

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

FILED

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U.S. EPA REGION 5
HEARING CLERK

In the Matter of:) Docket No. CAA-05-2025-0006
)
Gold Medal Service) Proceeding to Assess a Civil Penalty
East Brunswick, New Jersey,) Under Section 113(d) of the Clean Air Act,
) 42 U.S.C. § 7413(d)
Respondent.)
_____)

Consent Agreement and Final Order

A. Preliminary Statement

1. This is an administrative penalty assessment proceeding commenced and concluded under Section 113(d) of the Clean Air Act (the CAA), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at 40 C.F.R. §§ 22.1(a)(2), 22.13(b) and 22.18(b)(2) and (3).

2. Complainant is the U.S. Environmental Protection Agency (EPA). The EPA Administrator has delegated the authority to settle civil administrative penalty proceedings under Section 113(d) of the CAA to the Division Director of the Region 5 Enforcement and Compliance Assurance Division.

3. Respondent is Gold Medal Service (GMS), a corporation doing business in New Jersey. Respondent is a "person," as defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

4. The EPA and Respondent agree that settling this action is in the public interest and consent to the entry of this Consent Agreement and Final Order (CAFO) without the adjudication of any issues of law or fact.

5. Respondent agrees to comply with the terms of this CAFO.

B. Jurisdiction

6. The alleged violations in this CAFO are pursuant to Section 113(a)(3)(A) of the CAA.

7. The EPA and the United States Department of Justice have jointly determined that this matter, although it involves alleged violations that occurred more than one year before the initiation of this proceeding, is appropriate for an administrative penalty assessment. 42 U.S.C. § 7413(d); 40 C.F.R. § 19.4.

8. The Regional Judicial Officer of Region 5 is authorized to ratify the consent agreement memorializing the settlement between the EPA and Respondent and to issue the attached Final Order. 40 C.F.R. §§ 22.4(b) and 22.18(b).

C. Statutory and Regulatory Background

9. In accordance with Section 608 of the CAA, 42 U.S.C. § 7671g, EPA promulgated regulations at 40 C.F.R. Part 82, Subpart F, applicable to recycling and emissions reductions of ozone-depleting substances. As specified at 40 C.F.R. § 82.150(a), the purpose of the regulations is to reduce emissions of class I and class II refrigerants and their non-exempt substitutes to the lowest achievable level during the service, maintenance, repair, and disposal of appliances.

10. Under 40 C.F.R. § 82.152, an appliance is any device which contains and uses a class I or class II substance or substitute as a refrigerant and which is used for household or commercial purposes, including any air conditioner, motor vehicle air conditioner (MVAC), refrigerator, chiller, or freezer. For a system with multiple circuits, each independent circuit is considered a separate appliance.

11. Under 40 C.F.R. § 82.152, Class I refers to an ozone-depleting substance that is listed in 40 C.F.R. Part 82, Subpart A, Appendix A.

12. Under 40 C.F.R. § 82.152, Class II refers to an ozone-depleting substance that is listed in 40 C.F.R. Part 82, Subpart A, Appendix B.

13. Under 40 C.F.R. § 82.152, Refrigerant means, for purposes of 40 C.F.R. Part 82, Subpart F, any substance, including blends and mixtures, consisting in part or whole of a class I or class II ozone-depleting substance or substitute that is used for heat transfer purposes and provides a cooling effect.

14. Under 40 C.F.R. § 82.152, Substitute means any chemical or product, whether existing or new, that is used as a refrigerant to replace a class I or II ozone-depleting substance. Examples include, but are not limited to hydrofluorocarbons, perfluorocarbons, hydrofluoroolefins, hydrofluoroethers, hydrocarbons, ammonia, carbon dioxide, and blends thereof. As used in 40 C.F.R. Part 82, Subpart F, the term “exempt substitutes” refers to certain substitutes when used in certain end-uses that are specified in § 82.154(a)(1) as exempt from the venting prohibition and the requirements of this subpart, and the term “non-exempt substitutes” refers to all other substitutes and end-uses not so specified in § 82.154(a)(1).

15. Under 40 C.F.R. § 82.152, Technician means any person who in the course of maintenance, service, or repair of an appliance (except MVACs) could be reasonably expected to violate the integrity of the refrigerant circuit and therefore release refrigerants into the environment. Technician also means any person who in the course of disposal of an appliance (except small appliances, MVACs, and MVAC-like appliances) could be reasonably expected to violate the integrity of the refrigerant circuit and therefore release refrigerants from the appliances into the environment. Activities reasonably expected to violate the integrity of the refrigerant circuit include but are not limited to: Attaching or detaching hoses and gauges to and from the appliance; adding or removing refrigerant; adding or removing components; and cutting the refrigerant line. Activities such as painting the appliance, rewiring an external electrical circuit, replacing insulation on a length of pipe, or tightening nuts and bolts are not reasonably expected to violate the integrity of the refrigerant circuit.

Activities conducted on appliances that have been properly evacuated pursuant to § 82.156 are not reasonably expected to release refrigerants unless the activity includes adding refrigerant to the appliance. Technicians could include but are not limited to installers, contractor employees, in-house service personnel, and owners and/or operators of appliances.

16. Under 40 C.F.R. § 82.152, Recover means to remove refrigerant in any condition from an appliance and to store it in an external container without necessarily testing or processing it in any way.

17. Under 40 C.F.R. § 82.152, Disposal means the process leading to and including:

(1) The discharge, deposit, dumping or placing of any discarded appliance into or on any land or water;

(2) The disassembly of any appliance for discharge, deposit, dumping or placing of its discarded component parts into or on any land or water;

(3) The vandalism of any appliance such that the refrigerant is released into the environment or would be released into the environment if it had not been recovered prior to the destructive activity;

(4) The disassembly of any appliance for reuse of its component parts; or

(5) The recycling of any appliance for scrap.

18. 40 C.F.R. § 82.156 (a)(3) states, Recordkeeping. As of January 1, 2018, technicians evacuating refrigerant from appliances with a full charge of more than 5 and less than 50 pounds of refrigerant for purposes of disposal of that appliance must keep records documenting the following for three years:

(i) The company name, location of the appliance, date of recovery, and type of refrigerant recovered for each appliance;

(ii) The total quantity of refrigerant, by type, recovered from all disposed appliances in each calendar month; and

(iii) The quantity of refrigerant, by type, transferred for reclamation and/or destruction, the person to whom it was transferred, and the date of transfer.

D. Stipulated Facts

19. GMS owns and operates a heating, air-conditioning, electrical, and plumbing service business at 11 Cotters Lane, East Brunswick, New Jersey.

20. GMS owns or is affiliated with the following business entities: Gold Medal Service, LLC; Gold Medal Plumbing, Inc.; Horizon Services Plumbing, Inc.; Horizon Intermediate, LLC; Water Works Plumbing and Heating; and Horizon Services, LLC.

21. GMS is subject to requirements at 40 C.F.R. Part 82, Subpart F because its technicians perform maintenance, service, repair, or disposal of refrigerant-containing appliances.

22. GMS is subject to the requirements of the CAA, incorporated into the United States Code as Title 42, Chapter 85, within the meaning of “this chapter” in Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1). Therefore, GMS is subject to the requirements of Section 114(a)(1).

23. On April 10, 2023, EPA issued to GMS a request for information under Section 114 of the Clean Air Act (“Information Request”).

24. On July 28, 2023, GMS responded to EPA’s Information Request.

25. In its Information Request, EPA requested GMS’s records required to be kept by 40 C.F.R. § 82.156 (a)(3). In response, GMS did not provide records of the company name, location of the appliance, date of recovery, and type of refrigerant recovered for each appliance; or the total quantity of refrigerant, by type, recovered from all disposed appliances in each calendar month.

26. On February 1, 2024, EPA issued to GMS a finding of violation alleging that it violated the repair requirements of 40 C.F.R. Part 82, Subpart F by failing to keep required records of appliance and refrigerant disposal.

27. On February 26, 2024, representatives of GMS and EPA discussed the February 1, 2024 finding of violation.

E. Allegations

28. Respondent failed to retain records of the company name, location of the appliance, date of recovery, and type of refrigerant.

29. By failing to retain records of the company name, location of the appliance, date of recovery, and type of refrigerant GMS violated the regulations for the Protection of Stratospheric Ozone, Recycling and Emissions Reduction, at 40 C.F.R. § 82.156(a)(3)(i).

30. Respondent failed to retain records of the total quantity of refrigerant, by type, recovered from all disposed appliances in each calendar month.

31. By failing to retain records of the total quantity of refrigerant, by type, recovered from all disposed appliances in each calendar month GMS violated the regulations for the Protection of Stratospheric Ozone, Recycling and Emissions Reduction at 40 C.F.R. § 82.156(a)(3)(ii).

F. Terms of Consent Agreement

32. For the purposes of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:

- a. admits to the jurisdictional allegations in this CAFO;
- b. admits to the stipulated facts stated in Section D of this CAFO and neither admits nor denies the allegations stated in Section E of this CAFO;
- c. consents to the assessment of a civil penalty as stated below;
- d. consents to any conditions specified in this CAFO;
- e. waives any right to contest the allegations set forth in Section E of this CAFO; and
- f. waives its right to appeal this CAFO.

33. For the purposes of this proceeding, Respondent:

- a. agrees this CAFO states a claim upon which relief may be granted against Respondent;
- b. acknowledges this proceeding constitutes an enforcement action for purposes of considering the compliance history of the Respondent(s) in any subsequent enforcement actions;
- c. waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CAFO, including any right of judicial review under Section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1);
- d. waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c);
- e. waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the final order accompanying the consent agreement; and
- f. waives any rights it may possess at law or in equity to challenge the authority of the EPA to bring a civil action in a United States District Court to compel compliance with the CAFO, and to seek an additional penalty for noncompliance, and agrees that federal law shall govern in any such civil action.

34. Based on analysis of the factors specified in Section 113(e) of the CAA, 42 U.S.C.

§ 7413(e), the facts of this case and GMS's cooperation and prompt return to compliance, Complainant has determined that an appropriate civil penalty to settle this action is \$101,295.

35. Respondent agrees to pay a civil penalty in the amount of \$101,295 ("Assessed Penalty") within thirty (30) days after the date the Final Order ratifying this Agreement is filed with the Regional Hearing Clerk ("Filing Date").

36. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website:

<https://www.epa.gov/financial/makepayment>. For additional instructions see:

<https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

37. When making a payment, Respondent shall:
- a. Identify every payment with Respondent's name and the docket number of this Agreement, CAA-05-2025-0006,
 - b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of such payment to the following person(s):

Air Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency, Region 5
R5airenforcement@epa.gov

Erik Olson
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
Olson.erik@epa.gov

Regional Hearing Clerk (E-19J)
U.S. Environmental Protection Agency, Region 5
r5hearingclerk@epa.gov

"Proof of payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent's name.

38. Interest, Charges, and Penalties on Late Payments. Pursuant to 42 U.S.C. § 7413(d)(5), 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay the full amount of the Assessed Penalty per this Agreement, the entire unpaid balance of the Assessed Penalty and all accrued interest shall become immediately owing, and the EPA is authorized to recover the following amounts.

- a. Interest. Interest begins to accrue from the Filing Date. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. Per 42 U.S.C. § 7413(d)(5), interest will be assessed pursuant to 26 U.S.C. § 6621(a)(2),

that is, the IRS standard underpayment rate, equal to the Federal short-term rate plus 3 percentage points.

- b. Handling Charges. The United States' enforcement expenses including, but not limited to, attorneys' fees and costs of handing collection.
- c. Late Payment Penalty. A ten percent (10%) quarterly non-payment penalty.

39. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Agreement, the EPA may take additional actions. Such actions the EPA may take include, but are not limited to, the following.

- a. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.
- b. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.
- c. Suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, per 40 C.F.R. § 13.17.
- d. Request that the Attorney General bring a civil action in the appropriate district court to recover the full remaining balance of the Assessed Penalty, in addition to interest and the amounts described above, per 42 U.S.C. § 7413(d)(5). In any such action, the validity, amount, and appropriateness of the Assessed Penalty shall not be subject to review.

40. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.

41. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Agreement shall not be deductible for purposes of federal taxes.

42. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service (“IRS”) annually, a completed IRS Form 1098-F (“Fines, Penalties, and Other Amounts”) with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor’s violation of any law or the investigation or inquiry into the payor’s potential violation of any law, including amounts paid for “restitution or remediation of property” or to come “into compliance with a law.” EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number (“TIN”), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires, and Respondent herein agrees, that:

- a. Respondent shall complete an IRS Form W-9 (“Request for Taxpayer Identification Number and Certification”), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
- b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent’s correct TIN or that Respondent has applied and is waiting for issuance of a TIN;
- c. Respondent shall email its completed Form W-9 to EPA’s Cincinnati Finance Center at wise.milton@epa.gov, within 30 days after the Final Order ratifying this Agreement is filed, and EPA recommends encrypting IRS Form W-9 email correspondence; and
- d. In the event that Respondent has certified in its completed IRS Form W-9 that it does not yet have a TIN but has applied for a TIN, Respondent shall provide EPA’s Cincinnati Finance Center with Respondent’s TIN, via email, within five (5) days of Respondent’s issuance and receipt of a TIN issued by the IRS.

43. By signing this CAFO, Respondent consents to the release of any information in this CAFO to the public and agrees this CAFO does not contain business information that is entitled to confidential treatment under 40 C.F.R. Part 2.

44. By signing this CAFO, the undersigned representative of the EPA and the undersigned representative of Respondent each certify that they are fully authorized to execute and enter into the terms and conditions of this CAFO and have the legal capacity to bind the party they represent to this CAFO.

45. By signing this consent agreement, respondent waives any rights or defenses that respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the final order accompanying the consent agreement.

46. By signing this CAFO, Respondent certifies the information it has supplied concerning this matter was at the time of submission true, accurate, and complete for each such submission, response, and statement. Respondent acknowledges that, under 18 U.S.C. § 1001 and/or 18 U.S.C. § 1519, there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information.

47. Each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding, except in the case of a civil action brought by the Attorney General of the United States to recover unpaid penalties as described above.

G. Effect of Consent Agreement and Attached Final Order

48. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: olson.erik@epa.gov (for Complainant), and jtodaro@HorizonServicesInc.com (for Respondent). Respondent understands that the CAFO will become publicly available upon filing.

49. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this CAFO resolves only Respondent's liability for federal civil penalties for the violations specifically alleged in this CAFO.

50. This CAFO constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to this matter with the exception of the administrative compliance order, docket number EPA-5-25-113(a)-COE-01, issued concurrently.

51. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of both parties and approval of the Regional Judicial Officer.

52. Any violation of this CAFO may result in a civil judicial action for an injunction or civil penalties of up to \$121,275 per day per violation, or both, as provided in Section 113(b) of the CAA, 42 U.S.C. § 7413(b), and 40 C.F.R. § 19.4, as well as criminal sanctions as provided in Section 113(c) of the CAA, 42 U.S.C. § 7413(c). The EPA may use any information submitted under this CAFO in an administrative, civil judicial, or criminal action.

53. Nothing in this CAFO relieves Respondent of the duty to comply with all applicable provisions of the CAA and other federal, state, or local laws or statutes, nor does it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor is it a ruling on, or determination of, any issue related to any federal, state, or local permit.

54. Nothing in this CAFO limits the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

The EPA reserves the right to revoke this CAFO and settlement penalty if and to the extent that the EPA finds, after signing this CAFO, that any information provided by Respondent was materially false or inaccurate at the time such information was provided to the EPA, and to assess and collect any civil penalties permitted by statute for any violation described herein. The EPA will give Respondent written notice of its intent to revoke this CAFO, which will not be effective until received by Respondent.

H. Effective Date

55. This CAFO will be effective after the Regional Judicial Officer executes the attached Final Order, on the date of filing with the Regional Hearing Clerk. Upon filing, the EPA will transmit a copy of the filed CAFO to Respondent.

United States Environmental Protection Agency, Complainant

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 5

**Consent Agreement and Final Order
In the Matter of: Gold Medal Service
Docket No. CAA-05-2025-0006**

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

Date

Ann L. Coyle
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 5