

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

SEP 13 10:11

IN THE MATTER OF:) Docket No. CAA-5-2000-015
)
Cade Autoair, Incorporated) Proceeding to Assess an
Lansing, Michigan) Administrative Penalty
) under Section 113(d) of the
) Clean Air Act,
Respondent.) 42 U.S.C. § 7413(d)
)

Consent Agreement and Final Order

1. Complainant, the Director of the Air and Radiation Division, United States Environmental Protection Agency, Region 5 (U.S. EPA), brought this administrative action seeking a civil penalty under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d).

2. On September 26, 2000, U.S. EPA filed the Complaint in this action against Cade Autoair, Incorporated now known as Pratt & Whitney AutoAir, Inc., (Respondent). The Complaint alleges that the Respondent violated provisions of the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Halogenated Solvent Cleaners, found at 40 C.F.R. Part 63, Subpart T. The Complaint proposed a civil penalty of \$42,500 for the violations.

3. Respondent filed an Answer on January 6, 2001, admitting, denying, and neither admitting nor denying certain

allegations of the Complaint and requested a hearing under Section 113(d)(2) of the Act, 42 U.S.C. § 7413(d)(2).

4. Respondent is a Michigan Corporation doing business in the State of Michigan and owns a facility located at 5640 Enterprise Drive, Lansing, Michigan (Facility).

5. Respondent for purposes of settlement admits to the jurisdictional allegations of the Complaint, and it admits, denies, and neither admits nor denies the factual allegations of the Complaint.

6. Respondent waives its right to contest the allegations in the Complaint, and waives its right to appeal under Section 113(d) of the Act, 42 U.S.C. § 7413(d).

7. Respondent certifies that it is presently complying fully with the NESHAP for Halogenated Solvent Cleaners, found at 40 C.F.R. Part 63, Subpart T.

8. The parties consent to the terms of this Consent Agreement and Final Order (CAFO).

9. The parties agree that settling this action without further litigation, upon the terms in this CAFO, is in the public interest.

Civil Penalty

10. In consideration of Respondent's good faith efforts to comply, and Respondent's agreement to perform a supplemental environmental project, U.S. EPA agrees to mitigate the proposed penalty of \$42,500 to \$10,500.

11. Respondent must pay the \$10,500 civil penalty by cashier's or certified check payable to the "Treasurer, United States of America," within 30 days after the effective date of this CAFO.

Respondent must send the check to:

U.S. Environmental Protection Agency
Region 5
P.O. Box 70753
Chicago, Illinois 60673

12. A transmittal letter, stating Respondent's name, complete address, the case docket number, and the billing document number, must accompany the payment. Respondent must write the case docket number and the billing document number on the face of the check. Respondent must send copies of the check and transmittal letter to:

Attn: Regional Hearing Clerk, (R-19J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

Attn: Compliance Tracker, (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

Joseph Williams, (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

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

14. If Respondent does not pay timely the civil penalty or any stipulated penalties due under paragraph 27, below, U.S. EPA may bring an action under Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5), to collect any unpaid portion of the penalty, plus interest, handling charges, nonpayment penalties and the United States' enforcement expenses for the collection action. The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

15. Interest will accrue on any overdue amount from the date payment was due at a rate established under 26 U.S.C. § 6621(a)(2). Respondent will pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. Respondent will pay a quarterly nonpayment penalty each

quarter during which the assessed penalty is overdue according to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). 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.

Supplemental Environmental Project

16. Respondent must complete a supplemental environmental project (SEP) designed to protect the environment and public health by eliminating the use of its halogenated vapor degreaser by the end of March 2002.

17. Respondent must complete the SEP at its Facility in Lansing, Michigan, as follows:

a. Switch to Form B Honeycomb: By May 2001, Respondent will purchase only Form B Honeycomb for use in its manufacturing operations. The Form B Honeycomb, which is handled in a special manner and is kept free from contamination, shall be used so that there is no need for vapor degreasing by the halogenated cleaner.

b. Environmentally Controlled Areas: Beginning in August 2001, Respondent will designate a controlled contamination-free area(s) for the processing and storage of type Form B Honeycomb. The contamination free area(s) will be put on air monitoring and cleaning schedules.

c. Discontinue Use of Existing Form A Honeycomb and Degreaser: Respondent will gradually discontinue use of the existing Form A Honeycomb. During March 2002, any remaining stock of Form A Honeycomb will be scrapped. Also by the end of March 2002, Respondent

will clean and remove the vapor degreaser from operation.

18. Respondent must spend at least \$82,700 on the SEP described in Paragraph 17, for installation of equipment and to adequately train personnel in clean area procedures and requirements.

19. Unless Respondent closes its Lansing, Michigan facility or no longer processes honeycomb of any kind, Respondent must continuously use or operate the SEP as described in Paragraph 17 for at least three years following its installation.

20. Respondent certifies that, as of the date it signs this CAFO, it is not required to perform or develop the SEP by any law, regulation, grant, order, or agreement, or as injunctive relief. Respondent further certifies that it has not received, and is not negotiating to receive, credit for the SEP in any other enforcement action.

21. U.S. EPA may inspect the Facility at any time to monitor Respondent's compliance with this CAFO's SEP requirements.

22. Respondent must submit its initial SEP completion report to U.S. EPA by June 30, 2002, and the Final SEP Report

by June 30, 2005. The reports must contain the following information as is relevant:

- a. Detailed description of the SEP as completed;
- b. Descriptions of any operating problems and the actions taken to correct the problems;
- c. Itemized costs of goods and services used to complete the SEP, documented by copies of invoices, purchase orders, or canceled checks that specifically identify and itemize the individual costs of the goods and services;
- d. Certification that Respondent has completed the SEP in compliance with this CAFO; and
- e. Description of the environmental and public health benefits resulting from the SEP, quantifying the benefits and pollution reductions where feasible.

23. Respondent must submit all notices and reports required by this CAFO by first class mail to:

Attn: Compliance Tracker (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

24. In each report that Respondent submits as provided by this CAFO, it must certify that the report is true and complete by including the following statement signed by one of its officers:

I certify that I am familiar with the information in this document and that, based on my inquiry of those individuals responsible for obtaining the information, the information is true and complete to the best of my knowledge. I know that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

25. Following receipt of the SEP completion report described in paragraph 22 above, U.S. EPA must notify Respondent in writing that:

- a. It has satisfactorily completed the SEP and the SEP report;
- b. There are deficiencies in the SEP as completed or in the SEP report and U.S. EPA will give Respondent 30 days to correct the deficiencies; or
- c. It has not satisfactorily completed the SEP or the SEP report and U.S. EPA will seek stipulated penalties under paragraph 27.

26. If U.S. EPA exercises option b. above, Respondent may object in writing to the deficiency notice within 10 days of receiving the notice. The parties will have 30 days from U.S. EPA's receipt of Respondent's objection to reach an agreement. If the parties cannot reach an agreement, U.S. EPA will give Respondent a written decision on its objection. Respondent will comply with any requirements that U.S. EPA imposes in its decision. If Respondent does not complete the SEP as required by

U.S. EPA's decision, Respondent will pay stipulated penalties to the United States under paragraph 27 below.

Stipulated Penalties

27. If Respondent violates any requirement of this CAFO relating to the SEP, Respondent must pay stipulated penalties to the United States as follows:

a. Except as provided in subparagraph b, below, if Respondent did not complete the SEP satisfactorily according to this CAFO, Respondent must pay a stipulated penalty of \$24,000.

b. If Respondent did not complete the SEP satisfactorily, but U.S. EPA determines that Respondent: (i) made good faith and timely efforts to complete the SEP; and (ii) certified, with supporting documents, that it spent at least 90 percent of the required amount on the SEP, Respondent will not be liable for any stipulated penalty.

c. If Respondent satisfactorily completed the SEP, but spent less than 90 percent of the required amount on the SEP, Respondent must pay a stipulated penalty of \$3,200.

d. If Respondent failed to timely submit the SEP completion report required by paragraph 22 above, Respondent must pay a stipulated penalty of \$25 for each day after the report was due until it submits the report.

e. If Respondent failed to timely submit any periodic report required by paragraph 22 above, Respondent must pay a stipulated penalty of \$25 for each day after the report was due until it submits the report.

28. U.S. EPA's determinations of whether Respondent satisfactorily completed the SEP and whether it made good faith, timely efforts to complete the SEP will bind Respondent.

29. Respondent must pay any stipulated penalties within 15 days of receiving U.S. EPA's written demand for the penalties. Respondent will use the method of payment specified in paragraphs 11 through 12 above, and will pay interest, handling charges, and nonpayment penalties on any overdue amounts.

30. Any written public statement that Respondent makes referring to the SEP must include the following language, "Respondent undertook this project under the settlement of the United States Environmental Protection Agency's enforcement action against Respondent for alleged violations of the NESHAP for Halogenated Solvent Cleaners found at 40 C.F.R. Part 63, Subpart T."

31. If an event occurs which causes or may cause a delay in completing the SEP as required by this CAFO:

a. Respondent must notify U.S. EPA in writing within 10 days after learning of an event which caused or may cause a delay in completing the SEP. The notice must describe the anticipated length of the delay, its cause(s), Respondent's past and proposed actions to prevent or minimize the delay, and a schedule to carry out those actions. Respondent must take all reasonable actions to avoid or minimize any delay. If Respondent fails to notify U.S. EPA according to this paragraph,

Respondent will not receive an extension of time to complete the SEP.

b. If the parties agree that circumstances beyond the control of Respondent caused or may cause a delay in completing the SEP, the parties will stipulate to an extension of time no longer than the period of delay.

c. If U.S. EPA does not agree that circumstances beyond the control of Respondent caused or may cause a delay in completing the SEP, U.S. EPA will notify Respondent in writing of its decision and any delays in completing the SEP will not be excused.

d. Respondent has the burden of proving that circumstances beyond its control caused or may cause a delay in completing the SEP. Increased costs for completing the SEP will not be a basis for an extension of time under subparagraph b, above. Delay in achieving an interim step will not necessarily justify or excuse delay in achieving subsequent steps.

General Provisions

32. This CAFO settles U.S. EPA's claims for civil penalties for the violations alleged in the Complaint,

33. Nothing in this CAFO restricts U.S. EPA's authority to seek Respondent's compliance with the Act and other applicable laws and regulations.

34. This CAFO does not affect Respondent's responsibility to comply with the Act and other applicable federal, state and local laws, and regulations.

35. This CAFO constitutes an "enforcement response," as that term is used in "U.S. EPA's Clean Air Act Stationary Source

Civil Penalty Policy," to determine Respondent's "full compliance history" under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

36. The terms of this CAFO bind Respondent, its successors and assigns.

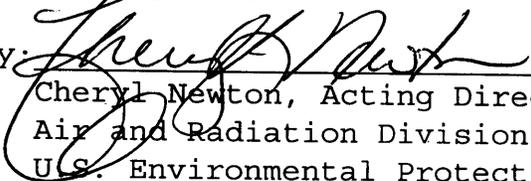
37. Each person signing this consent agreement certifies that he or she has the authority to sign this consent agreement for the party whom he or she represents and to bind that party to its terms.

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

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

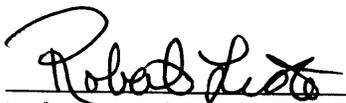
U.S. Environmental Protection Agency Complainant

Date: 4/9/01

By: 
Cheryl Newton, Acting Director
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5 (A-18J)

**Cade Autoair, Incorporated
now known as Pratt & Whitney
AutoAir, Inc.
Respondent**

Date: 3/29/01

By: 
Robert Lisk
Its: .President

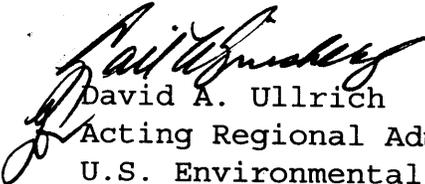
CONSENT AGREEMENT AND FINAL ORDER
Cade Autoair, Incorporated
Docket No.

Final Order

It is ordered as agreed to by the parties and as stated in the Consent Agreement, effective immediately upon filing of this CAFO with the Regional Hearing Clerk.

Date:

4/11/01



David A. Ullrich

Acting Regional Administrator
U.S. Environmental Protection
Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

CERTIFICATE OF SERVICE

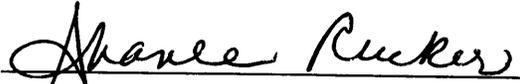
I, Shanee Rucker, certify that I hand delivered the original of the Consent Agreement and Final Order, docket number CAA-5-2000-015 to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed correct copies by first-class, postage prepaid, certified mail, return receipt requested, to Cade Autoair, Inc. (now known as Pratt & Whitney, Inc.) and its Counsel by placing them in the custody of the United States Postal Service addressed as follows:

Robert Lisk, President
Cade AutoAir, Inc., now
known as Pratt & Whitney AutoAir, Inc.
5640 Enterprise Drive
Lansing, Michigan 48911-4193

Kathleen McFadden, Esq.
Pratt & Whitney
400 Main Street
East Hartford, CT 06108
Ms 132-12 Legal

Eric Lukingbeal, Esq.
Robinson & Cole, LLP
280 Trumbull Street
Hartford, Connecticut 06101

on the 13th day of April, 2001.


Shanee Rucker
AECAS (MI/WI)

CERTIFIED MAIL RECEIPT NUMBER: 7099 3400 0000 9581 3219