

Re: International Paper Co.
Docket No. CAA-06-2019-3356

3. Respondent, International Paper Company, is a corporation doing business in the state of Louisiana. Respondent is a “person” as defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e).

4. Complainant and Respondent, having agreed that settlement of this action is in the public interest, consent to the entry of this Consent Agreement along with the corresponding Final Order hereinafter known together as “CAFO” without adjudication of any issues of law or fact herein, and Respondent agrees to comply with the terms of this CAFO.

B. JURISDICTION

5. This CAFO is entered into under Section 113(d) of the Act, as amended, 42 U.S.C. § 7413(d), and the Consolidated Rules, 40 C.F.R. Part 22. The alleged violations in this CAFO are pursuant to Section 113(a)(1)(B) and 113(a)(3)(A).

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

7. In satisfaction of the notice requirements of Section 113(a)(1), on August 14, 2019, the EPA issued to Respondent a notice of violation (“NOV”) and provided a copy of the NOV to the State of Louisiana, providing notice to both that the EPA found that Respondent committed the alleged violations described in Claims 1 and 4 of Section E of this CAFO and providing Respondent an opportunity to confer with the EPA.

8. The Regional Judicial Officer is authorized to ratify this CAFO which memorializes a settlement between Complainant and Respondent. 40 C.F.R. §§ 22.4(b) and 22.18(b).

9. The issuance of this CAFO simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).

C. GOVERNING LAW

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

National Emission Standards for Hazardous Air Pollutants

11. Section 112 of the CAA, 42 U.S.C. § 7412, sets forth a national program for the control of hazardous air pollutants ("HAPs"). Under Section 112(b), Congress listed 188 HAPs believed to cause adverse health or environmental effects. 42 U.S.C. § 7412(b)(1).

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

13. Congress directed EPA to promulgate regulations establishing emission standards for each category or subcategory of, *inter alia*, major sources of HAPs. CAA § 112(d)(1), 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. CAA § 112(d)(2), 42 U.S.C. § 7412(d)(2).

14. 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. CAA § 112(h), 42 U.S.C. § 7412(h).

15. The emission standards promulgated under Section 112 of the 1990 Amendments of the CAA, 42 U.S.C. § 7412, are known as the National Emission Standards for Hazardous Air Pollutants (“NESHAPs”) for Source Categories or “MACT” (“maximum achievable control technology”) standards. These emission standards are found in Part 63 of Title 40 of the Code of Federal Regulations.

16. 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. 42 U.S.C. § 7412(i)(3).

NESHAPs Subpart S

17. Pursuant to Section 112 of the CAA, 42 U.S.C. § 7412, EPA has NESHAPs for the Pulp and Paper Industry. 40 C.F.R. Part 63, Subpart S, §§ 63.440–63.459 (“NESHAPs Subpart S”).

18. NESHAPs Subpart S applies 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 pursuant to 40 C.F.R. § 63.2 . . . ; and that use the following processes and materials: (1) [k]raft, soda, sulfite, or semi-chemical pulping processes using wood; or (2) [m]echanical pulping processes using wood; or (3) [a]ny process using secondary or non-wood fibers.” 40 C.F.R. § 63.440(a).

19. NESHAPs Subpart S contains standards for kraft pulping process condensates, *see* 40 C.F.R. § 63.446, and standards for enclosures and closed-vent systems, *see* 40 C.F.R. § 63.450.

20. Section 63.453 of NESHAPs Subpart S contains monitoring requirements applicable to owners and operators subject to certain standards for kraft pulping process condensates and enclosures and closed-vent systems. 40 C.F.R. § 63.453(a).

21. Paragraph (k) of Section 63.453 sets forth monitoring requirements for each enclosure and closed-vent system used for capturing and transporting vent streams that contain HAPs. *See also* 40 C.F.R. § 63.450(a). Of relevance to this CAFO:

- a. Subparagraph (k)(1) requires that each enclosure opening be visually inspected “at least once every 30 days” to ensure the opening is maintained in the closed position and sealed.
- b. Subparagraph (k)(2) requires that each closed-vent system be visually inspected “every 30 days.”
- c. Subparagraph (k)(4) requires that owners and operators demonstrate initially and annually that each enclosure opening is maintained at negative pressure as specified in 40 C.F.R. § 63.457(e).

22. Paragraph (l) of Section 63.453 sets forth monitoring requirements for pulping process condensate closed collection systems used to comply with 40 C.F.R. § 63.446(d). Of relevance to this CAFO:

- a. Subparagraph (l)(1) requires that each pulping process condensate closed collection system be visually inspected “every 30 days.”
- b. Subparagraph (l)(1)(ii) requires that, for each pulping process condensate closed collection system, owners and operators comply with the inspection and monitoring requirements for closed-vent systems and control devices specified in Paragraphs (a) and (k) of Section 63.453.

23. Paragraph (m) of Section 63.453 provides requirements for any owner or operator using alternative monitoring parameters to comply with the monitoring requirements of NESHAPs Subpart S. Any such owner or operator “shall install a [continuous monitoring system] and establish appropriate operating parameters to be monitored that demonstrate, to the Administrator’s satisfaction, continuous compliance with the applicable control requirements.”

New Source Performance Standards

24. 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

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that, in EPA's judgment, cause or contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare.

25. 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 New Source Performance Standard ("NSPS").

26. The NSPS are located in Part 60 of Title 40 of the Code of Federal Regulations. Pursuant to 40 C.F.R. § 60.1(a), the provisions of Part 60 apply to the owner or operator of any stationary source which contains an affected facility, the construction or modification of which is commenced after the publication in Part 60 of any NSPS (or, if earlier, the date of publication of any proposed NSPS) applicable to that facility.

27. 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.

NSPS Subpart A

28. Pursuant to Section 111(b)(1)(B) of the CAA, 42 U.S.C. § 7411(b)(1)(B), EPA has promulgated regulations that contain general provision applicable to all NSPS sources. 40 C.F.R. Part 60, Subpart A, §§ 60.1–60.19 ("NSPS Subpart A").

29. NSPS Subpart A requires that "[e]ach owner or operator required to install a continuous monitoring device shall submit excess emissions and monitoring systems performance report (excess emissions are defined in applicable subparts) and-or summary report form . . . to the Administrator semiannually," except when more frequent reporting is necessary or required. 40 C.F.R. § 60.7(c).

NSPS Subpart BB

30. Pursuant to Section 111(b)(1)(B) of the CAA, 42 U.S.C. § 7411(b)(1)(B), EPA has promulgated Standards of Performance for Kraft Paper Mills. 40 C.F.R. Part 60, Subpart BB, §§ 60.280–60.286 (“NSPS Subpart BB”).

31. The provisions of NSPS Subpart BB apply to the following affected facilities in kraft pulp mills, among others: recovery furnace and lime kiln. 40 C.F.R. § 60.280.

32. NSPS Subpart BB contains standards for total reduced sulfur (TRS) emissions at kraft pulp mills, *see* 40 C.F.R. § 60.283, and requirements for reporting periods of TRS emissions above the standards, *see* 40 C.F.R. § 60.284(d).

33. Section 60.283 of NSPS Subpart BB requires that no owner or operator subject to NSPS Subpart BB cause to be discharged into the atmosphere any gases from any straight kraft recovery furnace which contain TRS in excess of 5 parts per million by volume (“ppmv”) on a dry basis, corrected to 8% oxygen, 40 C.F.R. § 60.283(a)(2), or any gases from any lime kiln which contain TRS in excess of 8 ppmv on a dry basis, corrected to 10% oxygen, 40 C.F.R. § 60.283(a)(5).

34. For the purposes of reports required under 40 C.F.R. § 60.7(c), NSPS Subpart BB requires that owners and operators report semiannually periods of excess TRS emissions from any recovery furnace and lime kiln. 40 C.F.R. § 60.284(d)(1)(i), (2). Periods of excess TRS emissions from any recovery furnace and lime kiln are all 12-hour averages of TRS concentrations above the standards. *Id.*

Louisiana State Implementation Plan

35. Section 109(a) of the CAA, 42 U.S.C. § 7409(a), requires the Administrator of EPA to publish national ambient air quality standards (“NAAQS”) for certain pollutants. The NAAQS

establish primary air quality standards to protect public health and secondary standards to protect public welfare.

36. To achieve the objectives of the NAAQS and the CAA, Section 110(a) of the CAA, 42 U.S.C. § 7410(a), requires each State to adopt a state implementation plan (“SIP”) that provides for the implementation, maintenance, and enforcement of the NAAQS, and submit it to the Administrator of the EPA for approval.

37. The State of Louisiana has adopted a SIP that has been approved by EPA. *See* 40 C.F.R. Part 52, Subpart T.

38. The provisions of LAC 33:III.919 of the federally-approved Louisiana SIP govern the state emissions inventory and provide requirements for facility owners and operators to report emissions inventory data to the appropriate office of the Louisiana Department of Environmental Quality (“LDEQ”). The provisions of LAC 33:III.919 of the Louisiana SIP relevant to this CAFO were approved by EPA on July 5, 2011. *See* 76 Fed. Reg. 38,977 (July 5, 2011).

- a. LAC 33:III.919.A.1–5 of the Louisiana SIP provides that the owner or operator of any facility located in Louisiana must submit emissions inventory data to LDEQ if the facility: is located in an 8-hour ozone nonattainment parish or listed adjoining parish and emits or has the potential to emit at or above threshold levels; is located in an attainment parish and emits or has the potential to emit at or above threshold levels; is defined as a major stationary source of HAPs under Section 112(a)(1) of the CAA; is defined as a major stationary source of toxic air pollutants in LAC 33:III.51; and/or that has a 40 C.F.R. Part 70 (Title V) Operating Permit (regardless of emissions limits).
- b. LAC 33:III.919.B.1 of the Louisiana SIP requires that the identified facilities submit an Annual Emissions Statement (“AES”) containing “an inventory of actual emissions and the allowable (permitted) emissions limits” of volatile organic compounds (VOCs), nitrous oxides (NO_x), carbon monoxide (CO), sulfur dioxide (SO₂), lead (Pb), particulate matter (PM₁₀ and PM_{2.5}), and ammonia. This emissions inventory “may be an initial emissions inventory for facilities submitting their first emissions inventory, or an annual emissions inventory update for facilities that have previously submitted an emissions inventory.” *Id.*

- c. In the emissions inventory, “[a]ctual emissions shall be reported for all sources of emissions at a facility, including fugitive emissions, flash gas emissions, insignificant sources . . . , and excess emissions occurring during maintenance, start-ups, shutdowns, upsets, and downtime.” *Id.* (emphasis added). Actual emissions are to be calculated or estimated in accordance with LAC 33:III.919.C of the Louisiana SIP for the calendar year. *Id.*
- d. LAC 33:III.919.B.1 of the Louisiana SIP further requires that the AES include an annual Certification Statement. Pursuant to LAC 33:III.919.B.5.a, the Certification Statement “shall accompany each emissions inventory to attest that the information contained in the inventory is true and accurate to the best knowledge of the certifying official.”

Title V Air Operating Permit

39. Section 502(d)(1) of the Act, 42 U.S.C. § 7661a(d)(1), requires each State to develop and submit to EPA an operating permit program which meets the requirements of Title V. On October 12, 1995, EPA granted full approval to the Louisiana Title V operating permits program (“Louisiana Operating Permits Program”). 40 C.F.R. Part 70, Appendix A; *see* 60 Fed. Reg. 47,296 (Sept. 12, 1995). Major stationary sources of air pollution and other sources covered by Title V are required to obtain an operating permit that includes emission limitations and such other conditions necessary to assure compliance with all applicable requirements of the Act. CAA §§ 502(a) and 504(a), 42 U.S.C. §§ 7661a(a) and 7661c(a).

40. The Title V operating permit program does not generally impose new substantive air quality control requirements (which are referred to as “applicable requirements”), but it does require permits to contain monitoring, recordkeeping, reporting, and other requirements to assure compliance by sources with existing applicable requirements. 57 Fed. Reg. 32,250, 32,251 (July 21, 1992).

41. Pursuant to 40 C.F.R. § 70.1(b), “all sources subject to [Title V must] have a permit to operate that assures compliance by the source with all applicable requirements.” Applicable requirements are defined in 40 C.F.R. § 70.2 to include “[a]ny standard or other requirement

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provided for in the applicable implementation plan approved or promulgated by EPA through rulemaking under title I of the Act that implements the relevant requirements of the Act, including any revisions to that plan promulgated in [40 C.F.R. Part 52]; . . . [a]ny standard or other requirement under section 111 of the Act, . . . ; [and a]ny standard or other requirement under section 112 of the Act,”

42. Pursuant to 42 U.S.C. § 7661a(a) as set out in 40 C.F.R. § 70.6(b)(1), all terms and conditions in a Title V permit, including any provisions designed to limit a source’s potential to emit, are enforceable by the Administrator and citizens under the Act.

43. EPA is authorized by Section 113 of the Act, 42 U.S.C. § 7413, to take action to ensure that air pollution sources comply with all federally applicable air pollution control requirements. These include requirements promulgated by EPA and those contained in federally enforceable SIPs or permits.

D. FINDINGS OF FACT AND CONCLUSIONS OF LAW

44. International Paper Company (“IP” or “Respondent”) owns and operates Mansfield Mill, located at 1202 Highway 509, Mansfield, Louisiana 71052 (the “Facility”).

45. At all times relevant to this proceeding, Respondent has owned and/or operated the Facility.

46. Respondent is the owner and/or operator of the Facility within the meaning of Sections 111(a)(5) and 112(a)(9) of the Act, 42 U.S.C. §§ 7411(a)(5) and 7412(a)(9); 40 C.F.R. §§ 60.2 and 63.2; and LAC 33:III.111 of the Louisiana SIP, 54 Fed. Reg. 9795 (March 8, 1989).

47. At all times relevant to this proceeding, Respondent owned and/or operated units that emit CO, NO_x, VOCs, and HAPs at the Facility.

48. The Facility is a kraft pulp and paper mill that produces linerboard products.

49. The Facility is a “stationary source” as that term is defined in Sections 111(a)(3) and 112(a)(3) of the Act, 42 U.S.C. §§ 7411(a)(3) and 7412(a)(3); 40 C.F.R. §§ 60.2 and 63.2; and LAC 33:III.502 of the Louisiana SIP, 81 Fed. Reg. 51,341 (August 4, 2016).

50. At all times relevant to this proceeding, the Facility was a “major source” within the meaning of Section 112(a)(1) of the Act, 42 U.S.C. § 7412(a)(1); the Act’s Title V program, Section 501(2) of the Act, 42 U.S.C. § 7661(2); 40 C.F.R. § 70.2; and LAC 33:III.502 of the Louisiana SIP, 81 Fed. Reg. 51,341 (August 4, 2016).

51. The Facility is subject to the CAA Title V Federal Operating Permit (“FOP”) program.

52. On or about December 9, 2014, Respondent was issued Permit No. 0760-00006-V12 (the “Title V Permit”), an air permit issued under the Louisiana Operating Permits Program. The Title V Permit covers various emissions units at the Facility, including the Lime Kiln (EQT 6), the No. 2 Recovery Boiler (EQT 37, also referred to as the No. 2 Recovery Furnace in the Title V Permit), the Stripped Condensate Tank (EQT 170), and the HVLC/LVLC Incinerator (EQT 10).

53. The Facility is subject to NSPS Subparts A and BB.

54. The No. 2 Recovery Boiler is an enclosed combustion device where concentrated spent liquor is burned and is part of the Facility’s chemical recovery system.

55. The No. 2 Recovery Boiler is an affected facility under NSPS Subpart BB. The Facility’s Title V Permit requires that Respondent operate the No. 2 Recovery Boiler in compliance with certain provisions of NSPS Subparts A and BB.

56. The Lime Kiln is an enclosed combustion device used to calcine lime mud and is part of the Facility’s chemical recovery system.

57. The Lime Kiln is an affected facility under NSPS Subpart BB. The Facility's Title V Permit requires that Respondent operate the Lime Kiln in compliance with certain provisions of NSPS Subparts A and BB.

58. The Facility is subject to NESHAPs Subpart S.

59. At the Facility, the Stripped Condensate Tank is part of the closed collection system and vents to the closed-vent HVLC system. Respondent utilizes the Stripped Condensate Tank to hold pulping process condensates prior to recycling into the washers.

60. The Facility's Title V Permit requires that Respondent operate and monitor the closed collection system and closed-vent system in compliance with certain provisions of NESHAPs Subpart S.

61. On February 7, 2001, EPA approved of the following alternative monitoring parameters at the Facility as to the frequency of monthly visual inspections of closed collection and closed-vent systems required by 40 C.F.R. §§ 63.453(k) and (l): conduct the inspections "once during each calendar-month, with any two consecutive inspections being at least 21 calendar-days apart."

62. Respondent's Title V Permit contains the alternative monitoring parameters for the closed collection system and closed-vent system in Specific Requirements 914, 929, and 930.

63. From May 14 to May 16, 2018, EPA inspectors conducted an on-site inspection at the Facility. On July 5, 2018, EPA issued a final inspection report.

64. During and after the inspection, Respondent provided information to EPA regarding Facility operations and reporting between January 1, 2015, and May 16, 2018. Of relevance to this CAFO, the information included the Facility's semi-annual emissions reports,

continuous monitoring data, emissions inventory data, monthly and annual inspection data, and information concerning the Stripped Condensate Tank.

65. Based on the May 14-16, 2018 on-site inspection, subsequent review of documents provided by the Facility during and after the inspection, and other disclosures made by Respondent, EPA identified alleged violations of the CAA at the Facility as described in Section E of this CAFO.

E. ALLEGED VIOLATIONS

Claim 1: Failure to conduct monthly visual inspections at least 21 calendar-days apart

66. The Facility is subject to NESHAPs Subpart S, under which Respondent was and is required to conduct visual inspections of each enclosure and closed-vent system used for capturing and transporting vent streams that contain HAPs, *see* 40 C.F.R. § 63.453(k)(1)-(2), and each pulping process condensate closed collection system, *see* 40 C.F.R. § 63.453(l)(1).

67. Pursuant to alternative monitoring parameters, approved in accordance with 40 C.F.R. § 63.453(m), and contained in Respondent's Title V Permit at Specific Requirements 914, 929, and 930, Respondent was and is required to conduct visual inspections of the Facility's closed collection and closed-vent systems at the following frequency: once during each calendar-month, with any two consecutive inspections being at least 21 calendar-days apart.

68. On information and belief, between January 2015 and May 2018, two instances of monthly inspections occurred sooner than 21 calendar-days apart.

69. Respondent's failure to conduct the two inspections at least 21 calendar-days apart violated 40 C.F.R. § 63.453(m), Specific Requirements 914, 929, and 930 of the Title V Permit, and Section 502(a) of the Act, 42 U.S.C. § 7661a(a).

Claim 2: Failure to conduct negative pressure tests at the Stripped Condensate Tank

70. The Facility is subject NESHAPs Subpart S, under which the pulping process condensate closed collection system must comply with 40 C.F.R. § 63.453(l). Paragraph (l)(1)(ii) of Section 63.453 requires compliance with the inspection and monitoring requirements for closed-vent systems and control devices specified in 40 C.F.R. § 63.453(a) and (k).

71. Pursuant to 40 C.F.R. § 63.453(k)(4), Respondent was and is required to demonstrate annually that each enclosure opening is maintained at negative pressure using negative test procedures provided in 40 C.F.R. § 63.457(e).

72. On information and belief, the Facility did not perform negative pressure tests at an open standpipe at the Stripped Condensate Tank during calendar years 2015 and 2016.

73. Respondent's failure to perform negative pressure tests at the open standpipe on the Stripped Condensate Tank in 2015 and 2016 violated 40 C.F.R. § 63.453(k)(4).

Claim 3: Failure to report periods of excess TRS emissions at the No. 2 Recovery Boiler and Lime Kiln

74. Pursuant to 40 C.F.R. § 60.284(d), Respondent was and is required to report semiannually periods of excess emissions of TRS for the No. 2 Recovery Boiler and the Lime Kiln in the reports required under 40 C.F.R. § 60.7(c). Periods of excess emissions of TRS from the No. 2 Recovery Boiler are all 12-hour averages of TRS concentrations above 5 ppmv, *see* 40 C.F.R. § 60.284(d)(1)(i), and periods of excess emissions of TRS from the Lime Kiln are all 12-hour averages of TRS concentrations above 8 ppmv, *see* 40 C.F.R. § 60.284(d)(2).

75. On information and belief, nine (9) periods of excess TRS emissions were not reported in Respondent's semiannual reports for the Lime Kiln and No. 2 Recovery Boiler in 2015 and 2016.

76. Respondent's failure to report 9 periods of excess TRS emissions violated 40 C.F.R. § 60.284(d).

Claim 4: Failure to report actual emissions of NO_x and CO in the annual emissions inventories as to the HVLC/LVLC Incinerator

77. The Facility is subject to LAC 33:III.919.B.1 of the federally-approved Louisiana SIP, under which Respondent was and is required to submit annual emissions inventories to LDEQ that include an inventory of the Facility's actual emissions and the allowable (permitted) emissions limits of VOC, NO_x, CO, SO₂, Pb, PM₁₀, PM_{2.5}, and ammonia, for all sources of emissions at the Facility.

78. On information and belief, Respondent failed to report all NO_x and CO emissions for the HVLC/LVHC Incinerator in the annual emissions inventories for reporting years 2014 and 2015.

79. Respondent's failure to report NO_x and CO in the annual emissions inventories for reporting years 2014 and 2015 violated LAC 33:III.919.B.1 of the federally-approved Louisiana SIP.

F. CIVIL PENALTY AND CONDITIONS OF SETTLEMENT

General

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

- a. admits that the EPA has jurisdiction over the subject matter alleged in this CAFO;
- b. neither admits nor denies the specific factual allegations contained in the CAFO;
- c. consents to the assessment of a civil penalty as stated below;

- d. consents to the issuance of any specified compliance or corrective action order¹;
 - e. consents to the conditions specified in this CAFO;
 - f. consents to any stated Permit Action²;
 - g. waives any right to contest the alleged violations set forth in Section E of this CAFO; and
 - h. waives its rights to appeal the Final Order included in this CAFO.
81. For the purpose of this proceeding, Respondent:
- a. agrees that this CAFO states a claim upon which relief may be granted against Respondent;
 - b. acknowledges that this CAFO constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement actions;
 - c. waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CAFO, including any right of judicial review under Section 307(b)(1) of the Act, 42 U.S.C. § 7607(b)(1);
 - d. consents to personal jurisdiction in any action to enforce this CAFO in the United States District Court for the Western District of Louisiana;
 - e. waives any right it may possess at law or in equity to challenge the authority of the EPA to bring a civil action in a United States District Court to compel compliance with this CAFO and to seek an additional penalty for such

¹ Although 40 C.F.R. § 22.18(b)(2) requires each subbullet, d. and f. are not applicable to this particular case.

² *See id.*

noncompliance, and agrees that federal law shall govern in any such civil action; and

- f. agrees that in any subsequent administrative or judicial proceeding initiated by the Complainant or the United States for injunctive relief, civil penalties, or other relief relating to this Facility, Respondent shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim preclusion, claim splitting, or other defenses based on any contention that the claims raised by the Complainant or the United States were or should have been brought in the instant case, except with respect to claims that have been specifically resolved pursuant to this CAFO.

Penalty Assessment and Collection

82. Upon consideration of the entire record herein, including the Findings of Fact and Conclusions of Law, which are hereby adopted and made a part hereof, and upon consideration of the size of the business, the economic impact of the penalty on the business, the Respondent's full compliance history and good faith efforts to comply, the duration of the violation, payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, the seriousness of the violation, and other factors as justice may require, EPA has assessed a civil penalty in the amount of sixty-two thousand dollars (\$62,000) ("EPA Penalty"). The EPA Penalty has been determined in accordance with the Section 113 of the Act, 42 U.S.C. § 7413, and at no time exceeded EPA's statutory authority.

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83. Respondent agrees to:
- a. pay the EPA Penalty within 30 calendar days of the Effective Date of this CAFO, and
 - b. pay the EPA Penalty by cashier's check, certified check, or wire transfer made payable to "Treasurer, United States of America, EPA – Region 6." Payment shall be remitted in one of five (5) ways: (1) regular U.S. Postal Service mail including certified mail; (2) overnight mail; (3) wire transfer; (4) Automated Clearinghouse for receiving US currency; or (5) On Line Payment.

For regular U.S. Postal Service mail, U.S. Postal Service certified mail, or U.S. Postal Service express mail, payment should be remitted to:

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

For overnight mail (non-U.S. Postal Service, e.g. FedEx), payment should be remitted to:

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

Contact: Natalie Pearson
(314) 418-4087

For wire transfer, payment should be remitted to:

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, NY 10045

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Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

For Automated Clearinghouse (also known as "remittance express" or "REX"):

U.S. Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking
Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737

Contact: Jesse White
(301) 887-6548

For On Line Payment:

<https://www.pay.gov/paygov/>
Enter sfo 1.1 in search field
Open form and complete required fields.

PLEASE NOTE: The docket number "CAA-06-2019-3356" should be clearly typed on the check to ensure proper credit. The payment shall also be accompanied by a transmittal letter that shall reference Respondent's name and address, the case name, and docket number "CAA-06-2019-3356." Respondent's adherence to this request will ensure proper credit is given when penalties are received for the Region. Respondent shall also send a simultaneous notice of such payment, including a copy of the money order, or check, and the transmittal letter to the following:

Margaret Osbourne, Chief
Air Toxics Enforcement Section (ECDAT)
Enforcement and Compliance Assurance Division
U.S. EPA Region 6
1201 Elm Street, Suite #500
Dallas, Texas 75270-2102
Email: Osbourne.Margaret@epa.gov

And

Region 6 Hearing Clerk
Office of Regional Counsel (ORC)
U.S. EPA Region 6
1201 Elm Street, Suite #500
Dallas, Texas 75270-2102

84. Respondent agrees to pay the following on any overdue EPA Penalty:

- a. Interest. Pursuant to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5), any unpaid portion of a civil penalty must bear interest at the rates established pursuant to 26 U.S.C. § 6621(a)(2).
- b. Nonpayment Penalty. On any portion of a civil penalty more than 90 calendar days delinquent, Respondent must pay a nonpayment penalty, pursuant to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5), which shall accrue from the date the penalty payment became delinquent, and which shall be in addition to the interest which accrues under subparagraph a. of this paragraph.

85. Respondent shall pay a charge to cover the cost of processing and handling any delinquent penalty claim, pursuant to 42 U.S.C. § 7413(d)(5), including but not limited to attorneys' fees incurred by the United States for collection proceedings.

86. If Respondent fails to timely pay any portion of the penalty assessed under this CAFO, the EPA may:

- a. refer the debt to a credit reporting agency, a collection agency, or to the Department of Justice for filing of a collection action in the appropriate United States District Court (in which the validity, amount, and appropriateness of the assessed penalty and of this CAFO shall not be subject to review) to secure payment of the debt, which may include the original penalty, enforcement and collection expenses, nonpayment penalty and interest, 42 U.S.C. § 7413(d)(5) and 40 C.F.R. §§ 13.13, 13.14, and 13.33;
- b. collect the above-referenced debt by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a

- person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H; and
- c. suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with the EPA or engaging in programs the EPA sponsors or funds, 40 C.F.R. § 13.17.

Conditions of Settlement

87. As Conditions of Settlement, Respondent agrees to the following:
- a. Within sixty (60) days of the Effective Date of this CAFO, Respondent shall:
- i. Submit to LDEQ revised Semiannual Excess Emissions and CMS Performance Reports to include all unreported periods of excess emissions of TRS for 2015 and 2016 referenced in Paragraph 75 above.
 - ii. Submit to LDEQ corrected annual emissions inventories for reporting years 2014 and 2015. The corrected annual emissions inventories shall include the Facility's actual emissions for the pollutants listed in Paragraph 78 above.
- b. Within ninety (90) days of the Effective Date of this CAFO, Respondent shall submit to EPA:
- i. A copy of Respondent's revised Semiannual Excess Emissions and CMS Performance Report(s) submitted to LDEQ.
 - ii. A copy of Respondent's signed Certification Statement submitted to LDEQ for each corrected annual emissions inventory.
 - iii. Microsoft Excel workbook file(s) containing the corrected annual emissions inventory data downloaded from the Emissions Reporting and Inventory Center website, with all revised data cells highlighted in the Microsoft Excel workbook.
- c. Within one hundred and twenty (120) days of the Effective Date of this CAFO, Respondent shall review its procedures for submitting annual emissions inventories to LDEQ under the Louisiana SIP requirements and update the procedures as necessary to ensure future accurate reporting. If Respondent does not have such procedures, it shall create such procedures.

- d. Within one hundred and twenty (120) days of the Effective Date of this CAFO, Respondent shall review and update its existing Leak Detection and Repair (LDAR) program as follows:
- i. Review the Facility's LDAR Site-Specific Inspection Plan and make any updates necessary to ensure future compliance with all Federal, state, and local LDAR regulations applicable to equipment at the Facility.
 - ii. Review the Facility's LDAR Site-Specific Inspection Plan for accuracy of component listings and schematics. The Facility shall use appropriate document control procedures for all revisions.
 - iii. Develop a training protocol and implement a training program that requires initial and annual training for all personnel who have duties relevant to LDAR.
 - iv. Review any additional standard operating procedures concerning the Facility's LDAR program and update as necessary to ensure future compliance with all Federal, state, and local LDAR regulations applicable to equipment at the Facility.

88. At such time as Respondent believes that it has complied with all terms and conditions of this CAFO, Respondent agrees to certify to EPA completion of the Conditions of Settlement in Paragraph 87 above and provide any necessary documentation. Respondent represents that the signing representative will be fully authorized by Respondent to certify that the terms and conditions of this CAFO have been met. The certification should include the following statement:

"I certify under penalty of law that I have examined and am familiar with the information submitted in this document and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is, to the best of my knowledge, true, accurate, and complete. I am aware that there are significant penalties for knowingly submitting false information, including the possibility of fines and imprisonment."

EPA has ninety (90) days to respond with questions or disagreement that the conditions of the CAFO have been satisfied.

Re: International Paper Co.
Docket No. CAA-06-2019-3356

89. Any information or correspondence submitted by Respondent to EPA under this CAFO shall be addressed to the following:

Margaret Osbourne, Chief
Air Toxics Enforcement Section (ECDAT)
Enforcement and Compliance Assurance Division
U.S. EPA Region 6
1201 Elm Street, Suite #500
Dallas, Texas 75270-2102
Email: Osbourne.Margaret@epa.gov

90. Respondent agrees that the time period from the Effective Date of this CAFO until all the conditions specified in Paragraph 87 are completed (the "Tolling Period") shall not be included in computing the running of any statute of limitations potentially applicable to any action brought by Complainant on any claims set forth in Section E of this CAFO (the "Tolled Claims"). Respondent shall not assert, plead, or raise in any fashion, whether by answer, motion or otherwise, any defense of laches, estoppel, or waiver, or other similar equitable defense based on the running of any statute of limitations or the passage of time during the Tolling Period in any action brought on the Tolled Claims.

91. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors and assigns. From the Effective Date of this Agreement until the end of the Tolling Period, as set out in Paragraph 90, Respondent must give written notice and a copy of this CAFO to any successors in interest prior to transfer of ownership or control of any portion or interest in the Facility. Simultaneously with such notice, Respondent shall provide written notice of such transfer, assignment, or delegation to the EPA. In the event of any such transfer, assignment or delegation, Respondent shall continue to be bound by the obligations or liabilities of this CAFO until the EPA has provided written approval.

92. By signing this CAFO, Respondent acknowledges that this CAFO will be available to the public and agrees that this CAFO does not contain any confidential business information.

93. By signing this CAFO, the undersigned representative of Complainant and the undersigned representative of Respondent each certify that he or she is fully authorized to execute and enter into the terms and conditions of this CAFO and has legal capacity to bind the party he or she represents to this CAFO.

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

95. Respondent specifically waives its right to seek reimbursement of its costs and attorney's fees under 5 U.S.C. § 504 and 40 C.F.R. Part 17. Except as qualified by Paragraph 85, each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.

G. EFFECT OF CONSENT AGREEMENT AND FINAL ORDER

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

97. If Respondent fails to timely and satisfactorily complete every condition stated in Paragraph 87 (including payment of any stipulated penalties owed), then Complainant may compel Respondent to perform the conditions in Paragraph 87, seek civil penalties that accrue from the Effective Date of this CAFO until compliance is achieved, and seek other relief in a civil judicial action pursuant to the Clean Air Act, pursuant to contract law, or both.

98. Penalties paid pursuant to this CAFO shall not be deductible for purposes of federal taxes.

99. For purposes of the identification requirement of Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), performance of Paragraph 87, subparagraphs a., c., and d., of Section F (Civil Penalty and Conditions of Settlement) is restitution or required to come into compliance with law.

100. This CAFO constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to the subject matter hereof.

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

102. Any violation of the included Final Order may result in a civil judicial action for an injunction or civil penalties of up to \$99,681 per day of violation, or both, as provided in Section 113(b)(2) of the Act, 42 U.S.C. § 7413(b)(2), as well as criminal sanctions as provided in Section 113(c) of the Act, 42 U.S.C. § 7413(c). The EPA may use any information submitted under this CAFO in an administrative, civil judicial, or criminal action.

103. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the Act and other federal, state, or local laws or statutes, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or a determination of, any issue related to any federal, state, or local permit.

Re: International Paper Co.
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104. Nothing herein shall be construed to limit the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

H. EFFECTIVE DATE

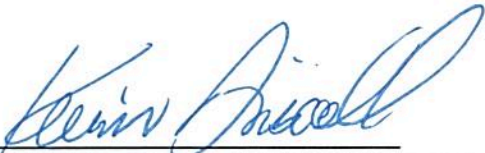
105. Respondent and Complainant agree to the issuance of the included Final Order. Upon filing, the EPA will transmit a copy of the filed CAFO to the Respondent. This CAFO shall become effective after execution of the Final Order by the Regional Judicial Officer on the date of filing with the Hearing Clerk.

Re: International Paper Co.
Docket No. CAA-06-2019-3356

The foregoing Consent Agreement In the Matter of International Paper Co., Docket No. CAA-06-2019-3356, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:

Date: 9-9-19




Kevin Driscoll, Mansfield Mill Manager
International Paper Company
1202 Highway 509
Mansfield, LA 71052

Re: International Paper Co.
Docket No. CAA-06-2019-3356

FOR COMPLAINANT:

Date: 9-18-19



Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division
U.S. EPA, Region 6
1201 Elm Street, Suite #500
Dallas, Texas 75270-2102

Re: International Paper Co.
Docket No. CAA-06-2019-3356

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

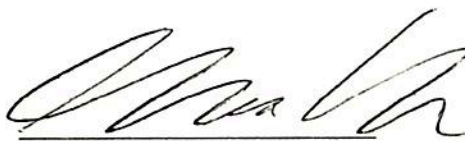
IN THE MATTER OF:	(DOCKET NO. CAA-06-2019-3356
	(
INTERNATIONAL PAPER COMPANY	(
MANSFIELD, LOUISIANA, 71052	(
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	(
	(
RESPONDENT	(
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FINAL ORDER

Pursuant to Section 113(d) of the Clean Air Act (“CAA” or the “Act”), 42 U.S.C. §7413(d), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the attached Consent Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified.

Respondent is ORDERED to comply with all terms of the Consent Agreement. In accordance with 40 C.F.R. §22.31(b), this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Dated 9/23/19



Thomas Rucki
Regional Judicial Officer
U.S. EPA, Region 6

Re: International Paper Co.
Docket No. CAA-06-2019-3356

CERTIFICATE OF SERVICE

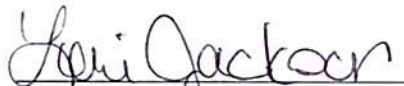
I hereby certify that on the 23rd day of Sept., 2019, the original and one copy of the foregoing Consent Agreement and Final Order was hand delivered to the Regional Hearing Clerk, U.S. EPA - Region 6, 1201 Elm Street, Suite #500, Dallas, Texas 75270-2102, and a true and correct copy was delivered to the following individual(s) by the method indicated below:

CERTIFIED MAIL - RETURN RECEIPT REQUESTED 7009 28200001 8284 2832

Kevin Driscoll, Mansfield Mill Manager
International Paper Company
1202 Highway 509
Mansfield, LA 71052

CERTIFIED MAIL - RETURN RECEIPT REQUESTED 7001 03600003 6674 8391

CT Corporation System
3867 Plaza Tower Drive
Baton Rouge, LA 70816



U.S. EPA, Region 6
Dallas, Texas