IAC's manufacturing process equipment are subject to R 336.1201 in the Michigan SIP.

28. IAC's UROCORE process lines utilize adhesive #2U10 , which is manufactured by Forbo Adhesives, LLC (Forbo).

29. IAC refers to the methylene bisphenyl isocyanate (MDI) containing adhesive as adhesive #2U010.

30. IAC performed stack testing at its Port Huron facility on June 22-23, 2011. That testing confirmed that MDI emissions from the facility are within permitted limits. The testing also detected toluene at concentrations of 0.017 lb/hr or 0.39 ppm from the UROCORE line. Toluene is not identified as a component of #2U010 in the Material Safety Data Sheets (MSDS) supplied to IAC by Forbo and no permit emission limit is currently established for toluene.

31. In a letter from IAC's consultant, Fishbeck, Thompson, Carr & Huber, Inc. (FTC&H), dated September 13, 2011, FTC&H states, "On August 16, 2011, IAC received a laboratory analytical result indicating that toluene was present (at 0.027%) in the methylene bisphenyl isocyanate (MDI) adhesive supplied by Forbo Adhesives, LLC ."

32. As a part of the September 13, 2011 letter, FTC&H states that since the time IAC learned of the presence of toluene in the MDI adhesive, "IAC has been in contact with Forbo and has determined that the toluene detected in the test results is most likely due to Forbo's practice of using toluene as a cleaning solvent for their mixing vessels between batches."

33. FTC&H sent EPA a letter, dated October 17, 2011, which discussed IAC's request to Forbo to conduct additional testing on adhesive #U0210.

34. In the October 17, 2011 letter, FTC&H stated "Forbo has collected and analyzed a total of eight samples of batches of adhesive products, similar to the U0210 adhesive supplied to IAC, for toluene content. The results of these analyses have ranged from 16 to 521 parts per million, with the average being in the 250 ppm range."

35. Based on component testing completed by Forbo, adhesive #2U010 contains MDI and toluene.

36. On December 3, 2010, EPA issued to IAC a Notice of Violation (NOV) alleging that it violated the Michigan State Implementation beginning April 9, 2007. At the time of the NOV issuance, EPA alleged that IAC had been operating unpermitted process equipment at its Port Huron, Michigan facility, as required under R 336.1201 of the Michigan SIP. 45 Fed. Reg. 29790 (May 6, 1980).

37. On January 19, 2011, representatives of IAC and EPA discussed the December 3, 2010 NOV.

38. On March 3, 2011 EPA sent IAC a Request for Information, pursuant to Section 114(a) of the Act, which IAC responded to on April 7, 2011, the date upon which it was due.

39. IAC submitted a full permit application to the Michigan Department of Environmental Quality (MDEQ) on October 18, 2010.

40. IAC was issued finalized Permit to Install #183-10 by MDEQ on March 3, 2011.

41. On February 9, 2012, IAC and EPA executed an Administrative Consent Order (ACO) under Sections 113(a)(1) and 114(a)(1) of the Act, 42 U.S.C. §§ 7413 (a)(1) and 7414(a)(1) .

42. Under the ACO, IAC was required to conduct EPA Reference Method 311 testing on eight different batches of Forbo supplied adhesive #2U010. The ACO required IAC to complete all testing within 90 days of the date of the ACO.

43. IAC satisfied all the requirements of the ACO and the stack testing and ACO testing performed by IAC confirmed it was operating in accordance with Michigan state law.

Civil Penalty

44. Based on analysis of the factors specified in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), the facts of this case, cooperation, and prompt return to compliance, Complainant has determined that an appropriate civil penalty to settle this action is \$35,000.

45. Within 30 days after the effective date of this CAFO, Respondent must pay a \$35,000 civil penalty by electronic funds transfer, payable to “Treasurer, United States of America,” and sent to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read:
“D68010727 Environmental Protection Agency”

In the comment or description field of the electronic funds transfer, state Respondent’s name, the docket number of this CAFO and the billing document number.

46. Respondent must send a notice of payment that states Respondent’s name, the docket number of this CAFO and the billing document number to EPA at the following addresses when it pays the penalty:

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

Padmavati Bending (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

Regional Hearing Clerk (E-19J)
U.S. Environmental Protection Agency, Region 5

77 W. Jackson Boulevard
Chicago, Illinois 60604

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

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

49. 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 pursuant to 26 U.S.C. § 6621(a)(2). Respondent must pay the United States enforcement expenses, including but not limited to attorneys fees and costs incurred by the United States for collection proceedings. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue. 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. 42 U.S.C. § 7413(d)(5).

General Provisions

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

51. The CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law other than those resolved hereby. Nor does this CAFO affect the rights of IAC to raise any defenses to or otherwise defend against any such claims or allegations.

52. This CAFO does not affect Respondent's responsibility to comply with the CAA and other applicable federal, state and local laws. Except as provided in paragraph 51, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

53. Respondent certifies that it is complying fully with R 336.1201 of the Michigan SIP. 45 Fed. Reg. 29790 (May 6, 1980).

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

55. The terms of this CAFO bind EPA and Respondent, their successors and assigns.

56. 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.

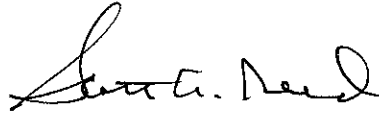
57. Each party agrees to bear its own costs and attorneys fees in this action.

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

IAC Port Huron, LLC Respondent

9-6-12

Date

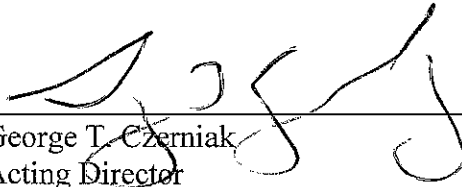


Scott Reed
Vice President, Operations

United States Environmental Protection Agency, Complainant

9/18/12

Date



George T. Czerniak
Acting Director
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5

Consent Agreement and Final Order

In the Matter of: International Automotive Components Group, North America, LLC

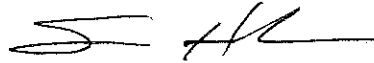
Docket No. CAA-05-2012-0049

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.

9-18-12

Date



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

Consent Agreement and Final Order

**In the Matter of: International Automotive Components Group North America, LLC
Docket No. CAA-05-2012-0049**

Certificate of Service

I certify that I filed the original and one copy of the Consent Agreement and Final Order (CAFO), docket number CAA-05-2012-0049 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 the second original copy to Respondent 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:

Patrick Kresnak
Environmental Director
International Automotive Components Group North America, LLC
1905 Beard Street
Port Huron, Michigan 48060

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

Regional Judicial Officer (C-14J)
U.S. Environmental Protection Agency
77 W. Jackson Boulevard
Chicago, Illinois 60604

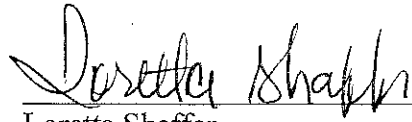
I also certify that I mailed a correct copy of the CAFO by first-class mail to:

Christopher Ethridge, District Supervisor
Michigan Department of Environmental Quality
Southeast District Office
27700 Donald Court
Warren, Michigan 48092

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

Joseph A. Gregg
Eastman & Smith LTD.
One SeaGate, 24th Floor
P.O. Box 10032
Toldeo, Ohio 43699

On the 19 day of September 2012.



Loretta Shaffer
Administrative Program Assistant
AECAB, PAS

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