IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF ARKANSAS



UNITED STATES OF AMERICA, and ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY,
Plaintiffs,

v.

GEORGIA PACIFIC CHEMICALS, LLC, and GEORGIA PACIFIC CONSUMER OPERATIONS, LLC,
Defendants.

No. 18-1076

**COMPLAINT**

The United States of America ("United States"), by the authority of the Attorney General and through the undersigned attorneys, acting at the request and on behalf of the Administrator of the United States Environmental Protection Agency ("EPA"), and the Arkansas Department of Environmental Quality ("ADEQ"), by and through its undersigned attorney, file this Complaint and allege as follows:

**NATURE OF ACTION**

1. This is a civil action against Georgia Pacific Chemicals LLC, and Georgia-Pacific Consumer Operations, LLC ("GP Chemical" and "GP Consumer" respectively), pursuant to the following statutory provisions: Sections 111, 112, and 113(b) of the Clean Air Act ("CAA"), 42 U.S.C. §§ 7411, 7412, and 7413(b), the Chemical Accident

Prevention Provisions promulgated at 40 C.F.R. Part 68, and the Arkansas Water and Air Pollution Control Act ("AWAPCA"), Ark. Code Ann. §§ 8-1-202(b)(2)(B)(i)-(ii), 8-4-103(b)(1)-(5), 8-4-201(a)(1), 8-4-304, and 8-4-311(a)(7).

2. This Complaint seeks civil penalties and injunctive relief based on alleged violations of the CAA and the AWAPCA at GP Chemical's and GP Consumer's pulp/paper manufacturing and chemical manufacturing facilities located in Crossett, Arkansas (the "GP Consumer Facility" and the "GP Chemical Facility" respectively). The GP Consumer Facility is located at 100 Mill Supply Road in Crossett, Arkansas, and the GP Chemical Facility is located at 124 Paper Mill Road in Crossett, Arkansas.

3. The United States and ADEQ allege that at the GP Consumer Facility, GP Consumer has violated or continues to violate the following statutory and regulatory requirements:

a. The New Source Performance Standards ("NSPS") promulgated at 40 C.F.R. Part 60, Subpart BB, pursuant to Section 111 of the CAA, 42 U.S.C. § 7411, and incorporated by reference in Arkansas Pollution Control and Ecology Commission ("APC&EC") Regulation Number 26.302(B);

b. The National Emission Standards for Hazardous Air Pollutants ("NESHAPs") for Source Categories promulgated at 40 C.F.R. Part 63, Subpart A, pursuant to Section 112 of the CAA, 42 U.S.C. § 7412, and incorporated by reference in APC&EC Regulation Number 26.302(C);

c. The NESHAPs for Hazardous Air Pollutants from the Pulp and Paper industry promulgated at 40 C.F.R. Part 63, Subpart S, pursuant to Section 112 of the CAA, 42 U.S.C. § 7412, and incorporated by reference in APC&EC Regulation Number 26.302(C);

d. The NESHAPs for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills promulgated at 40 C.F.R. Part 63, Subpart MM, pursuant to Section 112 of the CAA, 42 U.S.C. § 7412, and incorporated by reference in APC&EC Regulation Number 26.302(C); and

e. The Chemical Accident Prevention Provisions for Air Programs promulgated at 40 C.F.R. Part 68, Subpart D, pursuant to Section 112(r) of the CAA, 42 U.S.C. § 7412(r).

4. The United States and ADEQ allege that, at the GP Chemical Facility, GP Chemical has violated or continues to violate the following statutory and regulatory requirements:

a. The NESHAPs for Miscellaneous Organic Chemical Manufacturing promulgated at 40 C.F.R. Part 63, Subpart FFFF, pursuant to Section 112 of the CAA, 42 U.S.C. § 7412, and incorporated by reference in APC&EC Regulation Number 26.302(C);

b. The NESHAPs for Equipment Leaks promulgated at 40 C.F.R. Part 63, Subpart H, pursuant to Section 112 of the CAA, 42 U.S.C. § 7412, and incorporated by reference in APC&EC Regulation Number 26.302(C);

c. The NESHAPs for Hazardous Air Pollutants from Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater promulgated at 40 C.F.R. Part 63, Subpart G, pursuant to Section 112 of the CAA, 42 U.S.C. § 7412, and incorporated by reference in APC&EC Regulation Number 26.302(C); and

d. The Chemical Accident Prevention Provisions for Air Programs promulgated at 40 C.F.R. Part 68, Subparts D and H, pursuant to Section 112(r) of the CAA, 42 U.S.C. § 7412(r).

## JURISDICTION AND VENUE

5. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1345, and 1355; and Section 113(b) of the CAA, 42 U.S.C. §§ 7413(b). This Court has personal jurisdiction over GP Consumer and the GP Chemical, both of which do business in the State of Arkansas and in this judicial district. ADEQ invokes this Court's jurisdiction pursuant to 28 U.S.C. § 1367 because its claims are so related to the claims in the United States' action that they form part of the same case or controversy.

6. Venue is proper in this District pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b); and 28 U.S.C. §§ 1391(b) and (c) and 1395(a), because the alleged violations in this Complaint occurred or are occurring at the GP Consumer Facility and the GP Chemical Facility that are located in this District.

## NOTICE

7. Notice of the commencement of this action was given to ADEQ at least thirty (30) days prior to the filing of this Complaint under Section 113(b) of the CAA, 42 U.S.C. § 7413(b). ADEQ is a co-Plaintiff.

## AUTHORITY

8. The United States Department of Justice has authority to bring this action on behalf of EPA under, *inter alia*, 28 U.S.C. §§ 516 and 519 and also under Section 305(a) of the CAA, 42 U.S.C. § 7605(a).

9. ADEQ has authority to bring this action pursuant to Ark. Code Ann. §§ 8-4-103(b), 8-4-311(a)(11) & (12), and 8-4-315.

10. Effective September 14, 1981, EPA has delegated the authority for implementation and enforcement of the NSPS and NESHAPS programs (except demolition and renovation of buildings containing asbestos) to the Arkansas Department of Pollution Control and Ecology ("ADPCE"). Except as specifically limited, all of the authority and responsibilities of the Administrator or the Regional Administrator found in 40 C.F.R. Part 60 and 40 C.F.R. Part 61 was delegated to the ADPCE. *See 47 Fed. Reg. 7665* (February 22, 1982). In 1997, ADPCE was renamed the Arkansas Department of Environmental Quality. *Apr.* 8, 1997, *Ark. Gen. Assemb., Reg. Sess. 1997, HB 2229.*

Notwithstanding delegation to the State of the NSPS and NESHAPS programs, EPA retains authority, concurrent with the State, to enforce the NSPS and NESHAPS programs. *See* Sections 111(c)(2) and 112(*l*)(7) of the CAA, 42 U.S.C. §§ 111(c)(2) and 112(*l*)(7).

11. In a Federal Register notice dated October 9, 2001, EPA promulgated final approval of the Arkansas Operating Permit Program. *See 66 Fed. Reg. 51312* (October 9, 2001). The Operating Permit Program provides that permits issued thereunder will address all applicable CAA requirements and designated State-only requirements within one permit (the Title V Permit). ADEQ requested EPA's approval of its mechanism to implement and enforce the NESHAPS standards applicable to Title V sources (delegated Part 63 standards), by including such standards in Title V permits when they are issued or updated. On November 12, 2014, EPA issued final approval of ADEQ's request effective January 12, 2015. *See 79 Fed. Reg. 67073* (November 12, 2014). Authority under CAA Section 112(r), 42 U.S.C. § 7412(r), was specifically excluded from the delegation. GP Consumer has been authorized to operate under a Title V operating permit issued by ADEQ at all times relevant to this matter. GP Chemical has been authorized to operate under a Title V operating permit issued by ADEQ at all times relevant to this matter. GP Consumer's current authority to operate is under a Title V operating permit, Permit No. 0597-AOP-R18, issued on July 11, 2016. GP Chemical's current authority to operate is under a Title V operating permit, Permit No. 1177-AOP-R17, issued on June 26, 2016. Both companies are required to operate in compliance with the NSPS and NESHAPS program regulations, which are referenced in their respective permits at all times relevant to this matter.

## DEFENDANTS

12. Defendants GP Chemical and GP Consumer are Delaware limited liability companies.

13. At all times pertinent to this suit, GP Chemical and GP Consumer have been the "owner or operator" of their respective facilities in Crossett Arkansas, as that term is defined in Sections 111(a)(5) and 112(a)(9) of the CAA, 42 U.S.C. §§ 7411(a)(5) and 7412(a)(9), and by APC&EC Regulation No. 19.

14. GP Chemical and GP Consumer are each a "person" within the meaning of Sections 113(b) and 302(e) of the CAA, 42 U.S.C. §§ 7413(b) and 7602(e), applicable federal and state regulations promulgated pursuant to the CAA, and by APC&EC Regulation No. 19.

## CLEAN AIR ACT

## I. CAA STATUTORY AND REGULATORY BACKGROUND

15. The CAA establishes a regulatory scheme designed to protect and enhance the quality of the nation's air so as to promote the public health and welfare and the productive capacity of its population. Section 101(b) of the CAA, 42 U.S.C. § 7401(b)(1).

### A. PART 60 - NEW SOURCE PERFORMANCE STANDARDS

#### 1. General

16. Section 111(b)(1)(A) of the CAA, 42 U.S.C. § 7411(b)(1)(A), requires EPA to publish and periodically revise a list of categories of stationary sources including those categories that, in EPA's judgment, cause or contribute significantly to air pollution that may reasonably be anticipated to endanger public health or welfare.

17. Once a category is included on the list, Section 111(b)(1)(B) of the CAA, 42 U.S.C. § 7411(b)(1)(B), requires EPA to promulgate a federal standard of performance for new sources within the category, also known as a NSPS. Section 111(e) of the CAA, 42 U.S.C. § 7411(e), prohibits an owner or operator of a new source from operating that source in violation of an NSPS after the effective date of the NSPS applicable to such source.

18. "New source" is defined as any stationary source, the construction or modification of which is commenced after the publication of the NSPS regulations or proposed NSPS regulations applicable to such sources. Section 111(a)(2) of the CAA, 42 U.S.C. § 7411(a)(2). "Stationary source" is defined as a building, structure, facility, or installation which emits or may emit any air pollutant. Section 111(a)(3) of the CAA, 42 U.S.C. § 7411(a)(3).

19. The NSPS are codified at 40 C.F.R. Part 60 of the Code of Federal Regulations.

**2. Part 60, Subpart BB: Standards of Performance for Kraft Pulp Mills**

20. Pursuant to Section 111(b)(1)(B) of the CAA, 42 U.S.C. § 7411(b)(1)(B), EPA promulgated NSPS regulations that contain standards of performance for kraft pulp mills. 40 C.F.R. Part 60, Subpart BB, §§ 60.280-60.285 ("Subpart BB").

21. Under Subpart BB and of relevance to this Complaint, the provisions of 40 C.F.R. Part 60, Subpart BB, are applicable to the following affected facilities in kraft pulp mills: digester systems and brown stock washer systems. 40 C.F.R. § 60.280(a).

22. Any facility that commences construction, reconstruction, or modification after September 24, 1976, and on or before May 23, 2013, is subject to the requirements of Subpart BB. 40 C.F.R. § 60.280(b).

23. "Affected facility" is defined as "any apparatus to which a standard is applicable." 40 C.F.R. § 60.2.

24. A "kraft pulp mill" means any stationary source which produces pulp from wood by cooking (digesting) wood chips in a water solution of sodium hydroxide and sodium sulfide (white liquor) at high temperature and pressure. 40 C.F.R. § 60.281(a). Regeneration of the cooking chemicals through a recovery process is also considered part of the kraft pulp mill. 40 C.F.R. § 60.281(a).

25. "Digester system" means each continuous digester or each batch digester used for the cooking of wood in white liquor, and associated flash tank(s), blow tank(s), chip steamer(s), and condenser(s). 40 C.F.R. § 60.281(d).

26. "Brown stock washer system" means brown stock washers and associated knotters, vacuum pumps, and filtrate tanks used to wash the pulp following the digester system. 40 C.F.R. § 60.281(e).

### 3. Part 60, Subpart BB: Standards for Total Reduced Sulfur ("TRS")

27. Within 40 C.F.R. Part 60, Subpart A, EPA promulgated specific regulations for performance tests requiring the owner or operator of affected facilities to conduct performance test(s) and furnish the Administrator a written report of the results of such performances test(s). 40 C.F.R. § 60.8(a). Compliance with standards in Part 60 must be determined in accordance with performance tests established by 40 C.F.R. § 60.8, unless otherwise specified in the applicable standard. 40 C.F.R. § 60.11(a).

28. On or after the date on which the performance test required to be conducted by 40 C.F.R. § 60.8 is completed, no owner or operator subject to the provisions of Subpart BB may cause to be discharged into the atmosphere from any digester system, brown stock

washer system, multiple-effect evaporator system, or condensate stripper system any gases which contain TRS in excess of 5 ppm by volume on a dry basis, uncorrected for oxygen content, 40 C.F.R. §§ 60.283(a)(1), unless it has been demonstrated to the Administrator's satisfaction by the owner or operator that incinerating the exhaust gases from a new, modified, or reconstructed brown stock washer system is technologically or economically unfeasible. 40 C.F.R. §§ 60.283(a)(1)(iv).

29. TRS means the sum of the sulfur compounds hydrogen sulfide, methyl mercaptan, dimethyl sulfide, and dimethyl disulfide that are released during the kraft pulping operation and measured by Method 16. 40 C.F.R. § 60.281(c).

## B. PART 63: NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

30. Section 112 of the CAA sets forth a national program for the control of hazardous air pollutants ("HAPs"). 42 U.S.C. § 7412. As originally promulgated in the CAA Amendments of 1970, Section 112 directed EPA to publish a list of HAPs. A HAP was defined as "an air pollutant to which no ambient air quality standard is applicable and which in the judgment of the Administrator may cause, or contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness." 42 U.S.C. § 1857c-7. At that time, Congress directed EPA to establish HAP standards that provided "an ample margin of safety to protect the public health from such hazardous air pollutant." *Id.*

31. Between 1970 and 1990, EPA listed eight substances as HAPs and promulgated emission standards for seven of them. H.R. Rep. No. 101-490, 101st Cong., 2d Sess., pt 1 at 151 (1990).

32. Through the CAA Amendments of 1990, Congress replaced the then-existing Section 112 and established a new program for the control of HAPs codified at 42 U.S.C. § 7412(b). H.R. Rep. No. 101-490, 101st Cong., 2d Sess., pt 1 at 324 (1990). The regulations then in existence under the original Section 112 remained in full force and effect.

33. With the 1990 amendments, Congress established a list of 188 HAPs believed to cause adverse health or environmental effects. Section 112(b)(1) of the CAA, 42 U.S.C. § 7412(b)(1).

34. Congress directed EPA to publish a list of all categories and subcategories of, *inter alia*, major sources of HAPs. Section 112(c) of the CAA, 42 U.S.C. § 7412(c).

35. "Major source" was and is defined 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 considering controls, in the aggregate, 10 tons per year or more of any HAP or 25 tons per year or more of any combination of HAPs. Section 112(a)(1) of the CAA, 42 U.S.C. § 7412(a)(1).

36. "Stationary source" was and is defined as any building, structure, facility, or installation which emits or may emit any air pollutant. Section 112(a)(3) of the CAA, 42 U.S.C. § 7412(a)(3) (stating that "stationary source" under Section 112(a) has the same meaning as that term has under Section 111(a)(3) of the CAA, 42 U.S.C. § 7411(a)(3)).

37. A "category" of sources is a group of sources having some common features suggesting that they should be regulated in the same way and on the same schedule. 57 Fed. Reg. 31576, 31578 (July 16, 1992). A single stationary source can be comprised of multiple source categories. *Id*.

38. Congress directed EPA to promulgate regulations establishing emission standards for each category or subcategory of, *inter alia*, major sources of HAPs. Section 112(d)(1) of the CAA, 42 U.S.C. § 7412(d)(1). These emission standards must require the maximum degree of reduction in emissions of HAPs that the Administrator, taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impacts and energy requirements, determines is achievable for the new or existing sources in the category or subcategory to which the emission standard applies. Section 112(d)(2) of the CAA, 42 U.S.C. § 7412(d)(2).

39. To the extent that it is not feasible to prescribe or enforce an emission standard for the control of a HAP, Congress authorized EPA to promulgate "design, equipment, work practice, or operational" standards, which are to be treated as emission standards. Section 112(h) of the CAA, 42 U.S.C. § 7412(h).

40. The emission standards promulgated under Section 112 of the 1990 Amendments of the CAA, 42 U.S.C. § 7412, are known as the NESHAPs for Source Categories or "MACT" ("maximum achievable control technology") standards. These emission standards are found in 40 C.F.R. Part 63 of the Code of Federal Regulations.

41. After the effective date of any emission standard, limitation, or regulation promulgated pursuant to Section 112 of the CAA, no person may operate a source in violation of such standard, limitation, or regulation. Section 112(i)(3) of the CAA, 42 U.S.C. § 7412(i)(3).

**1. <u>Subpart A</u>**

42. Pursuant to Section 112 of the CAA, 42 U.S.C. § 7412, as it existed after the 1990 CAA Amendments, EPA promulgated regulations that contain general provisions

applicable to sources that are subject to the MACT standards of Part 63 of Title 40 of the Code of Federal Regulations. 40 C.F.R. Part 63, Subpart A, §§ 63.1–63.16 ("Subpart A").

43. Under Subpart A, the provisions of 40 C.F.R. Part 63 "apply to the owner or operator of any stationary source that (i) emits or has the potential to emit any hazardous air pollutant listed in or pursuant to Section 112(b) of the Act; and (ii) is subject to any standard, limitation, prohibition, or other federally enforceable requirement established pursuant to this part." 40 C.F.R. § 63.1(b).

44. EPA promulgated record keeping requirements in Subpart A of Part 63. 40 C.F.R. § 63.10(b). Specifically, the owner or operator of an affected source subject to the provisions of Part 63 must maintain relevant records for such source of all required measurements needed to demonstrate compliance with a relevant standard (including, but not limited to, 15-minute averages of Compliance Monitoring System ("CMS") data, raw performance testing measurements, and raw performance evaluation measurements, that support data that the source is required to report). 40 C.F.R. § 63.10(b)(2)(vii).

**2. Subparts F, G, and H (the HON)**

45. Pursuant to Section 112(c) of the CAA, 42 U.S.C. § 7412(c), EPA identified the synthetic organic chemical manufacturing industry ("SOCMI") as a source category of HAPs. 57 Fed .Reg. 31576, 31591 (Table 1) (July 16, 1992).

46. Pursuant to Section 112(d) of the CAA, 42 U.S.C. § 7412(d), EPA promulgated the National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry. 59 Fed. Reg. 19402 (April 22, 1994). These standards commonly are referred to as the "Hazardous Organic NESHAP" or the "HON."

47. The HON consists of four subparts in Part 63 of Title 40 of the Code of Federal Regulations: Subparts F, G, H, and I. *Id. at 19405*. Of relevance to this Complaint are Subparts G and H.

48. Subpart F provides the applicability criteria for SOCMI sources, requires that owners and operators of SOCMI sources comply with Subparts G and H, and specifies general recordkeeping and reporting requirements. *Id.*; 40 C.F.R. § 63.102(a).

49. Under Subpart F, the HON applies to chemical manufacturing process units that: (1) manufacture as a primary product one or more of the chemicals listed in Table 1 of Subpart F; (2) use as a reactant or manufacture as a product, or co-product, one or more of the organic HAPs listed in Table 2 of Subpart F; and (3) are located at a plant site that is a major source as defined in Section 112(a) of the CAA. 40 C.F.R. § 63.100(b).

50. A "chemical manufacturing process unit" is defined, *inter alia*, as the equipment assembled and connected by pipes or ducts to process raw materials and to manufacture an intended product. 40 C.F.R. § 63.101(b). Table 1 of Subpart F lists approximately 385 chemicals which constitute SOCMI products that may be produced by a HAP-emitting process. 40 C.F.R. Subpart F, Table 1; 59 F. R. 19402, 19405 (1994). Table 2 of Subpart F lists approximately 130 organic HAPs. 40 C.F.R. Subpart F, Table 2.

### 3. Subpart G

#### a. General Provisions

51. Pursuant to Section 112 of the CAA, 42 U.S.C. § 7412, as it existed after the 1990 CAA Amendments, EPA promulgated regulations that contain general provisions applicable to all process vents, storage vessels, transfer racks, wastewater streams, and in-

process equipment subject to 40 C.F.R. § 63.149 within a source subject to 40 C.F.R. Part 63, Subpart F. 40 C.F.R. Part 63, Subpart G, §§ 63.110–63.153 ("Subpart G").

52. "Storage vessel" means a tank or other vessel that is used to store organic liquids that contain one or more of the organic HAPs listed in Table 2 of Subpart G and that has been assigned, according to the procedures in 40 C.F.R. § 63.100(g), to a chemical manufacturing process unit that is subject to Subpart G. 40 C.F.R. § 63.101(b).

**b. Storage Vessels and Reporting**

53. For each Subpart G storage vessel, the owner or operator must comply with the requirements of paragraphs (a)(1), (a)(2), (a)(3), and (a)(4) of 40 C.F.R. § 62.119 according to the schedule provisions of 40 C.F.R. § 63.100 of Subpart F of Part 63. 40 C.F.R. § 63.119(a).

54. Under Subpart G, there are two methods to reduce hazardous air pollutant emissions to the atmosphere for each Group 1 storage vessel (as defined in table 5 of Subpart G for existing sources) that is storing a liquid for which the maximum true vapor pressure of the total organic hazardous air pollutants in the liquid is less than 76.6 kilopascals: (1) "operating and maintaining a fixed roof and internal floating roof, an external floating roof, an external floating roof converted to an internal floating roof, a closed vent system and control device, routing the emissions to a process or a fuel gas system", or (2) "vapor balancing in accordance with the requirements in paragraph (b), (c), (d), (e), (f), or (g) of this section (§ 63.119), or equivalent as provided in 40 C.F.R. § 63.121 of this subpart." 40 C.F.R. § 63.119(a)(1).

55. "Closed-vent system" for purposes of Part 63, Subpart G "means a system that is not open to the atmosphere and is composed of piping, ductwork, connections, and, if necessary, flow inducing devices that transport gas or vapor from an emission point to a control device." 40 C.F.R. 63.111.

56. "Control device" for purposes of Part 63 Subpart G "means any combustion device, recovery device, or recapture device. Such equipment includes, but is not limited to, absorbers, carbon adsorbers, condensers, incinerators, flares, boilers, and process heaters. For process vents, recapture devices are considered control devices but recovery devices are not considered control devices, and for a steam stripper, a primary condenser is not considered a control device." 40 C.F.R. § 63.111.

57. Under Subpart G, if an owner or operator elects to use a closed vent system and control device to comply with the requirements of paragraph 40 C.F.R. § 63.119(a)(1), the control device must be designed and operated to reduce inlet emissions of total organic HAPs by 95 percent or greater. 40 C.F.R. §§ 63.119(e) and 63.119(e)(1). For periods of planned routine maintenance of the control device, during which the control device does not meet this specification, the period of time must not exceed 240 hours per year. 40 C.F.R. § 63.119(e)(3).

58. To demonstrate compliance with 40 C.F.R. § 63.119(e), the owner or operator must comply with the requirements in 40 C.F.R. § 63.120(d)(1) through (d)(7). 40 C.F.R. § 63.120(d). 40 C.F.R. § 63.120(d)(1) requires that the owner or operator submit the results of a performance test that demonstrates that the control device achieves greater than or equal to the required HAP control efficiency of 95% (40 C.F.R. § 63.119(e)(1)). 40 C.F.R. §§ 63.120(d)(1) and 63.120(d)(1)(ii)(A). Additionally, the owner or operator must submit, as part of its Subpart G Notification of Compliance Status (required by 40 C.F.R. § 63.152(b)), the operating range for each monitored parameter identified in the monitoring plan. 40 C.F.R. § 63.120(d)(3)(i). This operating range must represent the conditions for which the control device is being properly operated and maintained. *Id*. Further, the owner or operator must monitor the parameters specified in the Notification of Compliance Status, or in the operating permit, and

must operate and maintain the control device such that the monitored parameters remain within the ranges specified in the Notification of Compliance Status. 40 C.F.R. § 63.120(d)(5).

59. For periods of planned routine maintenance of a control device, where the control device does not meet the specifications of 40 C.F.R. § 63.119(e)(1), the owner or operator must demonstrate that the period did not exceed 240 hours per year, by including in each Periodic Report required by 40 C.F.R. § 63.152(c) the information specified in 40 C.F.R. § 63.122(g)(1). 40 C.F.R. § 63.120(d)(4).

60. Periodic Reports must include information regarding planned routine maintenance operations that would require the control device not to meet the requirements of 40 C.F.R. §§ 63.119(e)(1) or (e)(2) of Subpart G. 40 C.F.R. § 63.122(g)(1). Specifically, the Periodic Reports must include a description of planned routine maintenance that is anticipated to be performed for the control device during the next six months (40 C.F.R. § 63.122(g)(1)(i)) and a description of planned routine maintenance that was performed for the control device during the previous six months. 40 C.F.R. § 63.122(g)(1)(ii).

61. Additionally, Periodic Reports "must describe each occurrence when the monitored parameters were outside the parameter ranges documented in the Notification of Compliance Status in accordance with 40 C.F.R. § 63.120(d)(3)(i) of this subpart," as required by 40 C.F.R. § 63.122(g)(2). Such description must include both the identification of the control device for which the measured parameters were outside the established range and the cause for the measured parameters to be outside the established ranges. 40 C.F.R. §§ 63.122(g)(2)(i) and 63.122(g)(2)(ii).

62. Periodic Reports must include reports of periods when monitored parameters are outside their established ranges. 40 C.F.R. § 63.152(c)(2). An "excursion" occurs when the

daily average value of one or more monitored parameters is outside the permitted range. 40 C.F.R. § 63.152(c)(2)(ii)(A)(1). Starting with the sixth annual period after the first semiannual report is due, only one excursion is allowed per semiannual period. 40 C.F.R. § 63.152(c)(2)(ii)(B)(6).

**4. Subpart H**

**a. General Provisions**

63. Pursuant to Section 112 of the CAA, 42 U.S.C. § 7412, as it existed after the 1990 CAA Amendments, EPA promulgated National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks. 40 C.F.R. Part 63, Subpart H, §§ 63.160–63.183 ("Subpart H").

64. Under Subpart H, the provisions of 40 C.F.R. Part 63 "apply to pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, surge control vessels, bottoms receivers, instrumentation systems, and control devices or closed vent systems required by this subpart that are intended to operate in organic hazardous air pollutant service 300 hours or more during the calendar year within a source subject to the provisions of a specific subpart in 40 C.F.R. Part 63 that references [SubpartH] ." 40 C.F.R. § 63.160(a).

**b. Test Methods and Procedures**

65. Within Subpart H of Part 63, EPA promulgated specific regulations for "test methods and procedures requirements," and monitoring requirements for fugitive emissions. 40 C.F.R. §§ 63.180(a) and 63.180(b).

66. Of relevance to this Complaint are the following requirements: monitoring must comply with Method 21 of 40 C.F.R. Part 60, Appendix A, and detection instruments must meet

the performance criteria of Method 21 of 40 C.F.R. Part 60, Appendix A. 40 C.F.R. §§ 63.180(b)(1) and 63.180(b)(2)(i).

67. Within Appendix A-7 to 40 C.F.R. Part 60, Method 21 is the applicable method for the determination of Volatile Organic Compound ("VOC") leaks from process equipment. 40 C.F.R. § 60 Appendix A-7, 1.2.

68. Of relevance to this Complaint, Appendix A of 40 C.F.R. Part 60 requires: instrument response factors for each of the individual VOCs to be measured shall be less than 10 unless otherwise specified in the applicable regulation. 40 C.F.R. § 60 Appendix A-7, 8.1.1.2.

**5. Part 63, Subpart S**

**a. General Provisions**

69. Within Subpart S of Part 63, EPA promulgated specific regulations for processes that produce pulp, paper, or paperboard that are located at a plant site that is a major source as defined in 40 C.F.R. § 63.2 of Subpart A. 40 C.F.R. §§ 63.440(a) and 63.440(a)(1).

70. "Major source," for purposes of Subpart S, means 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 considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants, unless the Administrator establishes a lesser quantity, or in the case of radionuclides, different criteria from those specified in this sentence." 40 C.F.R. § 63.2.

71. The provisions of Subpart S, 40 C.F.R. §§ 63.440-63.459, apply to the owner or operator of processes that produce pulp, paper, or paperboard, that are located at a plant site that is a major source as defined in 40 C.F.R. § 63.2 of Subpart A, and that use the following

processes and materials: (1) kraft, soda, sulfite, or semi-chemical pulping processes using wood; or (2) mechanical pulping processes using wood; or (3) any process using secondary or non-wood fibers. 40 C.F.R. § 63.440(a).

72. For the Subpart S processes specified in Section 63.440(a)(1), the existing affected source is the total of all HAP emission points in the pulping and bleaching systems. 40 C.F.R. § 63.440(b)(1).

73. "HAP," for purposes of Subpart S, means a hazardous air pollutant as defined in 40 C.F.R. § 63.2 of Subpart A, which defines a HAP as any air pollutant listed in or pursuant to Section 112(b) of the CAA. 40 C.F.R. §§ 63.441 and 63.2.

74. "Emission point," for purposes of Subpart S, means any part of a stationary source that emits hazardous air pollutants regulated under Subpart S, including emissions from individual process vents, stacks, open pieces of process equipment, equipment leaks, wastewater and condensate collection and treatment system units, and those emissions that could reasonably be conveyed through a stack, chimney, or duct where such emissions first reach the environment. 40 C.F.R. § 63.441.

**b. Standards for the Pulping System at Kraft, Soda, and Semi- Chemical Processes**

75. The owner or operator of each pulping system using the kraft process subject to Subpart S must control the total HAP emissions at each low volume, high concentration (LVHC) system, each knotter system where the total HAP mass emission rate is greater than or equal to 0.05 kilograms per megagram of ODP (oven dried pulp), and at each pulp washing system, as specified in Sections 63.443(c) and (d). 40 C.F.R. §§ 63.443(a)(1)(i), 63.443(a)(1)(ii)(A), and 63.443(a)(1)(iii), respectively.

76. "Pulping system," for purposes of Subpart S, means all process equipment, beginning with the digester system, and up to and including the last piece of pulp-conditioning equipment prior to the bleaching system, including treatment with ozone, oxygen, or peroxide before the first application of a chemical bleaching agent intended to brighten pulp. The pulping system includes pulping process condensates and can include multiple pulping lines. 40 C.F.R. § 63.441.

77. "Pulp washing system," for purposes of Subpart S, means all equipment used to wash pulp and separate spent cooking chemicals following the digester system and prior to the bleaching system, oxygen delignification system, or paper machine system (at unbleached mills). The pulp washing system equipment includes vacuum drum washers, diffusion washers, rotary pressure washers, horizontal belt filters, intermediate stock chests, and their associated vacuum pumps, filtrate tanks, foam breakers or tanks, and any other equipment serving the same function as those previously listed. The pulp washing system does not include deckers, screens, knotters, stock chests, or pulp storage tanks following the last stage of pulp washing." 40 C.F.R. § 63.441.

78. "Low volume, high concentration collection system" or "LVHC collection system," for purposes of Subpart S, means the gas collection and transport system used to convey gases from the LVHC system to a control device." 40 C.F.R. § 63.441.

79. "Low volume, high concentration" or "LVHC" system, for purposes of Subpart S, means the collection of equipment including the digester, turpentine recovery, evaporator, steam stripper systems, and any other equipment serving the same function as those previously listed." 40 C.F.R. § 63.441.

80. "High volume, low concentration" or "HVLC" system, for purposes of Subpart S, means the collection of equipment including the pulp washing system, knotter, screen, decker, and oxygen delignification systems, weak liquor storage tanks, and any other equipment serving the same function as those previously listed." 40 C.F.R. § 63.441.

81. Paragraph (c) of 40 C.F.R § 63.443 requires that the Section 40 C.F.R. § 63.443(a) equipment systems described above be enclosed and vented into a closed-vent system and routed to a control device that meets the requirements specified in paragraph (d) of Section 63.443(c). 40 C.F.R. § 63.443(c). Additionally, the enclosures and closed vent system must meet the requirements specified in Section 63.450. 40 C.F.R. § 63.443(c).

82. "Closed-vent system," for purposes of Subpart S, means a system that is not open to the atmosphere and is composed of piping, ductwork, connections, and, if necessary, flow-inducing devices that transport gas or vapor from an emission point to a control device. 40 C.F.R. § 63.441.

83. Paragraph (d) of Section 63.443 requires that when using a thermal oxidizer as a control device to reduce the total HAP emissions from each equipment system, the thermal oxidizer must be designed and operated at a minimum temperature of 1600°F and a minimum residence time of 0.75 seconds. 40 C.F.R. § 63.443(d)(3).

84. Paragraph (e) of Section 63.443 specifies that periods of excess emissions reported under 40 C.F.R. § 63.455 shall not be a violation of 40 C.F.R. § 63.443(c) and (d) provided that the time of excess emissions divided by the total process operating time in a semiannual reporting period does not exceed four percent for control devices used to reduce the total HAP emissions from the HVLC system. 40 C.F.R. §§ 63.443(e) and 63.443(e)(3).

**c. § 63.445: Standards for Bleaching Systems**

85. Within Subpart S of Part 63, EPA promulgated specific standards and regulations for: bleaching systems that use chlorine; bleaching systems bleaching pulp from kraft, sulfite, or soda pulping processes that use any chlorinated compounds; and, bleaching systems bleaching pulp from mechanical pulping processes using wood or from any process using secondary or non-wood fibers that use chlorine dioxide. 40 C.F.R. § 63.445(a).

86. The equipment at each bleaching stage of the bleaching systems listed above, where chlorinated compounds are introduced, must be enclosed and vented into a closed vent system and routed to a control device that meets the requirements specified in 40 C.F.R. § 63.445(c). 40 C.F.R. § 63.445(b).

87. "Bleaching stage" means all process equipment associated with a discrete step of chemical application and removal in the bleaching process including chemical and steam mixers, bleaching towers, washers, seal (filtrate) tanks, vacuum pumps, and any other equipment serving the same function as those previously listed. 40 C.F.R. § 63.441.

88. Section 63.445(c) requires that control devices used to reduce chlorinated HAP emissions from the equipment specified in 40 C.F.R. § 63.445(b), must achieve a treatment device outlet mass emission rate of 0.001 kg of total chlorinated HAP mass per megagram of ODP. 40 C.F.R. § 63.445(c)(3).

**d. § 63.446: Standards for Kraft Pulping Process Condensates**

89. Within Subpart S of Part 63, EPA promulgated specific standards and regulations for kraft pulping condensates applicable to owners and operators of kraft processes. 40 C.F.R. § 63.446(a).

90. Pulping process condensates from the following systems must be conveyed in a closed collection system that is designed and operated to meet the requirements specified in 40 C.F.R. §§ 63.446(d)(1) and (d)(2): digester systems, turpentine recovery systems, evaporator system condensate, HVLC collection systems, and LVHC collection systems. 40 C.F.R. § 63.446(d).

91. If a condensate tank is used in the closed collection system, the tank must meet the following requirements: the fixed roof and all openings (e.g., access hatches, sampling ports, gauge wells) must be designed and operated with no detectable leaks as indicated by an instrument reading of less than 500 parts per million above background, and vented into a closed-vent system that meets the requirements in 40 C.F.R. § 63.450 and routed to a control device that meets the requirements in 40 C.F.R. § 63.443(d). 40 C.F.R. § 63.446(d)(2)(i).

**e. § 63.450: Standards for Enclosures and Closed-Vent Systems**

92. Section 63.450 of Subpart S details the standards for enclosures and closed vent systems. 40 C.F.R. § 63.450.

93. "Closed-vent system," for purposes of Subpart S, means a system that is not open to the atmosphere and is composed of piping, ductwork, connections, and, if necessary, flow-inducing devices that transport gas or vapor from an emission point to a control device. 40 C.F.R. § 63.441.

94. Enclosures and closed-vent systems include existing affected sources (LVHC systems and knotter systems) for which the total HAP emissions from the equipment systems must be controlled. 40 C.F.R. §§ 63.450(a) and 63.443(a)(1).

95. Each enclosure and closed-vent system for capturing and transporting vent streams that contain HAPs must meet the requirements (b) through (d) of 40 C.F.R. § 63.450. 40 C.F.R. § 63.450(a).

96. Paragraph (b) of 40 C.F.R. § 63.450 requires each enclosure to maintain negative pressure at each enclosure or hood opening as demonstrated by the procedures specified in 40 C.F.R. § 63.457(e), and each enclosure or hood opening closed during the initial performance test specified in 40 C.F.R. § 63.457(a) must be maintained in the same closed and sealed position as during the performance test at all times except when necessary to use the opening for sampling, inspection, maintenance, or repairs. 40 C.F.R. § 63.450(b).

97. Paragraph (c) of 40 C.F.R. § 63.450 specifies that each component of the closed-vent system used to comply with 40 C.F.R. §§ 63.443(c), 63.444(b), and 63.445(b) that is operated at positive pressure and located prior to a control device must be designed for and operated with no detectable leaks as indicated by an instrument reading of less than 500 parts per million by volume above background, as measured by the procedures.

98. Each bypass line in the closed-vent system that could divert vent streams containing HAPs to the atmosphere without meeting the emission limitations in 40 C.F.R. §§ 63.443, 63.444, or 63.445 must comply with either of the following requirements: (1) On each bypass line, the owner or operator must install, calibrate, maintain, and operate according to the manufacturer's specifications a flow indicator that is capable of taking periodic readings as frequently as specified in 40 C.F.R. § 63.454(e). The flow indicator must be installed in the bypass line in such a way as to indicate flow in the bypass line; or (2) For bypass line valves that are not computer controlled, the owner or operator must maintain the bypass line valve in the closed position with a car seal or a seal placed on the valve or closure mechanism in such a

way that valve or closure mechanism cannot be opened without breaking the seal. 40 C.F.R. §§ 63.450(d)(1) and (2).

**f. § 63.453: Monitoring Requirements**

99. Within Subpart S of Part 63, EPA promulgated specific monitoring requirements for pulping systems at kraft processes, sulfite processes, bleaching systems, kraft pulping process condensates, clean condensate alternative, and enclosures and closed-vent systems (40 C.F.R. §§ 63.443(c) and (d), 63.444(b) and (c), 63.445(b) and (c), 63.446(c), (d), and (e), 63.447(b) or §63.450(d), respectively). 40 C.F.R. § 63.453(a). Specifically, owners and operators subject to these standards must install, calibrate, certify, operate, and maintain a CMS, according to manufacturer's specifications, as specified in paragraphs (b) through (m) of Section 453. 40 C.F.R. § 63.453(a).

100. A CMS as defined in 40 C.F.R. § 63.2 includes, but is not limited to, continuous emission monitoring systems, continuous opacity monitoring systems, continuous parameter monitoring systems, or other manual or automatic monitoring that is used for demonstrating compliance with an applicable regulation on a continuous basis as defined by the regulation.

101. Section 63.453(c) requires a CMS to be operated to measure the following parameters for each gas scrubber used to comply with the bleaching system or sulfite pulping requirements of § 63.444(c): the pH or the oxidation/reduction potential of the gas scrubber effluent, the gas scrubber vent gas inlet flow rate, and the gas scrubber liquid influent flow rate.

102. Of relevance to this Complaint, pulping process condensate closed collection systems that are used to comply with 40 C.F.R. § 63.446(d) must comply with the requirements specified in paragraphs (*l*)(1) through (*l*)(3) of Section 63.453. 40 C.F.R. § 63.453(*l*). Specifically, each condensate tank used in the closed collection system must be operated with

no detectable leaks as specified in 40 C.F.R. § 63.446(d)(2)(i) measured initially and annually by the procedures specified in § 63.457(d). 40 C.F.R. § 63.453(l)(2).

103. Additionally, 40 C.F.R. § 63.453(o) requires each owner or operator of a control device subject to the monitoring provisions of Section 63.453 to operate the control device in a manner consistent with the minimum or maximum (as appropriate) operating parameter value or procedure required to be monitored under paragraphs (a) through (n) of Section 63.453 and established under Subpart S. 40 C.F.R. § 63.453(o).

104. Section 63.453(n) requires owners or operators to establish or reestablish the value for each operating parameter required to be monitored under paragraphs 63.453(b) through (j) by following certain procedures. Specifically, during the initial performance test required in 40 C.F.R. § 63.457(a), or any subsequent performance test, owners or operators are to continuously record the operating parameter. 40 C.F.R. § 63.453(n)(1).

105. Operation of the control device below minimum operating parameter values or above maximum operating parameter values or failure to perform procedures required by Subpart S is a violation of the applicable emission standard of Subpart S and must be reported as a period of excess emissions. 40 C.F.R. § 63.453(o).

**g. § 63.455: Reporting Requirements**

106. As stated above, operation of a control device below minimum operating parameter values or above maximum operating parameter values, or failure to perform procedures required by Subpart S constitutes a violation of the applicable emission standard of Subpart S and must be reported as a period of excess emissions. 40 C.F.R. § 63.453(o).

107. Owners and operators of sources subject to Subpart S are required to comply with the reporting requirements of Subpart A of Part 63. 40 C.F.R. § 63.455(a).

108. Sources with a CMS have additional reporting requirements under Subpart A. 40 C.F.R. § 63.10(e).

109. Section 63.10(e)(3)(i) requires owners or operators of affected sources that are required to install a CMS to submit an excess emissions and CMS performance report and/or summary report to the Administrator semiannually. 40 C.F.R. § 63.10(e)(3)(i).

**h. § 63.457: Test Methods and Procedures**

110. Initial and repeat performance tests are required for the emissions sources specified in 40 C.F.R. § 63.457(a)(1) and (2), except for emission sources controlled by a combustion device designed and operated as specified in 40 C.F.R. §§ 63.443, 63.444, 63.445, 63.446, and 63.447. 40 C.F.R. § 63.457(a).

111. Initial performance tests are required for all emissions sources subject to the bleaching system standards and limitations of Section 63.445. 40 C.F.R. § 63.457(a)(1).

112. To select vent sampling port locations and determine vent gas stream properties, required in §§ 63.443, 63.444, 63.445, and 63.447, each owner or operator must comply with the applicable procedures in paragraphs (b)(1) through (b)(6) of 40 C.F.R. § 63.457(b).

113. To determine vent gas concentrations, the owner or operator must conduct a minimum of three test runs that are representative of normal conditions and average the resulting pollutant concentrations using Method 26A of Part 60 Appendix A-8 to determine chlorine concentrations in the vent stream, except where modifications are specified in Subpart S. 40 C.F.R. § 63.457(b)(5)(ii).

**6. Part 63, Subpart MM**

114. The requirements of Subpart MM apply to the owner or operator of each kraft, soda, sulfite, and stand-alone semichemical pulp mill that is a major source of HAP emissions. 40 C.F.R. § 63.860(a).

115. "Affected sources" under Subpart MM are new or existing affected sources located at a kraft or soda pulp mill and include (1) each existing chemical recovery systems, (2) each new nondirect contact evaporator recovery furnaces and associated smelt dissolving tanks, (3) each new direct contact evaporator recovery furnace system and associated smelt dissolving tank, (4) each new or existing lime kiln, (5) each new or existing sulfite combustion unit located at a sulfite pulp mill, and (6) each new or existing semichemical combustion unit located at a stand-alone semichemical pulp mill. 40 C.F.R. § 63.860(b)(1)-(6).

116. 40 C.F.R. § 63.865 requires the owner or operator of affected sources or process units to conduct initial performance testing. During the required performance testing, the owner or operator of any affected source or process unit must establish operating ranges for the monitoring parameters in 40 C.F.R. § 63.864(e)(10) through (14). 40 C.F.R. § 63.864(j)(1).

117. 40 C.F.R. § 63.864(k)(2) provides that following the compliance date, owners or operators of all affected sources or process units are in violation of the standards of 40 C.F.R. § 63.862 standards if the monitoring exceedances of 40 C.F.R. § 63.864(k)(2)(iv) occur.

118. A monitoring exceedance occurs for new or existing kraft or soda recovery furnaces, kraft or soda smelt dissolving tanks, kraft or soda lime kilns, or sulfite combustion unit equipped with a wet scrubber, when six or more 3-hour average parameter values within any 6-month reporting period are outside the range of values established in 40 C.F.R. § 63.864(j). 40 C.F.R. § 63.864(k)(2)(iv).

**7. Part 63, Subpart FFFF**

119. Pursuant to Section 112(d) of the CAA, 42 U.S.C. § 7412(d), EPA promulgated the National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing (Subpart FFFF). 40 C.F.R. Part 63, Subpart FFFF, §§ 63.2430-63.2550.

120. Subpart FFFF establishes requirements to demonstrate initial and continuous compliance with the emission limits, operating limits, and work practice standards. 40 C.F.R. § 63.2430. Those who own or operate miscellaneous organic chemical manufacturing process units ("MCPU") that are located at, or are part of, a major source of HAPs emissions as defined in Section 112(a) of the Clean Air Act, 42 U.S.C. § 7412(a), are subject to the requirements in Subpart FFFF. 40 C.F.R. § 63.2435.

121. For batch process vents, in order to establish emission profiles, owners and operators must conduct performance tests under worst-case conditions according to 40 C.F.R. § 63.1257(b)(8), instead of normal operating conditions. 40 C.F.R. § 63.2460(c)(2)(ii).

122. For batch process vents, owners and operators must establish operating limits under the worst-case conditions that were used in the initial compliance demonstration. 40 C.F.R. § 63.2460(c)(3).

123. Section 63.1257(b) requires testing to measure emissions from an affected source using the methods specified in 40 C.F.R. § 63.1257(b)(1) through (10). 40 C.F.R. § 63.1257(b).

124. Testing of emissions on batch operations equipment (where the flow of gaseous emissions is intermittent) requires that hypothetical worst-case conditions are simulated under test conditions that, at a minimum, contain the highest hourly HAP load of emissions that would

be predicted to be vented to the control device from the emissions profile described in paragraph 40 C.F.R. § 63.1257(b)(8)(ii)(B) or (C). 40 C.F.R. §§ 63.1257(b)(8) and 63.1257(b)(8)(i)(B).

125. Additionally, the performance testing must occur in three runs, at a minimum of 1-hour each and a maximum of 8-hour each, and must occur over the same worst-case conditions defined in 40 C.F.R. § 63.1257(b)(8)(i)(B). 40 C.F.R. § 63.1257(b)(8)(i)(B)(iii).

**C. PART 68 - CHEMICAL ACCIDENT PREVENTION PROVISIONS**

126. Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), provides that the objective of the regulations and programs authorized under Section 112(r) is to prevent the accidental release of regulated substances or other extremely hazardous substances and to minimize the consequences of any such release that does occur.

127. Pursuant to CAA § 112(r)(7), 42 U.S.C. § 7412(r)(7), the Administrator is authorized to promulgate release prevention, detection, and correction requirements.

128. On June 20, 1996, EPA promulgated a final rule known as the Chemical Accident Prevention Provisions, 40 C.F.R. Part 68, which implements Section 112(r)(7), 42 U.S.C. § 7412(r)(7), of the CAA.

129. Under 40 C.F.R § 68.10(a), an owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process, as determined under 40 C.F.R. § 68.115, must comply with the requirements of 40 C.F.R. Part 68 no later than the latest of the following dates: (1) June 21, 1999; (2) three years after the date on which a regulated substance is first listed under Section 68.130; or (3) the date on which a regulated substance is first present above a threshold quantity in a process. 40 C.F.R § 68.10(a).

130. Under 40 C.F.R. § 68.12(a), an owner or operator of a stationary source subject to Part 68 requirements must submit a Risk Management Plan ("RMP") as provided in 40

C.F.R. Part 68 Subpart G (§§ 68.150-68.185) that reflects all covered processes at the stationary source. 40 C.F.R. § 68.12(a).

131. Part 68 provides general requirements applicable to owners or operators of a stationary source subject to Part 68. It also establishes requirements that apply to an owner or operator based on whether the stationary source operates processes subject to one of three "Programs"-- Program 1, Program 2, or Program 3. 40 C.F.R. Part 68.

132. Under 40 C.F.R. § 68.12(d), the owner or operator of a stationary source with a process subject to the "Program 3" requirements of the Part 68 regulations, as determined pursuant to 40 C.F.R. § 68.10(d), must comply with the chemical accident prevention requirements of 40 C.F.R. Part 68, Subpart D (Program 3 Prevention Program, at 40 C.F.R. §§ 68.65-68.87).

133. The regulation requires owners or operators to develop and implement written operating procedures that provide clear instructions for safely conducting activities involved in each covered process consistent with the process safety information. 40 C.F.R. § 68.69(a).

134. 40 C.F.R. § 68.69(c) requires owners or operators to review operating procedures as often as necessary to assure that they reflect current operating practice, including changes that result from changes in process chemicals, technology, and equipment, and changes to stationary sources. Additionally, 40 C.F.R. § 68.69(c) requires owners or operators to certify annually that these operating procedures are current and accurate.

135. 40 C.F.R § 68.73(b) requires the owner or operator to establish and implement written procedures to maintain the ongoing integrity of process equipment.

136. 40 C.F.R. § 68.73(d)(3) requires that inspections and tests be performed on process equipment, and that the frequency of such inspections and tests must be consistent with

applicable manufacturers' recommendations and good engineering practices, and more frequently if determined to be necessary by prior operating experience.

137. 40 C.F.R. § 68.75(a) requires the owner or operator to establish and implement written procedures to manage changes (except for "replacements in kind") to process chemicals, technology, equipment, and procedures; and, changes to stationary sources that affect a covered process.

138. 40 C.F.R. § 68.79(a) requires the owner or operator to certify that they have evaluated compliance with the provisions of subpart 68 at least every three years to verify that procedures and practices developed under this subpart are adequate and are being followed. 40 C.F.R. § 68.79(d) requires owners or operators to promptly determine and document an appropriate response to each of the findings of the compliance audit required by Section 68.79(a), and document that deficiencies have been corrected.

139. 40 C.F.R. § 68.200 requires the owner or operator to maintain records supporting the implementation of the Part 68 regulations for five years unless otherwise provided. This includes the Mechanical Integrity program that requires the owner or operator to correct deficiencies in equipment that are outside acceptable limits before further use.

## D. ENFORCEMENT OF THE CAA

140. Section 113(b) of the CAA, 42 U.S.C. §§ 7413(b), authorizes EPA to bring a civil action if EPA finds that any person is in violation of any requirement or prohibition of the NSPS program, NESHAP program, or Chemical Accident Prevention Provisions for Air Programs.

141. Section 113(b) of the CAA, 42 U.S.C. § 7413(b), authorizes the Court to enjoin a violation, to require compliance, to assess and recover a civil penalty, and to award any other appropriate relief for each violation.

142. The Administrator is authorized under CAA Section 113(b), 42 U.S.C. § 7413(b), as amended by the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461 note, the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 note, and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Pub. L. No. 114-74 § 701, 129 Stat. 584, 599-60, and as provided in 40 C.F.R. Part 19, to initiate a judicial enforcement action for a civil penalty of up to $32,500 per day for each such violation occurring after March 15, 2004 through January 12, 2009, up to $37,500 per day for each violation occurring after January 12, 2009 through November 2, 2015, and up to $97,229 per day for each violation occurring after November 2, 2015.

143. Ark. Code Ann. § 8-4-103(b) authorizes ADEQ to institute a civil action in any court of competent jurisdiction to accomplish any of the following: restrain any violation or compel compliance with any provision of the AWAPCA or of any rules, regulations, orders, permits, or plans issued pursuant to the AWAPCA; order that remedial measures be taken; recover all costs, expenses, and damages to the department; or assess civil penalties in an amount not to exceed ten thousand dollars ($10,000) per day for violations of the AWAPCA or APC&EC rules, regulations, plans, or permits; or Recover civil penalties assessed pursuant to subsection (c).

## II. CLEAN AIR ACT CLAIMS:

### A. GENERAL ALLEGATIONS

144. GP Consumer and GP Chemical are each a "person" within the meaning of the CAA and the AWAPCA, and an "owner or operator," under the CAA and the AWAPCA of their respective facilities located in Crossett, Arkansas.

145. GP Consumer Facility and the GP Chemical Facility are each a "source," a "stationary source," and a "major source" within the meaning of the CAA, the NSPS program and regulations, the NESHAP/MACT program and regulations, and as defined under APC&EC Regulations Number 19 and 26.

146. The National Enforcement Investigations Center ("NEIC") conducted an on-site inspection at the GP Consumer Facility and the GP Chemical Facility from February 3, 2015 through February 12, 2015 (the "Inspection").

### B. CAA: PART 60 - NSPS VIOLATIONS

**CLEAN AIR ACT: CLAIM 1**
**Violation of NSPS Subpart BB**

**Failure to Effectively Control Total Reduced Sulfur Emissions from Digesters**

147. Plaintiffs reallege and incorporate by reference Paragraphs 1-146 as if fully set forth herein.

148. The GP Consumer Facility is an "affected facility" within the meaning of 40 C.F.R. § 60.2 and required to conduct and submit 40 C.F.R. § 60.8(a) performance test(s).

149. GP Consumer Facility's batch digesters are subject to the 40 C.F.R. Part 60, Subpart BB Standards of performance for Kraft Pulp Mills because the digesters were constructed or modified between September 24, 1976 and May 23, 2013.

150. NEIC observed vapors on during the Inspection emanating from top of the capper valves on five of the GP Consumer Facility's digesters (Digester Nos. 4, 8, 9, 10, and 11) that were operating under pressure.

151. NEIC observed vapors on during the Inspection emanating from the flange on the side of the Digester No. 3 capper valve, in violation of 40 C.F.R. § 60.283(a)(1).

152. Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), and Ark. Code Ann. § 8-4-103(b), GP Consumer is liable to the United States and ADEQ for civil penalties for these violations occurring from February 3, 2015 until repairs were completed on January 31, 2016.

**CLEAN AIR ACT: CLAIM 2**
**Violation of NSPS Subpart BB**

**Failure to Effectively Control Total Reduced Sulfur Emissions from Brown Stock Washers**

153. Plaintiffs reallege and incorporate by reference Paragraphs 1-146 as if fully set forth herein.

154. The GP Consumer Facility is an "affected facility" within the meaning of 40 C.F.R. § 60.2 and required to conduct and submit 40 C.F.R. § 60.8(a) performance test(s).

155. The GP Consumer Facility's brown stock washers, are subject to the 40 C.F.R. Part 60, Subpart BB Standards of Performance for Kraft Pulp Mills, because the washers were constructed or modified between September 24, 1976 and May 23, 2013.

156. NEIC observed vapors during the Inspection emanating from the entries, exits, and enclosures of the GP Consumer Facility's brown stock washers (GP-2 and GP-3) in violation of 40 C.F.R. § 60.283(a)(1).

157. The acts and/or omissions identified in this Claim constitute violations of Section 111 of the CAA, 42 U.S.C. § 7411, Section 111's implementing regulation at 40 C.F.R. § 60.283(a)(1), and A.C.A. §8-4-301 *et seq*.

158. Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), and Ark. Code Ann. § 8-4-103(b), GP Consumer is liable to the United States and ADEQ for civil penalties for these violations occurring from February 3, 2015 to September 15, 2018 (the date EPA accepted GP Consumer's demonstration, pursuant to 40 C.F.R. § 60.283(a)(1)(vi), that incinerating the exhaust gases from the GP Consumer Facility's brown stock washers is technologically or economically unfeasible).

## C. CAA: PART 63 - NESHAP VIOLATIONS

### GENERAL ALLEGATIONS:

159. The GP Consumer Facility and the GP Chemical Facility Facilities are each a "major source" within the meaning of 40 C.F.R. § 63.2 and the AWAPCA.

160. The GP Consumer Facility is a major source for HAPs listed in Section 112(b) of the CAA, 42 U.S.C. § 7412(b) and the AWAPCA, including carbon tetrachloride, chloroform, methanol, and formaldehyde.

161. The GP Chemical Facility is a major source for HAPs listed in Section 112(b) of the CAA, 42 U.S.C. § 7412(b), including formaldehyde.

## NESHAP SUBPART S: GENERAL ALLEGATIONS

162. GP Consumer is the owner or operator of processes that produce paper located at a plant site that is a major source as defined in 40 C.F.R. § 63.2 of subpart A, and uses kraft processes and materials. 40 C.F.R. § 63.440(a).

163. The existing affected source at the GP Consumer Facility is the total of all HAP emission points in the pulping and bleaching systems. 40 C.F.R. § 63.440(b)(1).

164. GP Consumer owns and operates a pulping system using a kraft process subject to the requirements of Subpart S at the GP Consumer Facility.

## CLEAN AIR ACT CLAIM 3
## Violation of NESHAP Subpart S: Pulping System Standards

### Failure to Control HAP Emissions from Digesters

165. Plaintiffs reallege and incorporate by reference Paragraphs 1-146 and 159-164 as if fully set forth herein.

166. GP Consumer owns and operates a pulping system using a kraft pulping process that uses chlorinated compounds and is subject to the requirements of Subpart S at the GP Consumer Facility.

167. 40 C.F.R. § 63.443(a) requires that the GP Consumer Facility control the total HAP emissions from the LVHC system.

168. 40 C.F.R. § 63.443(c) requires that the HAP emissions from the GP Consumer Facility's LVHC system be enclosed and vented into a closed-vent system and routed to a control device.

169. The GP Consumer Facility's pulping system includes a digester system operated under pressure. The pressure is controlled by a relief device through a closed-vent system that routes the vapors to the LVHC system.

170. NEIC observed vapors during the Inspection emanating from or around capper valves on the batch digesters 3, 4, 8, 9, 10, and 11 (the "Digesters") while operating under pressure at the GP Consumer Facility.

171. The HAP emissions from the Digesters were not enclosed and vented into a closed-vent system and routed to a control device which is a violation of 40 C.F.R. § 63.443(c).

172. Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), and Ark. Code Ann. § 8-4-103(b), GP Consumer is liable to the United States and ADEQ for civil penalties for these violations occurring from February 3, 2015 until repairs were completed on January 31, 2016.

**CLEAN AIR ACT CLAIM 4**
**Violation of NESHAP Subpart S: Pulping System Standards**

**Failure to Control HAP Emissions from Washers**

173. Plaintiffs reallege and incorporate by reference Paragraphs 1-146 and 159-164 as if fully set forth herein.

174. GP Consumer owns and operates a pulping system using a kraft pulping process that uses chlorinated compounds and is subject to the requirements of Subpart S at the GP Consumer Facility.

175. Section 63.443(a) requires that the GP Consumer Facility control the total HAP emissions at each pulp washing system. 40 C.F.R. § 63.443(a).

176. Section 63.443(c) requires that the HAP emissions from GP Consumer Facility's pulp washing system be enclosed and vented into a closed-vent system and routed to a control device. 40 C.F.R. § 63.443(c).

177. The GP Consumer Facility's pulping system includes two washers (GP-2 and GP-3) that are used to wash pulp and separate spent cooking chemicals. The GP-2 and GP-3 pulp washing system equipment includes horizontal belt filters.

178. Horizontal belt filters are included in the 40 C.F.R. § 63.441 definition of a pulp washing system, so the GP Consumer Facility must control the total HAP emissions.

179. NEIC observed vapors during the Inspection emanating from or around the entries, exits, and enclosures of the two washers while they were operating under pressure at the GP Consumer Facility.

180. The HAP emissions from the two washers were not enclosed and vented into a closed-vent system and routed to a control device that is a violation of 40 C.F.R. § 63.443(c).

181. Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), and Ark. Code Ann. § 8-4-103(b), GP Consumer is liable to the United States and ADEQ for injunctive relief and civil penalties for these violations occurring from February 3, 2015 through the present.

**CLEAN AIR ACT CLAIM 5**
**Violation of NESHAP Subpart S: Pulping System Standards**

**Excess Emissions from the Incinerator**

182. Plaintiffs reallege and incorporate by reference Paragraphs 1-146 and 159-164 as if fully set forth herein.

183. GP Consumer owns and operates a pulping system using a kraft pulping process that uses chlorinated compounds and is subject to the requirements of Subpart S at the GP Consumer Facility.

184. 40 C.F.R. § 63.443(a) requires that the GP Consumer Facility control the total HAP emissions at each LVHC pulp washing system and each knotter system.

185. The GP Consumer Facility includes a knotter system, which is part of a high volume, low concentration (HVLC) system, as defined in 40 C.F.R. § 63.441.

186. 40 C.F.R. § 63.443(c) requires that the HAP emissions from the GP Consumer Facility's pulp washing system be enclosed and vented into a closed-vent system and routed to a control device.

187. GP Consumer Facility's HVLC and LVHC vent streams are routed to an incinerator, or thermal oxidizer, as a control device.

188. 40 C.F.R. § 63.443(e)(3) specifies that excess emissions of HAPs occur when the time of excess emissions divided by the total process operating time in a semiannual reporting period exceeds four percent.

189. At the time of the Inspection, the GP Consumer Facility violated 40 C.F.R. § 63.443(e)(3) by exceeding the allowable four percent of excess emissions of the total operating time for the incinerator in the semiannual period:

| Semiannual Period | Reported Excess Emissions Time |
|---|---|
| 1/1/2014-6/30/2014 | 44.70% |

190. Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), and Ark. Code Ann. § 8-4-103(b), GP Consumer is liable to the United States and ADEQ for civil penalties for these violations.

**CLEAN AIR ACT CLAIM 6**
**Violation of NESHAP Subpart S: Bleaching System Standards**

**Failure to Control HAP Emissions from the D0 Seal Tank**

191. Plaintiffs reallege and incorporate by reference Paragraphs 1-146 and 159-164 as if fully set forth herein.

192. GP Consumer owns and operates a bleaching system using a kraft pulping process that uses chlorinated compounds and is subject to the requirements of Subpart S at the GP Consumer Facility.

193. Seal tanks are part of the process equipment in the bleaching stage in the GP Consumer Facility's bleaching process where chlorinated compounds are used.

194. The process equipment at each bleaching stage of the bleaching system which uses chlorinated compounds must be enclosed and vented into a closed-vent system and routed to a control device, as 40 C.F.R. § 63.445(b) requires.

195. NEIC observed vapors during the Inspection emanating from or around a crack at the top of the D0 Seal Tank of the 1B Bleach Line, in addition to evidence of stains on the side of the D0 Seal Tank.

196. The D0 Seal Tank is part of the GP Consumer Facility's bleaching stage where chlorinated compounds are introduced.

197. The HAP emissions from the D0 Seal Tank were not enclosed and vented into a closed-vent system and routed to a control device in violation of 40 C.F.R. § 63.445(b).

198. Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), and Ark. Code Ann. § 8-4-103(b), the GP Consumer is liable to the United States and ADEQ for civil penalties for these violations occurring from February 3, 2015 through May 31, 2016 when the repairs were completed.

**CLEAN AIR ACT CLAIM 7**
**Violation of NESHAP Subpart S: Bleaching System Standards**

**Failure to Control HAP Emissions from the D2 Upflow Tower**

199. Plaintiffs reallege and incorporate by reference Paragraphs 1-146 and 159-164 as if fully set forth herein.

200. GP Consumer owns and operates a bleaching system using a kraft pulping process that uses chlorinated compounds and is subject to the requirements of Subpart S at the GP Consumer Facility.

201. Upflow towers are part of the process equipment in the bleaching stage in the GP Consumer Facility's bleaching process, where chlorinated compounds are used.

202. The process equipment at each bleaching stage of the bleaching system where chlorinated compounds are used must be enclosed and vented into a closed-vent system and routed to a control device, as 40 C.F.R. § 63.445(b) requires.

203. Visible emissions were observed during the Inspection emanating from or around the D2 Upflow Tower, which is part of the GP Consumer Facility's bleaching stage where chlorinated compounds are used.

204. The HAP emissions from the D2 Upflow Tower were not enclosed and vented into a closed-vent system and routed to a control device in violation of 40 C.F.R. §63.445(b).

205. Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), and Ark. Code Ann. § 8-4-103(b), GP Consumer is liable to the United States and ADEQ for injunctive relief and civil penalties for these violations occurring from the date of Inspection through the present.

**CLEAN AIR ACT CLAIM 8**
**Violation of NESHAP Subpart S: Bleaching System Standards**

**Failure to Control HAP Emissions from the Bleach Plant Scrubber**

206. Plaintiffs reallege and incorporate by reference Paragraphs 1-146 and 159-164 as if fully set forth herein.

207. GP Consumer owns and operates a bleaching system as defined in 40 C.F.R. § 63.445(a) that uses a kraft pulping process requiring chlorinated compounds, subject to the requirements of Subpart S at the GP Consumer Facility.

208. Bleach plant scrubbers are part of the bleaching system at the GP Consumer Facility's bleaching process and use chlorinated compounds.

209. The process equipment at each bleaching stage of the bleaching system where chlorinated compounds are introduced must be enclosed and vented into a closed vent system and routed to a control device, as 40 C.F.R. § 63.445(b) requires.

210. NEIC observed vapors during the Inspection emanating from or around a leak at the hardwood bleach plant scrubber booster fan, located on the roof of the bleach plant building.

211. The HAP emissions from the bleach plant scrubber booster fan were not enclosed and vented into a closed-vent system and routed to a control device in violation of 40 C.F.R. § 63.445(b).

212. Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), and Ark. Code Ann. § 8-4-103(b), the GP Consumer is liable to the United States and ADEQ for injunctive relief and civil penalties for these violations occurring from February 3, 2015 through the present.

**CLEAN AIR ACT CLAIM 9**
**Violation of NESHAP Subpart S: Monitoring Requirements**

**Failure to Monitor Condensate Tanks For Detectable Leaks**

213. Plaintiffs reallege and incorporate by reference Paragraphs 1-146 and 159-164 as if fully set forth herein.

214. GP Consumer owns and operates a pulping process at the GP Consumer Facility where condensates from the process equipment (the digester system up to and including the last piece of pulp conditioning equipment prior to the bleaching system) must be treated to meet the requirements of 40 C.F.R. §§ 63.446 (c), (d), and (e) of Subpart S.

215. The GP Consumer Facility is subject to these standards and as such is required in 40 C.F.R. § 63.453(a) to install, calibrate, certify, operate, and maintain a CMS according to manufacturer's specifications.

216. The GP Consumer Facility uses condensate tanks in the closed collection system and is required under 40 C.F.R. § 63.453(l)(2) to operate the tanks with no detectable leaks as measured initially and annually.

217. At the time of the Inspection, the GP Consumer Facility was not monitoring the blow heat condensate pump tank and methanol storage tank to ensure that they are operated with no detectable emissions in violation of 40 C.F.R. § 63.453(l)(2).

218. Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), and Ark. Code Ann. § 8-4-103(b), GP Consumer is liable to the United States and ADEQ for civil penalties for these violations occurring from the date of Inspection through April 30, 2015, when the violation was corrected.

**CLEAN AIR ACT CLAIM 10**
**Violation of NESHAP Subpart S: Monitoring Requirements**

**Failure to Operate Bleach Plant Scrubber Within Initial Performance Test Parameters**

219. Plaintiffs reallege and incorporate by reference Paragraphs 1-146 and 159-164 as if fully set forth herein.

220. GP Consumer owns and operates a bleaching system paper process at the GP Consumer Facility that includes the use of chlorine. 40 C.F.R. § 63.453(a) requires such processes to install, calibrate, certify, operate, and maintain a CMS.

221. The bleaching system at the GP Consumer Facility requires the use of a CMS to measure the pH of the gas scrubber effluent, the gas scrubber vent gas inlet flow rate, and the gas scrubber liquid influent flow rate. 40 C.F.R. § 63.453(c).

222. The GP Consumer Facility's bleach scrubber is a control device subject to the monitoring provisions of 40 C.F.R. § 63.453(o).

223. Section 63.453(o) requires the GP Consumer Facility to operate the control device above the minimum operating parameter values or below the maximum operating parameter values established in the required performance testing. 40 C.F.R. §63.453(o).

224. The GP Consumer Facility's initial performance testing established the minimum pH operating parameter for the bleach plant scrubber at 10.56.

225. Beginning five years prior to the filing of this Complaint to February 12, 2015, there were 3,083 instances when the pH value for the scrubber gas effluent was below 10.56.

226. Subject to a reasonable opportunity for further investigation and discovery, the GP Consumer Facility did not operate the bleach gas scrubber in a manner consistent with the minimum or maximum operating parameter values, or the lower pH limit, in violation of by 40 C.F.R. § 63.453(o).

227. Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), and Ark. Code Ann. § 8-4-103(b), GP Consumer is liable to the United States and ADEQ for civil penalties for these violations.

**CLEAN AIR ACT CLAIM 11**
**Violation of NESHAP Subpart S: Reporting Requirements**

**Failure to Report Excursions in Bleach Plant Scrubber Operations**

228. Plaintiffs reallege and incorporate by reference Paragraphs 1-146 and 159-164 as if fully set forth herein.

229. GP Consumer owns and operates a bleaching system process that includes the use of chlorine at the GP Consumer Facility. 40 C.F.R. § 63.453(a) requires such processes to install, calibrate, certify, operate, and maintain a CMS.

230. The bleaching system at the GP Consumer Facility requires the use of a CMS to measure the pH of the gas scrubber effluent, the gas scrubber vent gas inlet flow rate, and the gas scrubber liquid influent flow rate. 40 C.F.R. § 63.453(c).

231. GP Consumer Facility's bleach scrubber is a control device subject to the monitoring provisions of 40 C.F.R. § 63.453(o).

232. Section 63.453(o) requires the GP Consumer Facility to operate the control device above the minimum operating parameter values or below the maximum operating parameter values established in the required performance testing. 40 C.F.R. § 63.453(o).

233. GP Consumer Facility's initial performance testing set the following parameters for the bleach plant scrubber fan vent: monitor motor amperage, no load on motor at 15 amps, and the minimum and maximum range was 20 and 50, respectively.

234. GP Consumer Facility's initial performance testing established the minimum pH operating parameter for the bleach plant scrubber of 10.56.

235. Beginning five years prior to the filing of this Complaint, there were 3083 instances when the pH value for the scrubber gas effluent was below 10.56.

236. The GP Consumer Facility did not operate the bleach gas scrubber in a manner consistent with the minimum or maximum operating parameter values, or the lower pH limit, as required by 40 C.F.R. § 63.453(o).

237. The GP Consumer Facility is subject to Subpart S and is required by 40 C.F.R. § 63.455(a) to comply with the reporting requirements of Subpart A.

238. The GP Consumer Facility is an affected source that is required by 40 C.F.R. § 63.10(e)(3)(i) to submit excess emissions and CMS performance reports and/or summary reports to the Administrator semiannually.

239. The GP Consumer Facility failed to report instances when the bleach plant scrubber was operated outside the established parameter values for pH as required by 40 C.F.R. § 63.10(e)(3)(i), and as such violated 40 C.F.R. § 63.455(a).

240. Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), and Ark. Code Ann. § 8-4-103(b), GP Consumer is liable to the United States and ADEQ for civil penalties for these violations.

**CLEAN AIR ACT CLAIM 12**
**Violation of NESHAP Subpart S: Test Methods and Procedures**

**Failure to Use an Approved Method in Performance Testing**

241. Plaintiffs reallege and incorporate by reference Paragraphs 1-146 and 159-164 as if fully set forth herein.

242. GP Consumer owns and operates a pulping system and process at the GP Consumer Facility that is subject to requirements for initial and repeat performance tests for emission sources, including the bleaching system and bleach plant scrubber, pursuant to 40 C.F.R. § 63.457(a).

243. The GP Consumer Facility is required under 40 C.F.R. § 63.457(b) to determine vent gas stream properties and concentrations consistent with the requirements of 40 C.F.R. § 63.457(b)(5), which requires a minimum of three test runs that are representative of normal conditions and the averaging of resulting pollutant concentrations.

244. Section 63.457(b)(5)(ii) requires the GP Consumer Facility to use Method 26A of Part 60 to determine chlorine concentration in the vent stream. 40 C.F.R. § 63.457(b)(5)(ii).

245. The GP Consumer Facility conducted its initial performance test for the bleach plant scrubber using the National Council for Air and Stream Improvement, Inc. (NCASI) Special Report No. 92-01, "Method for Measuring Chlorine, Chlorine Dioxide, and Chloroform Gaseous Emissions" to determine chlorine, chlorine dioxide, and chloroform emissions, rather than Method 26A to determine chlorine concentration in the vent stream, in violation of 40 C.F.R. § 63.457(b)(5)(ii) requires.

246. Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), and Ark. Code Ann. § 8-4-103(b), GP Consumer is liable to the United States and ADEQ for civil penalties for these violations occurring from February 3, 2015 through September 30, 2015 when the violation was corrected.

**CLEAN AIR ACT CLAIM 13**
**Violation of NESHAP Subpart S: General Provisions**

**Failure to Maintain Compliance Records**

247. Plaintiffs reallege and incorporate by reference Paragraphs 1-146 and 159-164 as if fully set forth herein.

248. GP Consumer is the owner or operator of a pulping system at the GP Consumer Facility that uses a kraft process subject to Subpart S.

249. The GP Consumer Facility is an affected source that is required by 40 C.F.R. § 63.10(b)(2)(vii) to maintain relevant records of all required measurements needed to demonstrate compliance with a relevant standard.

250. The GP Consumer Facility's pulping system includes a knotter system, for which 40 C.F.R. § 63.443(a)(1)(ii)(A) requires the GP Consumer Facility to control HAP emissions when the total HAP mass emission rate is greater than or equal to 0.05 kilograms or more of total HAP per megagram of ODP (0.1 pounds per ton).

251. The GP Consumer Facility did not maintain relevant records to demonstrate compliance with 40 C.F.R. § 63.443(a)(1)(ii)(A) because it was unable to demonstrate that the knotter system has emissions below 0.1 pounds of total HAP emissions per ton of ODP, in violation of 40 C.F.R. § 63.10(b)(2)(vii).

252. Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), and Ark. Code Ann. § 8-4-103(b), GP Consumer is liable to the United States and ADEQ for civil penalties for these violations occurring from February 3, 2015 until September 11, 2015 when the violation was corrected.

**CLEAN AIR ACT CLAIM 14**
**Violation of NESHAP Subpart MM: Monitoring Requirements**

**Failure to Use Performance Testing Operating Ranges to Determine Compliance**

253. Plaintiffs reallege and incorporate by reference Paragraphs 1-146 and 159-164 as if fully set forth herein.

254. GP Consumer operates an affected source, the smelt dissolving tank, at the GP Consumer Facility for which Part 63 Subpart MM is applicable. 40 C.F.R. §§ 63.860(a) and (b).

255. 40 C.F.R. § 63.865 requires the GP Consumer Facility to conduct initial performance testing for the following smelt dissolving tank scrubbers: the smelt dissolving tank east scrubber and smelt dissolving tank west scrubber.

256. 40 C.F.R. § 63.864(j)(1) requires the GP Consumer Facility to establish operating ranges for applicable monitoring parameters during the initial performance testing.

257. Subject to a reasonable opportunity for further investigation and discovery, the GP Consumer Facility's initial performance test established minimum flow rates for the east and west scrubbers of 145.70 gallons per minute (gpm) and 152.37 gpm, respectively.

258. Subject to a reasonable opportunity for further investigation and discovery, the GP Consumer Facility monitored compliance for the east and west scrubbers using the lower minimum flow rates of 140 gpm.

259. At the time of the Inspection, the GP Consumer Facility did not use the operating ranges established in its initial performance tests for the smelt dissolving tank scrubbers to determine compliance with the monitoring requirements in violation of 40 C.F.R. § 63.864(j)(1).

260. Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), and Ark. Code Ann. § 8-4-103(b), GP Consumer is liable to the United States and ADEQ for civil penalties for these violations from February 3, 2015 to June 5, 2015 when the violation was corrected.

**CLEAN AIR ACT CLAIM 15**
**Violation of NESHAP Subpart MM: Monitoring Requirements**

**Failure to Operate the Smelt Dissolving Tank Scrubbers within Established Operating Ranges**

261. Plaintiffs reallege and incorporate by reference Paragraphs 1-146 and 159-164 as if fully set forth herein.

262. GP Consumer operates affected sources at the GP Consumer Facility, a smelt dissolving tank west scrubber and a smelt dissolving tank east scrubber, for which Part 63 Subpart MM is applicable. 40 C.F.R. §§ 63.860(a) and (b).

263. During the initial performance testing, 40 C.F.R. § 63.864(j)(1) requires the GP Consumer Facility to establish operating ranges to determine applicable monitoring parameters of the smelt dissolving tank scrubbers.

264. The GP Consumer Facility is required to operate the smelt dissolving tanks within the 40 C.F.R. § 63.864(j)(1) operating ranges.

265. From January 2012 through June 30, 2015, monitoring exceedances occurred, as defined by 40 C.F.R. § 63.864(k)(2)(iv), at the smelt dissolving tanks because there were six or more 3-hour average parameter values within certain 6-month reporting periods that were outside the range of values established in 40 C.F.R. § 63.864(j). The specific monitoring exceedances occurred during:

a. 1/1/2012-6/30/2012
b. 7/1/2012-12/31/2012
c. 1/1/2013-6/30/2013
d. 7/1/2013-12/31/2013
e. 1/1/2014-6/30/2014
f. 7/1/2014-12/31/2014
g. 1/1/2015-6/30/2015

266. Based on the above listed monitoring exceedances for the smelt dissolving tank scrubbers, the GP Consumer Facility exceeded the monitoring limitations in violation of 40 C.F.R. § 63.864(k)(2)(iv).

267. Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), and Ark. Code Ann. §8-4-103(b), GP Consumer is liable to the United States and ADEQ for civil penalties for those violations beginning five years prior to the filing of this complaint.

**CLEAN AIR ACT CLAIM 16**
**Violation of NESHAP Subpart FFFF: Batch Process Vents**

**Failure to Conduct a Performance Test in Three Runs Under Worst-Case Conditions: Complex Boiler SN-05**

268. Plaintiffs reallege and incorporate by reference Paragraphs 1-146 and 159-164 as if fully set forth herein.

269. GP Chemical owns and operates a MCPU at the GP Chemical Facility that is located at, or is part of, a major source of HAP emissions subject to Subpart FFFF.

270. The GP Chemical Facility routes batch process vents in a combined emission stream to the complex boiler (SN-05) to control emissions from the batch process vents.

271. 40 C.F.R. § 63.2460(c)(2)(ii) requires the GP Chemical Facility to conduct a performance test for its non-flare control device, the SN-05 complex boiler, to establish emission profiles, and to perform three runs of these tests under the worst-case conditions described in 40 C.F.R. § 63.1257(b)(8) and 40 C.F.R. § 63.1257(b)(8)(iii).

272. Subject to a reasonable opportunity for further investigation and discovery, the GP Chemical Facility identified the batch process vents within the combined emission stream and the time periods of the batch cycle with the theoretical worst-case emissions, as required.

273. Subject to a reasonable opportunity for further investigation and discovery, the first two test runs of its August 2009 performance test runs for the SN-05 complex boiler occurred during one-hour periods that the GP Chemical Facility previously identified as worst-case conditions; the third test run occurred during a period that had not been identified as a

worst case scenario, as required by 40 C.F.R. § 63.1257(b)(8)(iii), in violation of 40 C.F.R. § 63.2460(c)(2(ii). This violation continued at least from the time of the Inspection until it was corrected on March 24, 2017.

274. Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), and Ark. Code Ann. §8-4-103(b), GP Chemical is liable to the United States and ADEQ for civil penalties for these violations from at least the date of the Inspection to March 24, 2017.

**CLEAN AIR ACT CLAIM 17**
**Violation of NESHAP Subpart FFFF: Batch Process Vents**

**Failure to Conduct a Performance Test in Three Runs Under Worst-Case Conditions: Thermal Oxidizer SN-129**

275. Plaintiffs reallege and incorporate by reference Paragraphs 1-146 and 159-164 as if fully set forth herein.

276. GP Chemical owns and operates a MCPU at the GP Chemical Facility that is located at, or is part of, a major source of HAP emissions subject to Subpart FFFF.

277. The GP Chemical Facility routes batch process vents in a combined emission stream to the complex boiler (SN-05) and the back-up thermal oxidizer (SN-129) to control emissions from the batch process vents.

278. Section 63.2460(c)(2)(ii) requires the GP Chemical Facility to conduct a performance test for the non-flare control device, the SN-129 thermal oxidizer, used to control emissions from batch process vents, in order to establish emission profiles, and perform three runs of these tests under worst-case conditions, as described in 40 C.F.R. § 63.1257(b)(8) and 40 C.F.R. § 63.1257(b)(8)(iii).

279. Subject to a reasonable opportunity for further investigation and discovery, the GP Chemical Facility identified the batch process vents within the combined emission stream and the time periods of the batch cycle with the theoretical worst-case emissions, as required.

280. Subject to a reasonable opportunity for further investigation and discovery, the first two test runs of its August 2009 performance test runs for the SN-129 thermal oxidizer occurred during one-hour periods that the GP Chemical Facility previously identified as worst-case conditions; the third test run occurred during a period that had not been identified as a worst-case scenario, as required by 40 C.F.R. § 63.1257(b)(8), in violation of 40 C.F.R. § 63.2460(c)(2)(ii). This violation continued at least from the time of the Inspection until it was corrected on March 24, 2017.

281. Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), and Ark. Code Ann. §8-4-103(b), GP Chemical is liable to the United States and ADEQ for civil penalties for these violations occurring at least from February 3, 2015 to March 24, 2017.

**CLEAN AIR ACT CLAIM 18**
**Violation of NESHAP Subpart FFFF: Batch Process Vents**

**Failure to Establish Appropriate Operating Conditions for the SN-05 Complex Boiler**

282. Plaintiffs reallege and incorporate by reference Paragraphs 1-146 and 159-164 as if fully set forth herein.

283. GP Chemical owns and operates a MCPU at the GP Chemical Facility that is located at, or is part of, a major source of HAP emissions subject to Subpart FFFF.

284. The GP Chemical Facility routes batch process vents in a combined emission stream to the complex boiler (SN-05) and back up thermal oxidizer (SN-129) to control emissions from the batch process vents.

285. Section 63.2460(c)(3) requires the GP Chemical Facility to establish operating limits for its control device, the SN-05 complex boiler, under the worst-case conditions used in the initial compliance demonstration. 40 C.F.R. § 63.2460(c)(3).

286. Subject to a reasonable opportunity for further investigation and discovery, the first two test runs of its August 2009 performance test runs for the SN-05 complex boiler occurred during one hour periods that the GP Chemical Facility previously identified as worst case conditions; the third test run occurred during a period that had not been identified as a worst-case scenario.

287. Subject to a reasonable opportunity for further investigation and discovery, the GP Chemical Facility established operating conditions for the SN-05 complex boiler based on the average firebox temperature observed on the boiler during the third test run, when minimal emissions were expected, and not during worst-case conditions, in violation of 40 C.F.R. § 63.2460(c)(3). This violation continued at least from the time of the Inspection until it was corrected on March 24, 2017.

288. Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), and Ark. Code Ann. §8-4-103(b), GP Chemical is liable to the United States and ADEQ for civil penalties for these violations at least from the date of Inspection on March 24, 2017.

**CLEAN AIR ACT CLAIM 19**
**Violation of NESHAP Subpart FFFF: Batch Process Vents**

**Failure to Establish Operating Appropriate Operating Conditions for the SN-129 Thermal Oxidizer**

289. Plaintiffs reallege and incorporate by reference Paragraphs 1-146 and 159-164 as if fully set forth herein.

290. GP Chemical owns and operates a MCPU at the GP Chemical Facility that is located at, or is part of, a major source of HAP emissions subject to Subpart FFFF.

291. The GP Chemical Facility routes batch process vents in a combined emission stream to the complex boiler (SN-05) and back up thermal oxidizer (SN-129) to control emissions from the batch process vents.

292. Section 63.2460(c)(3) requires the GP Chemical Facility to establish operating limits for its control device, the SN-129 thermal oxidizer, under the worst-case conditions used in the initial compliance demonstration. 40 C.F.R. § 63.2460(c)(3).

293. Subject to a reasonable opportunity for further investigation and discovery, the first two test runs of its August 2009 performance test runs for the SN-129 thermal oxidizer occurred during one hour periods that the GP Chemical Facility previously identified as worst case conditions; the third test run occurred during a period that had not been identified as a worst case scenario.

294. Subject to a reasonable opportunity for further investigation and discovery, the GP Chemical Facility established operating conditions for the SN-129 thermal oxidizer based on the average firebox temperature observed on the boiler during the third test run, when minimal emissions were expected, and not during worst-case conditions, in violation of 40 C.F.R. § 63.2460(c)(3). This violation continued at least from February 3, 2015 until it was corrected on March 24, 2017.

295. Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), and Ark. Code Ann. §8-4-103(b), GP Chemical is liable to the United States and ADEQ for civil penalties for these violations occurring at least from the date of Inspection to March 24, 2017.

**CLEAN AIR ACT CLAIM 20**
**Violation of NESHAP Subpart H: Equipment Leaks**

**Failure to Monitor in Accordance with Method 21**

296. Plaintiffs reallege and incorporate by reference Paragraphs 1-146 and 159-164 as if fully set forth herein.

297. GP Chemical owns and operates formaldehyde storage vessels at the GP Chemical Facility, associated with an idled formaldehyde manufacturing plant at the GP Chemical Facility, that are subject to the requirements of 40 C.F.R. 63 Subparts F, G, and H. Additionally, formaldehyde is a HAP listed in Table 2 of Subpart F.

298. Detection instruments at the GP Chemical Facility must meet the performance criteria of Method 21 of 40 C.F.R. 60, Appendix A, which requires instrument response factors for each VOC measured to be less than 10. 40 C.F.R. § 60 Appendix A-7, 8.1.1.2.

299. Formaldehyde is not detected by a flame ionization detector (FID) at a response factor less than 10.

300. At the time of the Inspection, it was discovered that the GP Chemical Facility's contractor uses a FID to conduct all monitoring; therefore, leaks of formaldehyde are not detected.

301. The GP Chemical Facility's detection instruments did not meet the performance criteria and the instrument response factors, as required by Method 21 in violation of 40 C.F.R. § 63.180(b)(2)(i).

302. Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), and Ark. Code Ann. §8-4-103(b), GP Chemical is liable to the United States and ADEQ for civil penalties for these violations.

**CLEAN AIR ACT CLAIM 21**
**Violation of NESHAP Subpart G: Storage Vessels**

**Failure to Monitor the RTO in Accordance with NOCS Parameters**

303. Plaintiffs reallege and incorporate by reference Paragraphs 1-146 and 159-164 as if fully set forth herein.

304. GP Chemical must comply with 40 C.F.R. § 63.119(e)(3) at the GP Chemical Facility since it owns and operates a HON Group 1 methanol storage tank that routes its vapors to a RTO control device.

305. Under Subpart G, the RTO must be designed and operated to reduce inlet emissions of total organic HAP by 95 percent or greater. 40 C.F.R. §§ 63.119(e) and (e)(1).

306. 40 C.F.R. §§ 63.119(e)(1) and (3) require that periods of planned routine maintenance of the GP Chemical Facility's RTO, during which the RTO does not meet the 95 percent or greater total organic HAP reduction, shall not exceed 240 hours per year. 40 C.F.R. §§ 63.119(e)(1) and (3).

307. 40 C.F.R. § 63.120(d)(5) requires the GP Chemical Facility to monitor the parameters specified in the Notification of Compliance Status, or in the operating permit, and operate and maintain the RTO such that the monitored parameters remain within the specified ranges. 40 C.F.R. § 63.120(d)(5).

308. Subject to a reasonable opportunity for further investigation and discovery, the GP Chemical Facility's RTO did not meet the daily average minimum temperature requirement specified in the Notification of Compliance Status eight times in 2014, in violation of 40 C.F.R. § 63.120(d)(5).

309. Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), and Ark. Code Ann. §8-4-103(b), GP Chemical is liable to the United States and ADEQ for civil penalties for each day of these violations.

**CLEAN AIR ACT CLAIM 22**
**Violation of NESHAP Subpart G: Storage Vessels**

**Failure to Report RTO Excursions**

310. Plaintiffs reallege and incorporate by reference Paragraphs 1-146 and 159-164 as if fully set forth herein.

311. GP Chemical must comply with 40 C.F.R. § 63.119(e)(3) at the GP Chemical Facility because it owns and operates a HON Group 1 methanol storage tank that routes its vapors to a RTO control device.

312. Under Subpart G, the RTO must be designed and operated to reduce inlet emissions of total organic HAP by 95 percent or greater. 40 C.F.R. §§63.119(e) and (e)(1).

313. Sections 63.119(e)(1) and (3) require that periods of planned routine maintenance of the GP Chemical Facility's RTO, during which the RTO does not meet the 95 percent or greater total organic HAP reduction, shall not exceed 240 hours per year. 40 C.F.R. §§ 63.119(e)(1) and (3).

314. 40 C.F.R. Sections 63.122(g)(2)(i) and (ii) requires the GP Chemical Facility to provide Periodic Reports that describe each occurrence when monitored parameters documented in a Notification of Compliance Status are outside the parameter ranges, and the cause for the measured parameter to be outside the established range.

315. Subject to a reasonable opportunity for further investigation and discovery, the GP Chemical Facility's RTO did not meet the daily average minimum temperature requirement specified in the Notification of Compliance Status eight times in 2014.

316. Subject to a reasonable opportunity for further investigation and discovery, the GP Chemical Facility did not report the eight excursions in its semi-annual reports, in violation of 40 C.F.R. § 63.122(g)(2)(i).

317. Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), and Ark. Code Ann. §8-4-103(b), GP Chemical is liable to the United States and ADEQ for civil penalties for each day of these violations.

**D. CAA: PART 68 - Chemical Accident Prevention**

**1. Part 68: General Allegations**

318. GP Consumer and GP Chemical are each a "person" as that term is defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

319. The GP Chemical Facility is a "stationary source" as that term is defined by Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C).

320. The GP Consumer Facility is a "stationary source" as that term is defined by Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C).

321. The GP Chemical Facility primarily manufactures resins and uses regulated substances in covered processes at threshold quantities, including epichorohydrin, ammonia (greater than 20% concentration), and formaldehyde.

322. The GP Chemical Facility operates as a Process Level 3 RMP facility. Its three primary operations are listed in its Risk Management Plan report: formaldehyde manufacturing, resin manufacturing, and gum and wood chemical manufacturing.

**CLEAN AIR ACT CLAIM 23**
**Violation of Subpart D: Program 3 Prevention Program**

**Failure of GP Consumer Facility to Update Operating Procedures and Process Safety and Information**

323. The United States realleges and incorporates by reference Paragraphs 1-146 and 318-322 as if fully set forth herein.

324. The GP Consumer Facility is a stationary source subject to Part 68 requirements and must submit a RMP, as provided in 40 C.F.R. 68, Subpart G, that reflects all covered processes at the stationary source.

325. At the time of the Inspection, the GP Consumer Facility stored regulated substances above the threshold quantity for chlorine and chlorine dioxide.

326. At the time of the Inspection, the GP Consumer Facility included Program 3 process units in its current risk management plan, submitted on October 16, 2014. Toxic chemicals (chlorine and chlorine dioxide) are contained within the regulated process units operated on-site. Chlorine dioxide is generated, stored, and used on-site in the bleach plant; the covered process consists of the chlorine dioxide generator, two storage tanks, and the piping leading into the bleach plants.

327. Chlorine is used in treatment of process water and drinking water, and the covered process consists of two chlorine storage areas: Saline River plant and the drinking water area.

328. Chlorine dioxide is generated, stored, and used on-site in the bleach plant; the covered process consists of the chlorine dioxide generator, two storage tanks, and the piping leading into the bleach plants.

329. The GP Consumer Facility's operating procedures for the former chlorine storage areas were reviewed at the Inspection in February 2015. Specifically, the WC-225 Best Practice for Chlorination Station and the WC-503 Chlorination Station Emergency Shutdown procedures were reviewed.

330. Both procedures reference a single chlorine monitor at the Saline River Plant storage area. However, two additional monitors were installed in Fall 2013—one at each of the chlorine storage areas.

331. Procedure WC-503 referenced a chlorine storage area at the Back-up Drinking Water Area. The Back-up Drinking Water Area had been taken out of service by GP Consumer in April, 2012.

332. Procedure WC-503 referenced an obsolete emergency response plan, PSM-001 – Chlorine Emergency Response Plan, and referenced a job safety analysis for the cemetery pond chlorination station that was no longer in use.

333. The GP Consumer Facility's failure to update operating procedures WC-503 and WC-225 at the time of the NEIC inspection to accurately reflect process safety information constitutes a violation of 40 C.F.R. § 68.69(a).

334. Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), GP Consumer is liable to the United States for civil penalties for these violations occurring from February 3, 2015 until February 12, 2015, when the violations were corrected.

**CLEAN AIR ACT CLAIM 24**
**Violation of Subpart D: Program 3 Prevention Program**

**Failure of GP Consumer Facility to Appropriately Address Audit Deficiencies**

335. The United States realleges and incorporates by reference Paragraphs 1-146 and 318-322 as if fully set forth herein.

336. GP Consumer conducted compliance audits at the GP Consumer Facility in 2010 and 2013.

337. Section 68.79(d) requires owners or operators to promptly determine and document an appropriate response to each of the findings of the compliance audit, and document that deficiencies have been corrected. 40 C.F.R. § 68.79(d).

338. Six deficiencies noted and purported to be corrected by GP Consumer in the 2010 audit remained uncorrected in the 2013 audit. As of the time of the Inspection, GP Consumer had no record of having corrected the deficiencies.

339. The GP Consumer Facility's failure to document an appropriate response to each of the findings of the 2010 compliance audit, and document that deficiencies have been corrected, constitutes a violation of 40 C.F.R. § 68.79(d).

340. Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), GP Consumer is liable to the United States for civil penalties for these violations beginning five years prior to the filing of this Complaint to February 12, 2015, when they were corrected.

**CLEAN AIR ACT CLAIM 25**
**Violation of Subpart H: Other Requirements**

**GP Chemical Facility's Failure to Maintain Records of Repair**

341. The United States realleges and incorporates by reference Paragraphs 1-146 and 318-322 as if fully set forth herein.

342. Section 68.200 requires the owner or operator to maintain records supporting the implementation of the Part 68 regulations for five years unless otherwise provided. This includes the Mechanical Integrity program that requires the owner or operator to correct deficiencies in equipment that are outside acceptable limits before further use. 40 C.F.R. § 68.200.

343. In 2013, the GP Chemical Facility performed internal inspections on formaldehyde Tanks 2057 and 2060 pursuant to the American Petroleum Institute's ("API") above ground storage tank inspection procedure, API-653. Both inspection reports noted several deficiencies and that the tanks were not fit to be returned to service until defects were corrected. On the date of the Inspection, GP Chemical could not locate sufficient documentation to

demonstrate that the recommended repairs had been completed prior to placing the tanks in service.

344. GP Chemical's failure to maintain the records of repairs of Tanks 2057 and 2060 to support the implementation of the Equipment Deficiencies portion of the Mechanical Integrity program constitutes a violation of 40 C.F.R. § 68.200.

345. Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), GP Chemical is liable to the United States for civil penalties for these violations from February 3, 2015 to February 12, 2015, when they were corrected.

**CLEAN AIR ACT CLAIM 26**
**Violation of Subpart D: Program 3 Prevention Program**

**GP Chemical Facility's Failure to Manage Process Changes**

346. The United States realleges and incorporates by reference Paragraphs 1-146 and 318-322 as if fully set forth herein.

347. Section 68.75(a) requires the owner or operator to establish and implement written procedures to manage changes (except for "replacements in kind") to process chemicals, technology, equipment, and procedures; and, changes to stationary sources that affect a covered process. 40 C.F.R. § 68.75(a).

348. GP Chemical's MOC Policy required revalidation of the health and safety impacts section of a MOC form if more than 60 days elapses after approval to proceed with the change is given. The revalidation process requires review of the MOC form to ensure all information is correct, and any changes made upon review must be documented on the MOC form and communicated to affected employees.

349. Inspectors reviewed GP Chemical Facility's MOC 13-371-ET for a Heat Trace Project in an RMP covered process area. Approval to proceed with the change was given on

September 13, 2013, but more than 60 days later, the project was not completed. GP Chemical did not document revalidation of the MOC form as required.

350. At the time of the Inspection in February 2015, revalidation still had not taken place. This failure to revalidate and document the revalidation was in violation of GP Chemical's MOC Policy

351. GP Chemical's failure to implement its written MOC procedures constitutes a violation of 40 C.F.R. § 68.75(a).

352. Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), GP Chemical is liable to the United States for civil penalties for these violations from the date of Inspection to February 20, 2016.

## III. CLEAN AIR ACT: REQUEST FOR RELIEF

353. For the violations asserted in Claims 1 through 26, pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), and the Civil Penalties Inflation Act of 1990, GP is subject to injunctive relief, mitigation of excess emissions, and civil penalties of up to $37,500 per day for each violation occurring between January 12, 2009 and November 2, 2015, and $97,229 per day for each violation occurring on or after November 2, 2015.

354. For the violations asserted in Claims 1 through 22, pursuant to A.C.A. §8-4-103(b), GP is subject to injunctive relief, remedial measures, and civil penalties of up to $10,000 per day per violation occurring beginning January 12, 2009.

## PRAYER FOR RELIEF

355. WHEREFORE, based upon the allegations in Paragraphs 1–352 of this Complaint, the United States and ADEQ request that this Court:

356. Permanently enjoin GP Consumer and GP Chemical from operating their facilities except in accordance with the CAA and all applicable federal regulations and applicable federally enforceable state regulations, as well as the AWAPCA and APC&EC Regulations;

357. Order GP Consumer and GP Chemical to bring their facilities into compliance with the CAA statutory and regulatory requirements, as well as the AWAPCA and APC&EC Regulations, set forth herein;

358. Order the GP Consumer and GP Chemical to take other appropriate actions to remedy, mitigate, and offset the harm to public health and the environment caused by the violations of the CAA and the AWAPCA alleged herein;

359. Assess civil penalties against GP Consumer and GP Chemical in favor of the United States for each violation of the CAA, and assess civil penalties against Settling Defendants in favor of ADEQ for each violation of the AWAPCA and APC&EC Regulations.

361. Award Plaintiffs its costs of this action; and

362. Grant such other relief as the Court deems just and proper.

Respectfully Submitted,

FOR THE UNITED STATES OF AMERICA

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