

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for John W. Kilbourn 7/30/15
Name of Case Attorney Date

in the ORC (RAA) at 918-1113
Office & Mail Code Phone number

Case Docket Number CAA-01-2015-0026

Site-specific Superfund (SF) Acct. Number _____

This is an original debt This is a modification

Name and address of Person and/or Company/Municipality making the payment:

Leslie Aho
Physical Plant Manager
Atlantic Union College, 339 Main St.
South Lancaster, MA 01561

Total Dollar Amount of Receivable \$ 45,800 Due Date: 8/29/15

SEP due? Yes No Date Due _____

Installment Method (if applicable)

INSTALLMENTS OF:

1st \$ _____ on _____
2nd \$ _____ on _____
3rd \$ _____ on _____
4th \$ _____ on _____
5th \$ _____ on _____

For RHC Tracking Purposes:

Copy of Check Received by RHC _____ Notice Sent to Finance _____

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

IFMS Accounts Receivable Control Number _____

If you have any questions call: _____
in the Financial Management Office

Phone Number _____

EPA DOCKET NO.: CAA-01-2015-0026
In Re: Atlantic Union College

CERTIFICATE OF SERVICE

I hereby certify that a Consent Agreement and Final Order have been sent to the following persons on the date and in the manner noted below:

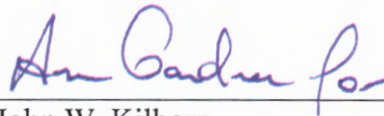
Original and one copy,
hand-delivered:

Ms. Wanda Santiago, Regional Hearing Clerk
U.S. EPA, Region I
5 Post Office Square, Suite 100
Boston, MA 02109-3812

Copy, by Certified Mail:

Leslie Aho, Physical Plant Manager
Atlantic Union College
338 Main Street
South Lancaster, MA 01561

Dated: July 30, 2015



John W. Kilborn
Senior Enforcement Counsel
U.S. Environmental Protection Agency,
Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3812
(617) 918-1893
Kilborn.john@epa.gov

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

RECEIVED

JUL 30 2015

EPA ORC WS
Office of Regional Hearing Clerk

In the Matter of:)
)
Atlantic Union College)
338 Main Street)
South Lancaster, Massachusetts 01561)
)
Respondent)
_____)

Docket No. CAA 01-2015-0026

CONSENT AGREEMENT AND FINAL ORDER

The Complainant, United States Environmental Protection Agency, Region I (“EPA”), alleges that Atlantic Union College, located at 338 Main Street, South Lancaster, Massachusetts (“Respondent”) violated certain provisions of the National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines, found at 40 C.F.R. Part 63, Subpart ZZZZ (“RICE NESHAP”).

EPA and Respondent agree to settlement of this matter through this Consent Agreement and Final Order (“CAFO”) without the filing of an administrative complaint, as authorized under 40 C.F.R. § 22.13(b).

EPA and Respondent agree that settlement of this matter is in the public interest, and that entry of this CAFO without further litigation is the most appropriate means of resolving this matter.

Therefore, before taking any testimony, upon the pleadings, without adjudication of any issue of fact or law, and upon consent and agreement of the parties, it is hereby ordered and adjudged as follows:

A. PRELIMINARY STATEMENT

1. The provisions of this CAFO shall apply to and be binding upon EPA and upon Respondent and its officers, directors, trustees, successors, and assigns. The “Effective Date” of this CAFO shall be defined as the date that this CAFO is filed with the Regional Hearing Clerk, as described in the Final Order attached to this Consent Agreement.

2. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in this CAFO. Respondent waives any defenses it might have as to jurisdiction and venue. Respondent consents to the terms of this CAFO.

3. Respondent neither admits nor denies the general or specific factual and legal allegations contained below in Section B. For purposes of this CAFO and any action necessary to enforce it, Respondent hereby waives its right to request a judicial or administrative hearing or otherwise to contest the allegations in this CAFO. Respondent waives any right to appeal this CAFO.

Statutory and Regulatory Authorities

4. EPA promulgated the RICE NESHAP pursuant to Section 112 of the Clean Air Act (“CAA” or the “Act”), 42 U.S.C. § 7412. Regulations promulgated under CAA Section 112 are enforceable by EPA in accordance with Section 113 of the Act, 42 U.S.C. § 7413.

5. Respondent’s alleged violations described herein render Respondent liable for penalties under Section 113(d) of the Act. Section 113(d) of the Act, 42 U.S.C. § 7413(d), authorizes EPA to issue an administrative penalty order.

6. EPA has provided notice to Respondent and the Massachusetts Department of Environmental Protection (“MassDEP”) of EPA’s findings of violations described in this CAFO, at least 30 days prior to the issuance of an administrative penalty order pursuant to Section 113(d) of the Act.

7. Under Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and the Civil Monetary Inflation Rule (see Pub. L. 104-134 and 40 C.F.R. Part 19), EPA may assess penalties of up to \$37,500 for each day of each violation of the Act occurring after January 12, 2009.

8. Section 113(d) of the Act limits EPA’s authority to issue administrative complaints to matters where the total penalty sought does not exceed \$200,000 and the first alleged date of violation occurred no more than twelve months prior to the initiation of the action, unless the EPA Administrator and the Attorney General for the U.S. Department of Justice (“DOJ”) jointly determine that a matter involving a larger penalty or longer period of violation is appropriate for administrative action. Pursuant to the Debt Collection Improvement Act and its implementing regulations, the above-described penalty cap has been raised to \$320,000.

9. Although the violations alleged in Section B below occurred or commenced more than twelve months ago, EPA and DOJ have jointly determined that this matter is appropriate for administrative action.

B. EPA FINDINGS

General Findings

10. Respondent is located at 338 Main Street, South Lancaster, Massachusetts. The Respondent's facility includes three diesel generators that provide electricity to Respondent's campus (the "Facility").

11. The three diesel generators, denominated D399, D398, and D353, are compression ignition, stationary, reciprocating internal combustion engines ("RICE") manufactured by Caterpillar, Inc. All three generators use Number 2 fuel oil and have capacities greater than 500 brake horsepower.

12. On September 11, 2013, the MassDEP conducted an inspection of the Facility.

13. On September 26, 2013, EPA conducted an inspection of the Facility.

14. On May 14, 2014, EPA issued an Administrative Order to Respondent. MassDEP was provided a copy of such Administrative Order

15. Respondent is an area source of hazardous air pollutants ("HAP").

16. As an area source of HAP emissions that operates RICE engines, Respondent is an affected source subject to the RICE NESHAP.

17. The compliance deadline for Respondent under the RICE NESHAP was May 3, 2013. See 40 CFR §63.6595(a).

Specific Findings

Alleged Failure to Provide an Initial Notification

18. According to 40 CFR §63.6645 and 40 CFR §63.9(b), Respondent was required to submit an initial notification to EPA that Respondent was subject to the RICE NESHAP by August 31, 2013.

19. On October 30, 2013 Respondent submitted its initial notification to EPA under the RICE NESHAP.

Alleged Failure to Comply with Emissions Limitations

20. Affected sources subject to the RICE NESHAP must comply with the emissions limitations described in 40 CFR §63.6603 by May 3, 2013.

21. Respondent conducted performance testing and demonstrated compliance with the emission limitations of the RICE NESHAP on August 5, 2014.

C. TERMS OF SETTLEMENT

22. Without admitting or denying the specific factual allegations contained in this CAFO, Respondent consents to the terms and issuance of this CAFO, and consents for the purposes of settlement to the payment of the civil penalty as set forth in this CAFO.

23. Civil Penalty: Taking into account the particular facts and circumstances of this matter, with specific reference to the statutory factors of Section 113(e) of the Act, and other factors, EPA has determined that it is fair and proper to assess a civil penalty for the violations alleged in this CAFO in the total amount of forty-five thousand, eight

hundred dollars (\$45,800). Respondent shall pay the civil penalty no later than thirty (30) days after the Effective Date.

24. Respondent shall make the penalty payment by submitting a bank, cashier's, or certified check, to the order of the "Treasurer, United States of America," in the amounts described in the preceding paragraph to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Respondent may submit penalty payments by via express mail to the following address:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101
Contact: Natalie Pearson
Telephone: 314-418-4087

Respondent shall note the case name and docket number of this action (CAA-01-2015-0026) on the check and in an accompanying cover letter, and shall simultaneously provide copies of the check and cover letter to:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region I
Suite 100, Mail Code ORA18-1
5 Post Office Square
Boston, MA 02109-3912

and

John W. Kilborn
Senior Enforcement Counsel
U.S. Environmental Protection Agency, Region I
Suite 100, Mail Code OES4-03
5 Post Office Square
Boston, MA 02109-3912

25. Pursuant to Section 113(d)(5) of the CAA, if Respondent fails to pay the penalty amount it will be subject to an action to compel payment, plus interest, enforcement expenses, and a nonpayment penalty. 42 U.S.C. § 7413(d)(5). Interest will be assessed on the penalty if it is not paid by the due date established herein. In that event, interest will accrue from the date the CAFO was signed by the EPA Regional Judicial Officer at the “underpayment rate” established pursuant to 26 U.S.C § 6621(a)(2). In the event that the penalty is not paid when due, an additional charge will be assessed to cover the United States’ enforcement expenses, including attorneys’ fees and collection costs. A quarterly nonpayment penalty will be assessed for each quarter during which the failure to pay the penalty persists. Such nonpayment penalty shall be 10 percent of the aggregate amount of Respondent’s outstanding penalties and nonpayment penalties hereunder accrued as of the beginning of such quarter.

26. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state, or local law, nor shall it be construed to be a ruling on, or a determination of, any issue related to any federal, state, or local permit.

D. GENERAL PROVISIONS

27. The civil penalty under Paragraph 23, above, any interest, and the nonpayment penalties and/or charges as described in Paragraph 25, above, shall represent penalties assessed by EPA and shall not be deductible for purposes of federal taxes, and shall not be deductible for purposes of state, or local taxes unless allowed by law.

28. Payment of the civil penalty, and any interest, non-payment penalties, and/or other charges, does not waive, suspend, or modify the responsibility of

Respondent to comply with the requirements of all of the federal laws and regulations administered by EPA and shall not be a defense to any actions subsequently commenced pursuant to said laws and regulations.

29. This CAFO constitutes a settlement by EPA of all claims against Respondent for civil penalties pursuant to Section 113 of the Act for the violations alleged in Section B of this CAFO. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to Federal laws and regulations administered by EPA for matters not addressed in this CAFO, and it is the responsibility of Respondent to comply with all applicable provisions of federal, state, or local law. EPA reserves all its other criminal and civil enforcement authorities, including the authority to seek injunctive relief and the authority to address imminent hazards.

30. Except as described in Paragraph 25, each party shall bear its own costs and fees in this proceeding, including attorney's fees, and specifically waives any right to recover such costs from the other party pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504, or other applicable law.

31. Each party certifies that at least one of their undersigned representatives is fully authorized to enter into the terms and conditions of this CAFO and to execute and legally bind such party to this document.

[The remainder of this page is intentionally left blank.]

Respondent to comply with the requirements of all of the federal laws and regulations administered by EPA and shall not be a defense to any actions subsequently commenced pursuant to said laws and regulations.


29. This CAFO constitutes a settlement by EPA of all claims against Respondent for civil penalties pursuant to Section 113 of the Act for the violations alleged in Section B of this CAFO. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to Federal laws and regulations administered by EPA for matters not addressed in this CAFO, and it is the responsibility of Respondent to comply with all applicable provisions of federal, state, or local law. EPA reserves all its other criminal and civil enforcement authorities, including the authority to seek injunctive relief and the authority to address imminent hazards.

30. Except as described in Paragraph 25, each party shall bear its own costs and fees in this proceeding, including attorney's fees, and specifically waives any right to recover such costs from the other party pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504, or other applicable law.

31. Each party certifies that at least one of their undersigned representatives is fully authorized to enter into the terms and conditions of this CAFO and to execute and legally bind such party to this document.

[The remainder of this page is intentionally left blank.]

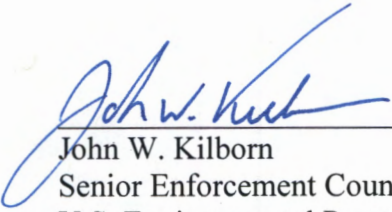
FOR UNITED STATES ENVIRONMENTAL PROTECTION AGENCY



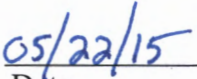
Susan Studlien, Director
Office of Environmental Stewardship
U.S. Environmental Protection Agency, Region I



Date



John W. Kilborn
Senior Enforcement Counsel
U.S. Environmental Protection Agency, Region I

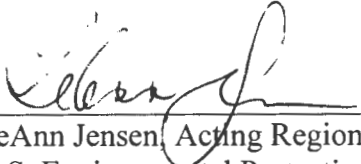


Date

FINAL ORDER

Pursuant to 40 C.F.R. § 22.18(b) of the United States Environmental Protection Agency's Consolidated Rules of Practice, the parties to this matter have forwarded an executed Consent Agreement to me for final approval. In accordance with 40 C.F.R. § 22.18(b) and Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d), the foregoing Consent Agreement resolving this matter is hereby incorporated by reference into this Final Order and is hereby ratified. Respondent, Atlantic Union College, is ordered to pay the civil penalty amount specified in the Consent Agreement (\$45,800) in the manner indicated. The terms of the Consent Agreement will become effective on the date it is filed with the Regional Hearing Clerk.

U.S. ENVIRONMENTAL PROTECTION AGENCY



LeAnn Jensen, Acting Regional Judicial Officer
U.S. Environmental Protection Agency, Region 1

7/28/15
Date

EPA DOCKET NO.: CAA-01-2015-0026
In Re: Atlantic Union College

CERTIFICATE OF SERVICE

I hereby certify that a Consent Agreement and Final Order have been sent to the following persons on the date and in the manner noted below:

Original and one copy,
hand-delivered:

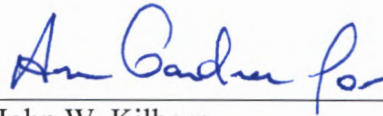
Ms. Wanda Santiago, Regional Hearing Clerk
U.S. EPA, Region I
5 Post Office Square, Suite 100
Boston, MA 02109-3812

Copy, by Certified Mail:

Leslie Aho, Physical Plant Manager
Atlantic Union College
338 Main Street
South Lancaster, MA 01561

Dated:

July 30, 2015



John W. Kilborn
Senior Enforcement Counsel
U.S. Environmental Protection Agency,
Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3812
(617) 918-1893
Kilborn.john@epa.gov