

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Thomas Olivier
Name of Case Attorney

5/19/14
Date

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

Case Docket Number CA7-01-2014-0025

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:

JAMES G. Gentry, MAJOR, USAF
Regional Counsel (AFLOA/JACE-ER)
1492 First St. Bldg 922 (Room 212)
Dobbins AFB, GA 30069

Total Dollar Amount of Receivable \$ 39,400.00

Due Date: 7/15/14

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



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I – New England
5 Post Office Square - Suite 100
Boston, Massachusetts 02109-3912

BY HAND

May 19, 2014

Wanda I. Santiago, Regional Hearing Clerk
EPA Region 1 – New England
5 Post Office Square, Suite 100 (ORA18-1)
Boston, MA 02109-3912

Re: In r e: 143rd Airlift Wing, Rhode Island Air National Guard, EPA Docket No. CAA-01-2014-0025; Approved Consent Agreement and Final Order

Dear Ms. Santiago:

Please find enclosed for filing the original and one copy of a Consent Agreement and Final Order (“CAFO”) resolving the above-referenced enforcement case. Also enclosed is the original and one copy of a certificate of service documenting that, on this date, a copy of the CAFO and this cover letter were mailed to the Respondent’s counsel.

Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Thomas T. Olivier".

Thomas T. Olivier, Senior Enforcement Counsel
Regulatory Legal Office
EPA Region 1

Enclosures

cc: James G. Gentry, Major, USAF

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I – NEW ENGLAND**

IN THE MATTER OF)
)
143rd Airlift Wing)
Rhode Island Air National Guard)
United States Air Force)
1 Minuteman Way) **CONSENT AGREEMENT**
North Kingstown, Rhode Island 02852) **AND FINAL ORDER**
)
Proceeding under Section) **Docket No: CAA-01-2014-0025**
113 of the Clean Air Act)
)
_____)

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Consent Agreement and Final Order has been sent to the following person on the date noted below:

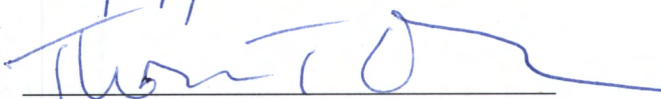
One Copy by First Class Mail to:

JAMES G. GENTRY, Major, USAF
Regional Counsel (AFLOA/JACE-ER)
1492 First Street, Bldg 922 (Room 212)
Dobbins ARB, GA 30069

Dated:

5/19/14

Signed:



Thomas T. Olivier, Senior Enforcement Counsel
Office of Environmental Stewardship
U.S. EPA, Region 1
5 Post Office Square, Suite 100
Mail Code OES04-3
Boston, MA 02109-3912

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I

RECEIVED

2014 MAY 19 A 7:52

IN THE MATTER OF:

143rd Airlift Wing
Rhode Island Air National Guard
United States Air Force
1 Minuteman Way
North Kingstown, Rhode Island,

Respondent.

FINAL ORDER

EPA ORC
OFFICE OF
REGIONAL HEARING CLERK

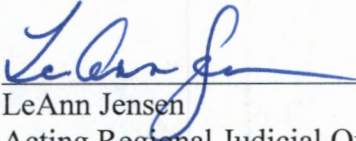
EPA Docket No.
CAA-01-2014-0025

Pursuant to 40 CFR §§ 22.13(b) and 22.18 of the United States Environmental Protection Agency's Consolidated Rules of Practice, the Parties to this matter have forwarded an executed Consent Agreement for final approval. In accordance with Section 113(d)(2)(B) of the Clean Air Act, 42 U.S.C. § 7413(d)(2)(B), Complainant states that it has compromised the maximum civil penalty of \$37,500 per day per violation authorized in this matter by applying the penalty factors set forth in Section 113(e)(1) of the CAA, 42 U.S.C. § 7413(e)(1), to the facts and circumstances of this case, including Respondent's agreement to perform the non-penalty obligations in paragraphs 27 through 29 and Attachment 1 of the Consent Agreement.

By entering into this settlement, Respondent consents to the payment of a civil penalty in the amount of thirty nine thousand, four hundred dollars (\$39,400), and agrees to implement the measures described in Section IV.B and Attachment 1 of the Consent Agreement.

The Consent Agreement resolving this matter is hereby approved and consolidated by reference into this Final Order. The Respondent is ordered to comply with the terms of this Consent Agreement, effective on the date it is filed with the Regional Hearing Clerk.

SO ORDERED THIS 14th DAY OF MAY 2014



LeAnn Jensen
Acting Regional Judicial Officer

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I – NEW ENGLAND**

IN THE MATTER OF)	
)	
143 rd Airlift Wing)	
Rhode Island Air National Guard)	
United States Air Force)	
1 Minuteman Way)	CONSENT AGREEMENT
North Kingstown, Rhode Island 02852)	AND FINAL ORDER
)	
Proceeding under Section)	Docket No: CAA-01-2014-0025
113 of the Clean Air Act)	
)	
_____)	

CONSENT AGREEMENT

The Complainant, United States Environmental Protection Agency, Region I (“EPA”), alleges that the 143rd Airlift Wing, Rhode Island Air National Guard, acting in its capacity under United States Code (“U.S.C.”) Title 10, as a reserve component of the United States Air Force (“143rd Airlift Wing” or “Respondent”), violated certain provisions of the Rhode Island state implementation plan (“SIP”). EPA may enforce SIP provisions under Section 113 of the Clean Air Act (“CAA” or the “Act”), 42 U.S.C. § 7413.

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:

I. PRELIMINARY STATEMENT

1. This CAFO is entered into by the Director, Office of Environmental Stewardship, EPA and Respondent pursuant to Section 113(d)(2)(B) of the Clean Air Act (“CAA”), 42 U.S.C. § 7413(d)(2)(B), and EPA’s “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits,” 40 C.F.R. Part 22, including, but not limited to, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).
2. The provisions of this CAFO shall apply to and be binding on EPA and on Respondent, including its officers, directors, successors, and assigns.
3. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in this CAFO. Respondent waives any defenses that it might have as to jurisdiction and venue. Respondent consents to the terms of this CAFO.
4. Respondent neither admits nor denies the specific factual and legal allegations below in Section II. For purposes of this CAFO, 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.

5. As provided by Section 113(d)(1)(B) of the Act, 42 U.S.C. § 7413(d)(1)(B), the Debt Collection Improvement Act, 31 U.S.C. § 3701, and EPA's Civil Monetary Penalty Inflation Adjustment Rules, promulgated thereunder at 40 C.F.R. Part 19, EPA may assess a civil administrative penalty of up to \$37,500 per day for each violation of the Clean Air Act occurring after January 12, 2009.

II. EPA FINDINGS

6. Section 110(a) of the Clean Air Act ("CAA" or the "Act"), 42 U.S.C. § 7410(a), requires each state to prepare a SIP incorporating regulations designed to attain and maintain healthy air quality. A state must submit its SIP and any SIP revisions to EPA for approval. Once EPA has approved a SIP, it may enforce the SIP's requirements and prohibitions pursuant to Sections 113(a) and (b) of the CAA, 42 U.S.C. §§ 7413(a) and (b).

7. The State of Rhode Island has adopted a SIP within the meaning of Section 113(a)(1) of the Act, which has been approved by EPA under Section 110 of the Act, 42 U.S.C. § 7410. The Rhode Island SIP includes various federally approved portions of the Rhode Island Air Pollution Control Regulations ("RI APC Regulations").

8. On April 9, 2013, the Complainant issued a Notice of Violation ("NOV") to Respondent for violations of the Rhode Island SIP. The NOV was issued under the authority of Section 113(a)(1) of the CAA, 42 U.S.C. § 7413(a)(1), which requires that whenever EPA finds that any person has violated or is in violation of any requirement or prohibition of an applicable SIP, EPA shall notify the person of such finding.

A. EPA Finding of Violation of Rhode Island Air Pollution Control Regulation 9

9. The 143rd Airlift Wing, Rhode Island Air National Guard, is located at 1 Minuteman Way in North Kingstown, Rhode Island (the "Facility").
10. The Facility conducts general aircraft flying and maintenance operations, among other activities.
11. As part of these operations, the 143rd Airlift Wing maintains a paint spray booth and paint spray guns to apply coatings to miscellaneous metal (primarily aluminum) aircraft parts such as wheels, steering mechanisms, and nose gear. These coatings contain volatile organic compounds ("VOCs").
12. The 143rd Airlift Wing installed the paint spray booth and purchased four high volume low pressure ("HVLP") spray guns for use in the paint spray booth in 2001.
13. Under the SIP at RI APC Regulation 9.2.1, no person may construct, install or modify, or cause the construction, installation, or modification of any stationary source subject to RI APC Regulation 9 without obtaining an air pollution control permit.
14. Under the SIP at RI APC Regulation 9.3.1(g)(1), a minor source permit is required for the construction, installation, or modification of any stationary source or process having the potential to emit one hundred pounds or more per day or ten pounds or more per hour of any air contaminant into the atmosphere through surface coating or spray painting.
15. Based on the Facility's use of paint spray guns and other means to apply VOC-containing coatings to aircraft parts, the Facility's potential to emit exceeds 10 pounds per hour from its surface coating operations. The Facility's potential to emit also exceeds 100 pounds per day of VOCs from its surface coating operations. Accordingly, the Facility

requires an air pollution control permit.

16. After EPA inspected the facility in 2012, the 143rd Airlift Wing applied for a permit for the spray paint booth in January 2013. As of the Effective Date of this CAFO the Rhode Island Department of Environmental Management has not acted on the application.

17. Accordingly, the 143rd Airlift Wing has constructed, installed, or modified the Facility or processes at the Facility without having obtained an air pollution control permit, in violation of RI APC Regulation 9 of the SIP and the Clean Air Act.

18. The 143rd Airlift Wing has failed to employ the required air pollution control practices at the Facility such as “best available control technology” (“BACT”), in violation of RI APC Regulation 9. See RI APC Regulations 9.3.3.

B. EPA Finding of Violation of Rhode Island Air Pollution Control Regulation 19

19. Under the SIP at RI APC Regulation 19.2.1, surface coating facilities for which actual uncontrolled emissions from miscellaneous metal parts and products (“MMP”) coating (see RI APC Regulation 19.1.1(d)) have been greater than 15 pounds of VOCs in any one day after December 31, 1989 must comply with RI APC Regulation 19 of the SIP.

20. Under the SIP at RI APC Regulation 19.2.3, an owner or operator of a surface coating facility whose emissions are below the applicability threshold of RI APC Regulation 19.2.1 must comply with the applicable certification, recordkeeping, and reporting requirements of RI APC Regulation 19.5.1.

21. Under the SIP at RI APC Regulation 19.5.1, any owner or operator of a surface coating line or operation that is exempt from the emission limitations in RI APC

Regulation 19.3 because the facility's VOC emissions from all operations in any one of the surface coating categories listed in RI APC Regulation 19.1.1 (a)-(i) have not exceeded 15 pounds per day, must comply with applicable certification, recordkeeping, and reporting requirements.

22. As the owner or operator of a surface coating line whose VOC emissions have not exceeded 15 pounds per day, the 143rd Airlift Wing has violated RI APC Regulation 19.5.1 of the SIP by failing to perform required certification, recordkeeping, and reporting duties.

III. DEFINITIONS

23. "Effective Date" means the date on which the Consent Agreement and Final Order ("CAFO") is filed with the Regional Hearing Clerk.

IV. TERMS OF SETTLEMENT

A. Penalty

24. In light of the statutory factors of Section 113(e) of the Act, EPA has determined that it is fair and proper to assess a civil penalty for the violations described in this CAFO in the amount of \$39,400. Respondent shall pay the penalty of \$39,400 within sixty (60) days of the Effective Date of this CAFO.

25. Respondent shall make its penalty payment by a certified check or cashier's check, or electronic transfer, and payable to "United States Treasury," in accordance with Paragraph 24 and the following instructions:

- a. All payments made by check and sent by U.S. Postal Service regular mail shall be addressed to:

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

- b. All payments made by check and sent by UPS, FedEx, or overnight mail
delivery service shall be addressed to:

U.S. Bank
Government Lockbox 979077
U.S. EPA, Fines & Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

- c. All payments made by electronic funds transfer (“EFT”) shall be
directed to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
SWIFT Address = FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read “D 68010727 Environmental
Protection Agency”

- d. All electronic payments made through the Automated Clearinghouse
 (“ACH”), also known as Remittance Express (“REX”), shall be directed
to:

US Treasury REX / Cashlink ACH Receiver
ABA = 051036706
Account No.: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – Checking

Physical location of U.S. Treasury facility:

5700 Rivertech Court
Riverdale, MD 20737

e. Additional payment guidance is available at:

<http://www2.epa.gov/financial/makepayment>.

f. All payments by Respondent shall include Respondent's full name and address and the EPA Docket Number of this CAFO.

g. At the time of payment, Respondent shall send a notice of such payment, including a copy of any check, EFT authorization, or ACH authorization, as appropriate, to:

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

and

Thomas T. Olivier
Senior Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100 (OES04-3)
Boston, MA 02109-3912

26. Failure to obtain adequate funds or appropriations from Congress does not release Respondent from its obligation to comply with the CAA, the applicable regulations thereunder, or with this CAFO. Nothing in this CAFO shall be interpreted to require obligation or payment of funds in violation of the Antideficiency Act, 31 U.S.C. § 1341.

B. Compliance Measures

27. Respondent shall implement the measures described in Attachment 1, incorporated herein by reference, which are intended to promote Respondent's compliance with applicable provisions of the Rhode Island SIP. Respondent shall continue to implement the measures described in Attachment 1 until the issuance of a final air pollution control permit that imposes conditions no less stringent than those contained in Attachment 1.

28. Within 60 days of the Effective Date of this CAFO, Respondent shall apply to the Rhode Island Department of Environmental Management for an air pollution control permit, or amended permit, that incorporates conditions no less stringent than those contained in Attachment 1.

29. Within 30 days of the issuance of a final air pollution control permit from the Rhode Island Department of Environmental Management, Respondent shall notify Mr. Tom McCusker in accordance with Paragraph 31.

GENERAL PROVISIONS

30. Pursuant to Section 113(d)(5) of the CAA, if Respondent fails to pay any 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 EPA's 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.

31. Notices. Notices required under this CAFO shall be submitted by electronic mail and mailed by postal or courier service, no later than the date specified in this CAFO, to:

Tom McCusker, Environmental Engineer
U.S. Environmental Protection Agency, Region 1
5 Post Office Square – Suite 100 (Mail Code OES04-3)
Boston, Massachusetts 02109-3912
Email: McCusker.Tom@EPA.gov

In all notices submitted to EPA pursuant to this CAFO, Respondent shall, by one of its officers, sign and certify under penalty of law that the information contained in such notice is true, accurate, and not misleading by signing the following statement:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, the information is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

32. 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 II 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 of its other criminal and civil enforcement authorities, including the authority to seek injunctive relief and the authority to address imminent hazards.

33. Each party shall bear its own costs and fees in this proceeding, including attorneys' 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.

V. AUTHORIZATION

34. The undersigned representative of the Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Agreement and to execute and legally bind Respondent to it.

For Respondent:



ARTHUR J. FLORU, Col, RIANG
Commander, 143rd Airlift Wing

24-Apr-14

Date

For Complainant:

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

05/08/14
Date

VII. FINAL ORDER

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. The Respondent is ordered to comply with the terms of the above Consent Agreement, 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 I

Date

143rd Airlift Wing, Rhode Island Air National Guard
Consent Agreement and Final Order, Docket No: CAA-01-2014-0025
Attachment 1

The 143rd Airlift Wing, Rhode Island Air National Guard shall implement the following measures, in accordance with the requirements of the foregoing CAFO:

1. The 143rd Airlift Wing shall comply with the emission standards of 40 CFR Part 63, Subpart GG and with the emission standards of RI APC Regulation #19 for the surface coating of miscellaneous metal parts and products. Where the emission standards conflict the more stringent emission standard will apply. However, Air National Guard may claim the primer, topcoat, and milling maskant "low use exemptions" described in 40 CFR Section 63.741(g).
2. The 143rd Airlift Wing shall comply with the housekeeping measures of 40 CFR Part 63, Subpart GG pertaining to cleaning operations as described in Section 63.744.
3. The 143rd Airlift Wing shall comply with an overall VOC emission cap of 1,666 pounds per calendar month (approximately 9.9 tons per year), and an overall HAP cap of 1,500 pounds per calendar month (approximately 9.0 tons per year).
4. The 143rd Airlift Wing shall use only spray guns with high transfer efficiency (such as high volume low pressure and/or reduced pressure guns).
5. The 143rd Airlift Wing shall implement a record-keeping system that will record the information necessary to demonstrate compliance with 40 CFR Part 63, Subpart GG, and to document compliance with the VOC and HAP emission caps described in Attachment 1, item 3 above.
6. The 143rd Airlift Wing shall comply with the record-keeping and certification requirements of Rhode Island Air Pollution Control Regulation 19.

xxxx-END-xxxx

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I – NEW ENGLAND**

IN THE MATTER OF)

143rd Airlift Wing)

Rhode Island Air National Guard)

United States Air Force)

1 Minuteman Way)

North Kingstown, Rhode Island 02852)

Proceeding under Section)

113 of the Clean Air Act)

**CONSENT AGREEMENT
AND FINAL ORDER**

Docket No: CAA-01-2014-0025

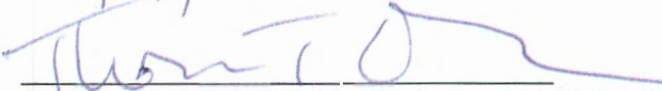
CERTIFICATE OF SERVICE

I hereby certify that the foregoing Consent Agreement and Final Order has been sent to the following person on the date noted below:

One Copy by First Class Mail to:

JAMES G. GENTRY, Major, USAF
Regional Counsel (AFLOA/JACE-ER)
1492 First Street, Bldg 922 (Room 212)
Dobbins ARB, GA 30069

Dated: 5/19/14

Signed: 
Thomas T. Olivier, Senior Enforcement Counsel
Office of Environmental Stewardship
U.S. EPA, Region 1
5 Post Office Square, Suite 100
Mail Code OES04-3
Boston, MA 02109-3912