

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for

William D. Chin
Name of Case Attorney

9/30/14
Date

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

Case Docket Number CAA-01-2014-0063

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:

AmeriPride Services, Inc.
10801 Wayzata Boulevard
Minnetonka, MN 55305

Total Dollar Amount of Receivable \$ 37,500 Due Date: 10/30/14

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 1
5 POST OFFICE SQUARE, SUITE 100
BOSTON, MA 02109-3912

September 30, 2014

Via Hand Delivery

Wanda I. Santiago
Regional Hearing Clerk
U.S. EPA, Region 1
5 Post Office Square - Suite 100
Mail Code: ORA18-1
Boston, MA 02109-3912

RECEIVED

SEP 30 2014

EPA ORC *WS*
Office of Regional Hearing Clerk

RE: In the Matter of: AmeriPride Services, Inc.
Docket No. CAA-01-2014-0063

Dear Ms. Santiago:

I enclose for filing in the above-referenced matter the original and one copy of the Consent Agreement and Final Order and a Certificate of Service.

Thank you for your assistance.

Sincerely,

A handwritten signature in blue ink that reads "William D. Chin".

William D. Chin
Enforcement Counsel

Enclosures

cc: Harold M. Blinderman, Esq.
Rojean E. Rada, Esq.

In the Matter of: AmeriPride Services, Inc.
Docket No. CAA-01-2014-0063

CERTIFICATE OF SERVICE

I hereby certify that I caused the foregoing Consent Agreement and Final Order to be sent to the following person(s), in the manner stated, on the date below:

Original and one copy,
By Hand Delivery:

Wanda I. Santiago
Regional Hearing Clerk
U.S. EPA, Region 1
5 Post Office Square - Suite 100
Mail Code: ORA18-1
Boston, MA 02109-3912

One copy, By Certified Mail,
Return Receipt Requested:

Harold M. Blinderman, Esq.
Day Pitney LLP
242 Trumbull Street
Hartford, CT 06103

One Original, By Certified Mail,
Return Receipt Requested:

Rojean Rada, Esq.
General Counsel
AmeriPride Services, Inc.
10801 Wayzata Boulevard
Minnetonka, MN 55305

Dated: _____

9/30/14



William D. Chin
Enforcement Counsel
U.S. EPA, Region 1
5 Post Office Square
Suite 100 (OES04-4)
Boston, MA 02109-3912

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1**

In the Matter of:)	
)	
AmeriPride Services, Inc.)	Docket No.
10801 Wayzata Boulevard)	CAA-01-2014-0063
Minnetonka, MN 55305)	
)	CONSENT AGREEMENT
Respondent.)	AND FINAL ORDER
)	
Proceeding under Section 113(d))	
of the Clean Air Act, 42 U.S.C. § 7413(d))	

CONSENT AGREEMENT

Introduction

1. The United States Environmental Protection Agency (“EPA”), Region 1 (“EPA Region 1” or “Complainant”) alleges that AmeriPride Services, Inc. (AmeriPride” or “Respondent”) violated the Clean Air Act (“CAA” or “the Act”), 42 U.S.C. §§ 7401-7671q, and regulations implementing the CAA, at an industrial laundry facility owned and operated by Respondent located at 280 Greenwood Street in Worcester, Massachusetts (the “Facility”).

2. Complainant and Respondent agree that settlement of this matter is in the public interest, and that entry of this Consent Agreement and Final Order (“CAFO”) without further litigation is the most appropriate means of resolving this matter. Pursuant to 40 C.F.R. § 22.13(b) of 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; Final Rule,” 40 C.F.R. Part 22, Complainant and Respondent agree to simultaneously commence and settle this action by the issuance of this CAFO.

RECEIVED

SEP 30 2014

EPA ORC *WJS*
Office of Regional Hearing Clerk

3. Therefore, before any hearing, without adjudication of any issue of fact or law, upon the record, and upon consent and agreement of Complainant and Respondent, it is hereby ordered and adjudged as follows:

EPA's Recitation of Statutory and Regulatory Authority

4. Section 110(a) of the CAA, 42 U.S.C. § 7410(a), requires each state to prepare a state implementation plan ("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, the federal government 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).

5. The Commonwealth of Massachusetts has adopted a SIP within the meaning of Section 113(a) of the Act. The Massachusetts SIP ("MA SIP") has been approved by EPA under Section 110 of the Act, 42 U.S.C. § 7410. The MA SIP includes various federally-approved portions of the Commonwealth's Air Pollution Control Regulations, 310 CMR 7.00 *et seq.*, including requirements for new source review ("NSR") in nonattainment areas as required by Sections 172 and 173 of the CAA, 42 U.S.C. §§ 7402, 7403. These requirements are enforceable by EPA under Section 113 of the CAA.

6. EPA has designated ozone as an ambient air pollutant, and has developed a national ambient air quality standard ("NAAQS") for ozone. *See* 40 C.F.R. § 50.9. Ozone forms when volatile organic compounds ("VOCs") react with oxides of nitrogen in the presence of sunlight. Therefore, in order to control ozone formation, EPA and the states have generally sought to control VOC emissions.

7. To address nonattainment with the ozone NAAQS, the MA SIP contains various nonattainment NSR provisions as required by Sections 172 and 173 of the CAA.

8. According to the MA SIP at 310 CMR 7.02, no person shall construct, substantially reconstruct, or alter a facility that may cause or contribute to a condition of air pollution unless a written plan approval has been submitted to and approved by the Massachusetts Department of Environmental Protection (“MassDEP”). Such a facility must apply best available control technology, among other requirements.

9. According to the MA SIP, at 310 CMR 7.00, Appendix A (“Appendix A”) § 3, any major stationary source or major modification located in an ozone nonattainment area must comply with the requirements of Appendix A prior to receiving a plan approval.

10. The MA SIP, at Appendix A § 2, defines the term “major stationary source” to include any stationary source which emits, or has the federal potential emissions greater than or equal to, 50 tons per year of VOCs. Appendix A § 2 defines the term “stationary source” to include “any building, structure, facility, or installation which emits or which may emit any air pollutant subject to regulation under the Act.”

11. The MA SIP, at Appendix A § 2, defines the term “major modification” to include “any physical change in or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant, for which the existing source is major, subject to regulation under the Act.” A significant net emissions increase of VOCs under 310 CMR 7.00 Appendix A is a rate that would equal or exceed 25 tons per year.

12. According to the MA SIP, at Appendix A § 4, a major modification must meet the lowest achievable emission rate (“LAER”) for each proposed emissions unit at which a net emissions increase in the pollutant would occur as a result of the physical change or change in the method of operation in the unit being proposed.

13. According to the MA SIP, at Appendix A § 6, the increase in emissions of any applicable nonattainment air pollutant allowed from the proposed changes that are part of a major modification must be offset by a reduction in the actual emissions of the air pollutant from the same or other sources.

14. MassDEP's Title V operating permit program, at 310 CMR 7.00, Appendix C, applies to any source that emits or has the potential to emit 50 tons per year or more of VOCs.

15. Section 503(c) of Subchapter V of the Act and EPA regulations at 40 CFR § 70.5 require a major source to apply for a Title V operating permit within 12 months of becoming subject to a state's Title V operating permit program.

16. Under Section 502(a) of the Act and EPA regulations at 40 CFR § 70.7(b), no person shall operate a major source after the date it was required to submit an application for a Title V operating permit, except in compliance with a permit issued under the state's Title V operating permit program.

17. Forty C.F.R. § 70.2 defines "major source" to include major stationary sources located in designated ozone non-attainment areas.

18. Sections 113(a) and (d) of the CAA, 42 U.S.C. §§ 7413(a) and (d), as amended by EPA's Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19, promulgated in accordance with the Debt Collection Improvement Act of 1996 ("DCIA"), 31 U.S.C. §§ 3701 *et seq.*, provide for the assessment of civil penalties in amounts up to \$37,500 per day per violation.

19. Section 113(d) of the CAA limits EPA's authority to issue administrative penalty orders to matters where the total penalty sought does not exceed \$200,000 and the first date of violation occurred no more than 12 months prior to the initiation of the action, unless the EPA and the U.S. Department of Justice ("DOJ") jointly determine that a matter involving a larger

penalty amount or longer period of violation is appropriate for an administrative penalty action. Pursuant to the DCIA and its implementing regulations, the above-described penalty cap has been raised to \$320,000. Although this CAFO alleges violations that commenced more than 12 months ago, EPA and DOJ have jointly determined that this matter is appropriate for an administrative penalty action.

20. Complainant has provided notice to Respondent and to MassDEP of EPA's findings of alleged 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 CAA.

EPA's Findings

Complainant alleges the following findings in Paragraphs 21 through 38, which Respondent neither admits nor denies:

21. Respondent is a corporation incorporated under the laws of the State of Delaware.

22. Respondent owns and operates an industrial laundry facility located at 280 Greenwood Street in Worcester, Massachusetts (the "Facility").

23. The Facility formerly processed soiled textiles such as shop towels and print towels which may have contained substances such as solvents and oils that emit VOCs.

24. On June 15, 2011, Complainant conducted a CAA compliance inspection of the Facility ("Inspection").

25. On December 16, 2011, Complainant issued a CAA Reporting Requirement to Respondent ("RR").

26. On February 16, 2012, Respondent submitted its written response to the RR ("Response to RR").

27. On February 20, 2013, Complainant issued a Notice of Violation (“NOV”) to Respondent alleging that Respondent had failed to obtain NSR permits prior to installing and operating its washers and dryers at the Facility and had failed to obtain a Title V permit for the Facility.

28. Respondent ceased laundering print and shop towels at the Facility as of January 2013.

29. Based on the Inspection, Respondent’s Response to the RR, and other information provided by Respondent and/or other sources after the Inspection, Complainant identified the following alleged violations:

Alleged Violations of NSR requirements

30. From at least 1989 until January 2013, Complainant alleges that the Facility was a major stationary source with the potential to emit more than 50 tons per year of VOCs.

31. By installing and operating new washers and dryers capable of laundering shop and print towels at the Facility from at least 1989 until January 2013, Respondent allegedly constructed and operated major modifications, each of which allegedly resulted in significant net emissions increases of at least 25 tons per year of VOCs. Accordingly, Complainant alleges that Respondent was required to apply for and obtain plan approvals that included LAER and VOC offsets requirements for those major modifications under Appendix A of the MA SIP, and to operate the Facility in accordance with those plan approvals.

32. Respondent did not apply for plan approvals for new washers and dryers at the Facility from at least 1989 until January 2013.

33. Accordingly, Complainant alleges that Respondent’s failures to apply for plan approvals for new washers and dryers and to operate the Facility in accordance with the

requirements of plan approvals from at least 1989 until January 2013, constitute violations of 310 CMR 7.02, Appendix A and Sections 172, 173 and 184 of the CAA

Alleged Violations of Title V permit program requirements

34. Complainant alleges that the Facility was a “major source” of VOCs as defined by 40 C.F.R. § 70.2, from at least 1989 until January 2013.

35. Pursuant to Section 503(c) of the Act and 40 CFR § 70.5, Complainant alleges that Respondent was required to apply for a Title V permit for the Facility within 12 months of becoming subject to Title V permit requirements. The Commonwealth of Massachusetts’s Title V permit requirements became effective on May 15, 1996. Complainant alleges that Respondent became subject to the Commonwealth’s Title V permit requirements on that date and thus was required to apply for a Title V permit for the Facility by May 15, 1997.

36. Pursuant to Section 502(a) of the CAA and 40 CFR § 70.7(b), Complainant alleges that Respondent was required to operate the Facility only in compliance with the terms and conditions of a Title V permit from at least May 1997 until January 2013.

37. Complainant alleges that Respondent did not apply for a Title V permit and did not operate the Facility in compliance with a Title V permit from at least May 1997 until January 2013.

38. Accordingly, Complainant alleges that Respondent’s failure to apply for a Title V permit and to operate the Facility in compliance with a Title V permit from at least May 1997 until January 2013 constitutes violations of 310 CMR 7.00, Appendix C, and Sections 502(a) and 503(c) of the Act, and 40 CFR §§ 70.5 and 70.7(b).

Terms of Settlement

39. The provisions of this CAFO shall apply to and be binding on Respondent, its officers and directors (in their corporate capacities only), successors and assigns.

40. Respondent agrees that EPA has jurisdiction over the subject matter alleged in this CAFO. For purposes of this CAFO, including any further action to enforce the terms of this CAFO, Respondent waives any defenses it might have as to jurisdiction and venue.

41. Without admitting or denying the factual allegations or legal conclusions of violation 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.

42. Respondent acknowledges that it has been informed of its right to request a hearing in this proceeding, and hereby waives its right to a judicial or administrative hearing or appeal on any issue of law or fact set forth in this CAFO.

43. Respondent hereby waives its right to appeal the Final Order accompanying this Consent Agreement.

44. Taking into account the particular facts and circumstances of this matter, with specific reference to the penalty factors set forth in Section 113(e)(1) of the CAA, 42 U.S.C. § 7413(e)(1), Complainant has determined that it is fair and proper that Respondent pay a civil penalty in the amount of \$37,500 in settlement of this matter.

45. Respondent shall pay the civil penalty set forth in this CAFO by no later than thirty (30) calendar days after the effective date of this CAFO.

46. This CAFO shall be effective on the date it is filed with the Regional Hearing Clerk.

47. Respondent shall make the civil penalty payment by submitting a bank, cashier's or certified check, payable to the order of the "Treasurer, United States of America," to:

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

Respondent shall note the name ("In the Matter of: AmeriPride Services, Inc.") and docket number ("CAA-01-2014-0063") of this matter on the payment check and in an accompanying cover letter, and shall provide copies of the check and the cover letter to:

Wanda I. Santiago
Regional Hearing Clerk
U.S. EPA, Region 1
5 Post Office Square - Suite 100
Mail Code: ORA18-1
Boston, MA 02109-3912

and

William D. Chin
Enforcement Counsel
U.S. EPA, Region 1
5 Post Office Square - Suite 100
Mail Code: OES04-4
Boston, MA 02109-3912

48. Failure by Respondent to pay in full the civil penalty amount set forth in this CAFO shall subject Respondent to a civil action to collect the assessed penalty, plus interest at currently prevailing rates from the date of issuance of the Final Order. The rate of interest assessed shall be at the rate established in accordance with 26 U.S.C. § 6621(a)(2). In any such collection action, the validity, amount and appropriateness of the penalty and of this CAFO shall not be subject to review. Pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), any person who fails to pay on a timely basis the amount of an assessed penalty plus any agreed upon

interest shall be required to pay, in addition to such penalty and interest, the United States' enforcement expenses, including attorney's fees, costs for collection proceedings, and an additional quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to ten percent of the aggregate amount of such person's penalties and nonpayment penalties which are unpaid at the beginning of each quarter.

General Provisions

49. The civil penalty set forth in this CAFO, and any interest, non-payment penalties, and/or other charges assessed in this matter, shall represent penalties assessed by EPA and shall not be deductible for purposes of federal taxes.

50. Full payment of the civil penalty set forth in this CAFO 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.

51. Payment of the civil penalty set forth in this CAFO resolves Respondent's liability to EPA for all claims for Federal civil penalties under Section 113 of the CAA for the violations and facts alleged in Paragraphs 21 through 38 of this CAFO and in the NOV issued to Respondent by Complainant on February 20, 2013.


52. Nothing in this CAFO shall be construed to limit the authority of EPA or the United States to undertake any action against Respondent for criminal activity, or to respond to conditions which may present an imminent and substantial endangerment to the public health, welfare or the environment.

53. Except as described in Paragraph 48, each party shall bear its own costs and fees in this proceeding, and specifically waive any right to cover such costs from the other party pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504, or other applicable laws.

54. Each undersigned representative of a party to this CAFO certifies that she or he is fully authorized to enter into the terms and conditions of this CAFO and to execute and legally bind such party to it.

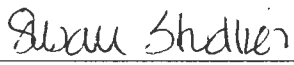
THE UNDERSIGNED PARTIES enter into this CAFO for: In the Matter of: AmeriPride Services, Inc., Docket No. CAA-01-2014-0063.

For AmeriPride Services, Inc.:


Name: Bill Swans
Title: President & CEO
Company:

9/24/14
Date

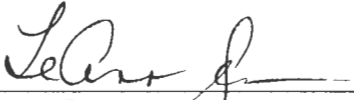
For U.S. EPA, Region 1:


Susan Studlien
Director
Office of Environmental Stewardship
U.S. EPA, Region 1

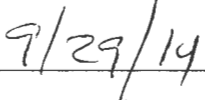
09/29/14
Date

FINAL ORDER

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. 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.



LeAnn Jensen
Acting Regional Judicial Officer
U.S. EPA, Region 1



Date