UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:	)	
	)	
5 & Inkster Amoco	)	**Administrative Order**
Livonia, Michigan	)	
	)	**EPA-5-01-113(a) MI-05**
Proceeding Under Sections 113(a)(3) and 114(a)(1) of the Clean Air Act, 42 U.S.C. §§ 7413(a)(3) and 7414(a)(1)	)	

Administrative Order

1. The Director of the Air and Radiation Division, United States Environmental Protection Agency (U.S. EPA), Region 5, is issuing this Order to Edward Bazzy, Owner, of 5 & Inkster Amoco (Respondent) under Sections 113(a)(3) and 114(a)(1) of the Clean Air Act (Act), 42 U.S.C. §§ 7413(a)(3) and 7414(a)(1).

Statutory and Regulatory Background

2. The Administrator of U.S. EPA may promulgate regulations establishing standards and requirements regarding the servicing of motor vehicle air conditioners (MVACs) under Section 609 of the Act, 42 U.S.C. § 7671h.

3. Under Section 609 of the Act, the Administrator promulgated the regulations at 40 C.F.R. Part 82, Subpart B, Sections 82.30 through 82.42 (MVAC regulations).

4. Section 609(d) of the Act, 42 U.S.C. § 7671h(d), requires in part that each person performing service on motor vehicle air conditioners for consideration shall certify to the Administrator that such person has acquired, and is properly using, approved refrigerant recycling equipment in service on motor vehicle air conditioners involving refrigerant and that each individual authorized by such person to perform such service is properly trained and certified.

5. 40 C.F.R. § 82.42(a) requires that, on or before January 1, 1993, each person performing service on motor vehicle air conditioners for consideration shall certify to the Administrator that such person has acquired, and is properly using, approved refrigerant recycling equipment in service on motor vehicle air

conditioners involving refrigerant and that each individual authorized by such person to perform such service is properly trained and certified.

6. Under Section 113(a)(3)(B) of the Act, 42 U.S.C. § 7413(a)(3)(B), the Administrator of U.S. EPA may issue an order requiring compliance to any person who has violated or is violating the MVAC regulations. The Administrator has delegated this authority to the Director of the Air and Radiation Division.

7. The Administrator of U.S. EPA may require any person who is subject to any requirement of the Act to provide information required by the Administrator 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.

Findings

8. Respondent owns and operates a facility at 27430 Five Mile Road, Livonia, Michigan (the facility).

9. Respondent performs service on motor vehicle air conditioners at the facility. Therefore, Respondent is subject to 40 C.F.R. § 82.42(a).

10. Respondent is "subject to any requirement" within the meaning of Section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1). Therefore, Respondent is subject to the requirements of Section 114(a)(1).

11. On July 5, 2000, authorized representatives of the Administrator (the inspectors) conducted a compliance inspection of Respondent's facility in order to determine Respondent's compliance status with, Section 609 of the Act.

12. During the inspection, Respondent's representative, Mr. Edward Bazzy, was asked to provide copies of the following document to U.S. EPA within ten (10) days of the July 5, 2000 inspection: a copy of the Technician Certification for James Bachir.

13. U.S. EPA did not receive a copy of the Technician Certification for James Bachir within the 10 day time period.

14. On December 11, 2000, EPA issued a Notice of Intent to File Civil Administrative Complaint to Respondent.

15. Respondent was given an opportunity to present

supporting documentation to show why U.S. EPA should not institute administrative proceedings to assess civil penalties and to show cause why the proposed penalty should be reduced.

16. Respondent did not submit technician certification for James Bachir as required by 40 C.F.R. § 82.34(a)(2).

17. On the basis of these facts, U.S. EPA finds that Respondent is in violation of Section 609(d) of the Act, 42 U.S.C. § 7671h(d), and the implementing regulations at 40 C.F.R. § 82.34(a)(2).

IT IS HEREBY ORDERED THAT:

18. Respondent shall maintain compliance with Section 609(c) of the Act, 42 U.S.C. § 7671g, and the MVAC Regulations at 40 C.F.R., Part 82, Subparts B and G.

19. Respondent shall ensure that only technicians who are certified as required by 40 C.F.R. § 82.34(a)(2) will perform service on MVACs. Respondent shall certify to EPA that it will not permit James Bachir or any other employee to perform service on MVACs until such person has received technician certification as required by 40 C.F.R. § 82.34(a)(2).

20. If Respondent intends to have James Bachir or any other employee who is not currently certified as required by 40 C.F.R. § 82.34(a)(2) perform service on MVACs, Respondent shall state this in its letter of intent to comply. Respondent shall then provide EPA with a copy of any technician certification for each person who will perform service on MVACs when the certification is obtained. A copy of the certification shall be sent to the address in the following paragraph.

21. Respondent shall submit a signed letter of intent to comply with this order, within 3 business days of receipt of this Compliance Order. Such notice shall be mailed to the address listed below:

Compliance Tracker - AE-17J
U.S. Environmental Protection Agency, Region 5
Attn: Sara Dauk
Air and Radiation Division
77 West Jackson Boulevard
Chicago, Illinois 60604

22. Failure to comply with the terms of this Compliance Order may subject Respondent and its owner(s) to civil penalties and/or further enforcement action under Section 113 of the Act, 42 U.S.C. § 7413.

23. Any information submitted in response to this request may be used by U.S. EPA in support of an administrative, civil, or criminal action against Respondent. Knowing submittal of false information to U.S. EPA, in response to this request, may be actionable under Section 113(c)(2) of the Act, as well as 18 U.S.C. § 1341.

24. Nothing contained in this Compliance Order shall affect the responsibility of Respondent to comply with all applicable Federal, State or local laws or regulations, including other applicable provisions of 40 C.F.R. Part 82.

25. Nothing in this Compliance Order shall be construed to prevent or limit U.S. EPA's authority to collect penalties and pursue appropriate relief under Sections 113(b) and 113(d) of the Act, 42 U.S.C. §§ 7413(b) and 7413(d).

26. This Compliance Order is not subject to the Paperwork Reduction Act, because it seeks collection of information in an administrative action, or investigation involving U.S. EPA and specific individuals or entities.

27. Section 113(a)(4) of the Act, 42 U.S.C. § 7413(a)(4), states that an Order shall not take effect until the person to whom it is issued has had an opportunity to confer with U.S. EPA about the alleged violation. Therefore, U.S. EPA is giving Respondent an opportunity to confer with U.S. EPA concerning this Order. Respondent may schedule a conference with U.S. EPA by calling Ms. Sara Dauk, at (312)886-0243 within five (5) days of Respondent's receipt of this Order.

28. The Compliance Order shall expire one year from the effective date, if Respondent has complied with all of its terms.

2/28/01
Date

Cheryl Newton, Acting Director
Air and Radiation Division

Enclosure

CERTIFICATE OF MAILING

I, Shanee Rucker, certify that I sent the Administrative Consent Order, U.S. EPA Order No. EPA-5-01-113(a) MI-05, by Certified Mail, Return Receipt Requested, to:

Edward Bazzy
5 & Inkster Amoco
27430 Five Mile Road
Livonia, Michigan 48154

I also certify that I sent a copy of the Administrative Consent Order U.S. EPA Order No. EPA-5-01-113(a) MI-05, First Class Mail to:

Timothy McGarry, Enforcement Unit Supervisor
Air Quality Division
Michigan Department of Environmental Quality
P.O. Box 30260
Lansing, Michigan 48909

Lisa Scarpelli
S.E. Michigan District Headquarters
38980 Seven Mile Road
Livonia, Michigan 48152

on the 1st day of March 2001.

Betty Williams for Shanee Rucker
Shanee Rucker, Secretary
AECAS(MI/WI)

CERTIFIED MAIL RECEIPT NUMBER: 7099 3400 0000 9591 9782