

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION VII  
901 N. 5<sup>th</sup> STREET  
KANSAS CITY, KANSAS 66101

BEFORE THE ADMINISTRATOR

06 SEP -6 AM 9:15  
ENVIRONMENTAL PROTECTION  
AGENCY-REGION VII  
REGIONAL HEARING CLERK

In the Matter of )

Custom Muffler & Shocks, Inc. )  
215 S. Providence Road )  
Columbia, MO 65203 )

Docket No. CAA-07-2006-0194

Respondent )

CONSENT AGREEMENT AND FINAL ORDER

The U.S. Environmental Protection Agency (EPA), Region VII and Custom Muffler & Shocks, Inc.(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 to believe that Respondent has violated certain "Stratospheric Ozone Protection" requirements of

Custom Muffler & Shocks, Inc.

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 Custom Muffler & Shocks, Inc., 215 S. Providence Road, Columbia, Missouri.

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 July 14, 2005, an inspection was conducted of Respondent's facility at 2101 W. Worley, Columbia, Missouri. A request for information under Section 114 of the Act was issued to Respondent on August 24, 2005. Respondent responded to the information request on September 19, 2005. Further information was provided on September 29, 2005. Records provided at the time of the inspection and in response to the information request indicated that Respondent operates seven separate locations. Those locations are 1800 Missouri Boulevard, Jefferson City, Missouri; 1901 Baltimore, Kirksville, Missouri; 5406 Chippewa, St. Louis, Missouri; and 1001 BL 70E, 2101 W. Worley, 215 S. Providence and 606 E. Nifong, Columbia, Missouri.

8. 40 C.F.R. § 82.34(a)(2) requires persons repairing or servicing a motor vehicle air

Custom Muffler & Shocks, Inc.

conditioners (MVACs) appliance to perform such service unless they have been properly trained and certified by a technician certification program approved by the Administrator.

9. Records provided at the time of the inspection and in response to the information request indicated there are or were at least five or more technicians actively performing service on MVACs at the Respondent's locations without proof of 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 Twenty-eight Thousand Two Hundred and Ninety-one Dollars (\$28,291.00) was proposed.

#### CONSENT AGREEMENT

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

16. Respondent neither admits nor denies 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 this Consent

Custom Muffler & Shocks, Inc.

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 One Thousand Five Hundred Dollars (\$1,500.00), 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

Custom Muffler & Shocks, Inc.

A copy of the check shall be mailed to:

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

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

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

COMPLAINANT:

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY



Kent Johnson  
Attorney  
Office of Regional Counsel

Date: 6/20/06

RESPONDENT:



Custom Muffler & Shocks, Inc.

Date: 6-16-06

IN THE MATTER OF  
Custom Muffler & Shocks, Inc.  
Docket No. CAA-07-2006-0194

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: Sept. 6, 2006

IN THE MATTER OF Custom Muffler & Shocks, Inc., Respondent  
Docket No. CAA-07-2006-0194

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  
Attorney for Complainant:

Kent Johnson  
Assistant Regional Counsel  
Region VII  
United States Environmental Protection Agency  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Mary K. Lazar  
Vice President  
Custom Muffler & Shocks, Inc  
215 S Providence Road  
Columbia, Missouri 65203

Dated: 9/6/06



Kathy Robinson  
Hearing Clerk, Region 7