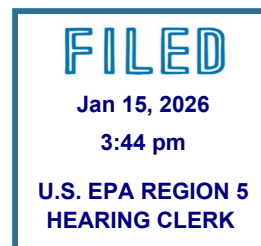


UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5



In the Matter of:) Docket No. CAA-05-2026-0016
)
Primary Products Ingredients Americas LLC) Proceeding to Assess a Civil Penalty
Lafayette, Indiana,) Under Section 113(d) of the Clean Air Act,
) 42 U.S.C. § 7413(d)
Respondent.)
_____)

Consent Agreement and Final Order

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 Primary Products Ingredients Americas LLC (Primient), a limited liability company doing business in Indiana. 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.

Jurisdiction

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

7. On May 13, 2024, the EPA issued to Respondent a Finding of Violation (FOV) and provided a copy of the FOV to Indiana Department of Environmental Management (IDEM), providing notice to Respondent and that the EPA found Respondent committed the alleged violations described in Section E of this CAFO and providing Respondent an opportunity to confer with the EPA. On July 15, 2024, representatives of Respondent and the EPA conferred regarding the May 13, 2024, FOV.

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).

Statutory and Regulatory Background

National Emission Standards for Hazardous Air Pollutants

9. Section 112 of the CAA, 42 U.S.C. § 7412, requires EPA to promulgate a list of all categories and subcategories of major sources and area sources of hazardous air pollutants (HAPs) and establish emission standards for the categories and subcategories. These emission standards are known as the NESHAP for Source Categories.

10. The NESHAPs in 40 C.F.R. Part 63 are national technology-based performance standards for HAP sources in each source category that become effective on a special date. The purpose of these standards is to ensure that all sources achieve the maximum degree of reduction in emission

of HAPs that EPA determines is achievable for each source category (maximum achievable control technology or MACT). *See* 42 U.S.C. § 7412(d)(2).

11. Section 112(a)(1) of the CAA, 42 U.S.C. § 7412(a)(1), defines “major source” as any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit (PTE) considering controls, in the aggregate, 10 tons per year (TPY) or more of any single HAP or 25 TPY or more of any combination of HAPs.

12. Section 112(b)(1) of the CAA, 42 U.S.C. § 7412(b)(1), contains the initial list of HAPs to be used to identify source categories for which EPA would promulgate emission standards. Since 1990, EPA has modified the list through rulemaking to include 188 HAPs. Formaldehyde (CH₂O) is currently included in the list of HAPs.

13. Section 112(i)(3)(A) of the CAA, 42 U.S.C. § 7412(i)(3)(A), and 40 C.F.R. § 63.4(a), prohibit the owner or operator of any source from operating such source in violation of any NESHAP applicable to such source.

NESHAP for Stationary Combustion Turbines

14. On March 4, 2004, EPA promulgated the NESHAP for Stationary Combustion Turbines, codified at 40 C.F.R., Part 63, Subpart YYY (NESHAP YYY). 69 Fed. Reg. 10537. NESHAP YYY establishes national emission limitations and operating limitations for HAP emissions from stationary combustion turbines located at major sources of HAP emissions, and requirements to demonstrate initial and continuous compliance with the emission and operating limitations.

15. 40 C.F.R. § 63.6085 states, “You are subject to [NESHAP YYY] if you own or operate a stationary combustion turbine located at a major source of HAP emissions.”

16. 40 C.F.R. § 63.6175 defines “stationary combustion turbine” as “all equipment, including but not limited to the turbine, the fuel, air, lubrication and exhaust gas systems (except emissions control equipment), and any ancillary components and sub-components comprising any simple cycle stationary combustion turbine, any regenerative/recuperative cycle stationary combustion turbine, the combustion turbine portion of any stationary cogeneration cycle combustion system, or the combustion turbine portion of any stationary combined cycle steam/electric generating system. Stationary means that the combustion turbine is not self propelled or intended to be propelled while performing its function. Stationary combustion turbines do not include turbines located at a research or laboratory facility, if research is conducted on the turbine itself and the turbine is not being used to power other applications at the research or laboratory facility.”

17. 40 C.F.R. § 63.6175 defines “lean premix gas-fired stationary combustion turbine” as “each stationary combustion turbine which is equipped only to fire gas using lean premix technology, each stationary combustion turbine which is equipped both to fire gas using lean premix technology and to fire oil, during any period when it is firing gas, and each stationary combustion turbine which is equipped both to fire gas using lean premix technology and to fire oil, and is located at a major source where all new, reconstructed, and existing stationary combustion turbines fire oil no more than an aggregate total of 1000 hours during the calendar year.”

18. 40 C.F.R. § 63.6175 defines “lean premix technology” as “a configuration of a stationary combustion turbine where the air and fuel are thoroughly mixed to form a lean mixture for combustion in the combustor. Mixing may occur before or in the combustion chamber.”

19. NESHAP YYYY applies to each affected source. 40 C.F.R. § 63.6090 states, “[a]n affected source is any existing, new, or reconstructed stationary combustion turbine located at a major source of HAP emissions.”

20. 40 C.F.R. § 63.6090(a)(2) states, “[a] stationary combustion turbine is new if you commenced construction of the stationary combustion turbine after January 14, 2003.”

21. 40 C.F.R. § 63.6095(a)(3) states, “[i]f you start up a new or reconstructed stationary combustion turbine which is a lean premix gas-fired stationary combustion turbine or a diffusion flame gas-fired stationary combustion turbine as defined by [NESHAP YYYY] on or before March 9, 2022, you must comply with the emissions limitations and operating limitations in [NESHAP YYYY] no later than March 9, 2022.”

22. 40 C.F.R. § 63.6100 states, “[f]or each new or reconstructed stationary combustion turbine which is a lean premix gas-fired stationary combustion turbine, a lean premix oil-fired stationary combustion turbine, a diffusion flame gas-fired stationary combustion turbine, or a diffusion flame oil-fired stationary combustion turbine as defined in [NESHAP YYYY], you must comply with the emission limitations and operating limitations in Table 1 and Table 2 of [NESHAP YYYY].”

23. Table 1 in NESHAP YYYY establishes for each new or reconstructed stationary combustion turbine which is a lean premix-gas fired stationary combustion turbine, you must limit the concentration of CH₂O to 91 parts per billion by volume, dry basis (ppbvd) at 15 percent oxygen (O₂), except during turbine startup.

24. 40 C.F.R. § 63.6175 defines “startup” as “begin[ning] at the first firing of fuel in the stationary combustion turbine. For simple cycle turbines, startup ends when the stationary combustion turbine has reached stable operation or after 1 hour, whichever is less. For combined cycle turbines, startup ends when the stationary combustion turbine has reached stable operation or after 3 hours, whichever is less. Turbines in combined cycle configurations that are operating as

simple cycle turbines must meet the startup requirements for simple cycle turbines while operating as simple cycle turbines.”

25. 40 C.F.R. § 63.6125(b) states, “[i]f you are operating a stationary combustion turbine that is required to comply with the [CH₂O] emission limitation and you are not using an oxidation catalyst, you must continuously monitor any parameters specified in your approved petition to the Administrator...”

Stipulated Facts

26. Primient owns and operates a wet corn milling operation at 3300 US 52 South in Lafayette, Indiana (the Facility).

27. On August 23, 2022, Primient submitted an alternative operating limit petition (AOLP) under NESHAP YYYY for LA-84 and LA-85 to EPA. After discussions with EPA and additional performance testing, Primient submitted revised petitions on January 9, 2023, and September 7, 2023.

28. In Primient’s Title V Operating Permit Renewal (Permit Number: 157-40694-00033), issued by the Indiana Department of Environmental Management (IDEM), the Facility is a major source under Section 112(a)(1) of the CAA.

29. According to the submitted AOLPs, at the Facility, Primient owns and operates a cogeneration system that consists of two natural gas-fired stationary gas turbines using lean premix combustion technology identified as LA-84 and LA-85.

30. According to the submitted AOLPs, LA-84 and LA-85 were approved in 2019 for construction and therefore new affected sources.

31. According to the submitted AOLPs, neither LA-84 nor LA-85 are equipped with an oxidation catalyst.

32. According to a source test report prepared by Montrose Air Quality Service (Montrose), on August 22, 2023, Montrose conducted an engineering test on LA-84 where six sets of two 30-minute runs were conducted at 50%, 55%, 60%, 65%, 70% and 85% Load respectively. Tests conducted at 50%, 55%, 60%, 65%, and 70% loads all tested above the CH₂O limit.

33. According to a source test report prepared by Montrose, on August 25, 2023, Montrose conducted a performance test on LA-85 where six sets of two 30-minute runs were conducted at 50%, 55%, 60%, 65%, 70% and 85% Load respectively. The test conducted at 50% Load tested above the CH₂O limit.

34. In Primient's revised AOLP petition submitted to EPA on September 7, 2023, Primient requested that EPA accept monitoring of Lean Premix Mode (LPM), Percent Load, and Inlet Air Temperature (T1) as parameters to meet NESHAP YYYY monitoring requirements instead of utilizing oxidation catalysts for LA-84 and LA-85.

35. On December 8, 2023, EPA denied the petition for LA-84 and partially approved the petition LA-85 under different operating ranges for Percent Load and T1 than Primient requested.

36. In the FOV, EPA alleged that Primient violated 40 C.F.R. § 63.6125(b) by failing to obtain an approved petition to use alternative monitoring methods for a stationary combustion turbine subject to the CH₂O emission limit for LA-84.

37. On June 25, 2024, Primient submitted a revised AOLP proposing to monitor the percent operating load and flame temperature at specified ranges to demonstrate compliance with the CH₂O emission limit under 40 C.F.R. § 63.6125(b) for turbines LA-84 and LA-85. On September 26, 2024, EPA partially approved the petition, modifying the specific ranges of percent operating load and flame temperature that Primient had proposed.

Allegations

38. By exceeding the CH₂O limit for LA-84 during multiple engineering test runs, Primient has failed to demonstrate compliance with NESHAP YYYY emission limitation in violation of 40 C.F.R. § 63.6100 and Table 1 of the subpart.

Terms of Consent Agreement

39. 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. 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.

40. 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 Respondent's compliance history 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.

41. 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, the EPA has determined that an appropriate civil penalty to settle this action is \$101,855.

42. Respondent agrees to pay a civil penalty in the amount of \$101,855 (Assessed Penalty) within thirty (30) days after the date the Final Order ratifying this Agreement is filed with the Regional Hearing Clerk (Filing Date).

43. 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>.

44. When making a payment, Respondent shall:

- a. Identify every payment with Respondent's name and the docket number of this Agreement, CAA-05-2026-0016,
- b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of such payment to the following person(s):

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

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

Nicole Cantello
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
Cantello.Nicole@epa.gov

U.S. Environmental Protection Agency
Cincinnati Finance Center
Via electronic mail to:
CINWD_AcctsReceivable@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.

45. 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 handling collection.
- c. Late Payment Penalty. A ten percent (10%) quarterly non-payment penalty.

46. 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 enforce the Final Order and 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 and Final Order shall not be subject to review.

47. 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.

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

49. 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 receipt of a TIN issued by the IRS.

50. 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.

51. 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.

52. 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, there are

significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information.

53. 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.

Effect of Consent Agreement and Attached Final Order

54. The parties consent to service of this CAFO by e-mail at the following e-mail addresses: Cantello.Nicole@epa.gov (for the EPA), and John.Heer@Primient.com and Travis.Montoya@Primient.com (for Respondent).

55. 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.

56. 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.

57. 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.

58. The provisions of this Agreement shall apply to and be binding upon Respondent and its officers, directors, authorized representatives, successors, and assigns.

59. Any violation of this CAFO may result in a civil judicial action for an injunction or civil penalties of up to \$124,426 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.

60. 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.

61. 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.

62. 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.

Effective Date

63. 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.

Consent Agreement in the Matter of Primary Products Ingredients Americas LLC, Docket No. CAA-05-2026-0016

For Primary Products Ingredients Americas LLC, Respondent

05 JAN 2026

Date

Travis Montoya

Travis Montoya
Primient Lafayette Plant Manager

Consent Agreement in the Matter of Primary Products Ingredients Americas, LLC, Docket No. CAA-05-2026-0016

United States Environmental Protection Agency, Complainant

Carolyn Persoon
Division Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 5

Consent Agreement and Final Order

In the Matter of: Primary Products Ingredients Americas LLC

Docket No. CAA-05-2026-0016

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