

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Daikin Applied
(McQuay International)
13600 Industrial Park Blvd.
Minneapolis, MN 55441

ID No: CAL000159063

CONSENT ORDER

Docket No.

HWCA 20157184

Health and Safety Code
Section 25187 &
25214.8.17

Respondents.

The California Department of Toxic Substances Control ("Department")
Daikin Applied ("Respondent(s)") enter into this Consent Order and agree as follows:

1. Respondent was issued an Enforcement Order, Docket No HWCA 20157202 ("Enforcement Order") by the Department for violations of California Code of Regulations, title 22, section 66274.5(a) for the calendar years 2013 and 2014. This section contains the performance requirements for manufacturers that are required to run a program to collect waste mercury containing thermostats pursuant to California Health and Safety Code section 25214.8.11. Respondent operated the required program, but did not meet the performance requirements

2. A dispute exists regarding Respondents' liability as described in the Enforcement Order. This Consent Order addresses the Respondent's liability as alleged by the Department for 2013 and 2014.

3. The Department and Respondent (hereinafter collectively the "Settling Parties" and singularly "Party") wish to avoid the expense of litigation in connection with this dispute. This Consent Order represents a fair, reasonable and equitable settlement of the 2013 and 2014 alleged violations and furthers the public interest.

4. The Respondent agrees to comply with, and be bound by, the terms of this Consent Order and further agrees not to contest the basis or validity of this Consent Order or its terms in any proceeding by the Department to enforce this Consent Order. Except for purposes of this Consent Order and its future enforcement, Respondent does not admit to the facts as alleged herein.

5. Jurisdiction exists pursuant to Health and Safety Code section 25187 and 25214.8.17.

6. Respondent waives any right to a hearing in this matter.

7.1. Respondent agrees to pay to the Department within 30 days of the effective date of this order, and shall be liable for, the total sum of \$25,000 as a full and final settlement sum for the alleged violations referenced in this Consent Order.

7.2 Respondent shall pay the amount set forth in Paragraph 7.1 above by cashier's check made out to the California Department of Toxic Substances Control and identified with Docket No HWCA 20157184. Payment shall be mailed to:

Department of Toxic Substances Control
Accounting Office, MS 21A
P.O. Box 806
Sacramento, CA 95812-0806

A copy of the check shall be mailed to:

Department of Toxic Substances Control
Office of Legal Counsel, MS 23A
Attn: Robert Sullivan, Senior Staff Counsel
P.O. Box 806
Sacramento, CA 95812-0806

And

Department of Toxic Substances Control
Enforcement and emergency Response
Attn: Sangat Kals
8810 Cal Center
P.O. Box 806
Sacramento, CA 95812-0806

7.3 This Consent Order shall constitute full settlement by the Settling Parties for the 2013 and 2014 alleged violations and does not settle any matters not specifically described therein. The terms of this Consent Order extend only to Settling Parties, and do not extend to any other party.

7.4 Nothing in this Consent Order shall be construed to create any rights in, or grant any cause of action to, any person or entity not a party to this Consent Order. Except as specifically provided for herein, nothing in this Consent Order shall prejudice, waive, or impair any right, remedy, or defense that the Settling Parties may have in this or in any other or further legal proceeding. In addition, except as expressly provided for herein, nothing in this Consent Order is intended, nor shall be construed, to preclude the Department from exercising its authority under any law, statute or regulation. Furthermore, nothing in this Consent Order is intended, nor shall be construed, to preclude any other state agency, department, board or entity or any federal

entity from exercising its authority under any law, statute or regulation.

8. Liability. Nothing in this Consent Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Consent Order. Notwithstanding compliance with the terms of this Consent Order, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

9. No Waiver of Right to Enforce. The failure of the Department to enforce any provision of this Consent Order shall in no way be deemed a waiver of such provision, or in any way affect the validity of this Consent Order. The failure of the Department to enforce any such provision shall not preclude it from later enforcing the same or any other provision of this Consent Order.

10. Modification of Consent Order. This Consent Order may be modified only in writing and upon the written approval of the Settling Parties hereto.

11. Application of Consent Order. This Consent Order shall apply to and be binding upon the Settling Parties and as applicable their directors, officers, owners, principals, employees, contractors, agents, receivers, trustees and the successors or assigns of any of them.

12. Attorney's Fees and Costs. Except as provided herein, each Party to this Consent Order shall bear its own costs and attorneys' fees. This paragraph shall have no effect on the Department's or Respondents' rights to recover these costs and fees from any other person or entity.

13. Authority to Enter. Each signatory to this Consent Order certifies that he or she is fully authorized by the Party he or she represents to enter into this Consent Order, to execute it on behalf of the Party represented and legally to bind that Party to the terms of this Consent Order.

14. Effective Date: The effective date of this Consent Order is the date that DTSC signs the Consent Order.

15. Integration. This Consent Order constitutes the entire agreement between the Settling Parties and may not be amended, supplemented, or modified, except as provided in this Consent Order.

16. Notices. Any notice required or given pursuant to this Consent Order shall be provided by first class mail, postage prepaid, to the following addresses:

Department of Toxic Substances Control
Enforcement and emergency Response
Attn: Sangat Kals
8810 Cal Center
P.O. Box 806
Sacramento, CA 95812-0806

With a copy to:
Department of Toxic Substances Control Office of Legal Counsel
Attn: Robert Sullivan, Senior Staff Counsel
P.O. Box 806, MS 23A
Sacramento, CA 95812-0806

If to Respondent:

William Mateikis
Sr. V.P. Legal
Daikin Applied Americas Inc.
13600 Industrial Park Boulevard
Plymouth, MN 55441

IT IS SO AGREED.

Dated: 6/20/2016

originals signed by William Mateikis

William Mateikis, SR, V.P. Legal
Daikin Applied Americas Inc.

Dated: 6/23/2016

original signed by Sangat Kals

Sangat Kals
Enforcement & Emergency Response Division
Department of Toxic Substances Control