

Re: International Paper Company
Docket No. CAA 06-2023-3303

3. Respondent, International Paper Company, is a company doing business in the state of Texas. 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)(3)(A), 42 U.S.C. § 7413(a)(3)(A).

6. 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. 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).

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

C. GOVERNING LAW

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

New Source Performance Standards

10. Section 111 of the CAA, 42 U.S.C. § 7411, sets forth a national program for the standards of performance for new stationary sources. Under 111(b), Congress tasked the administrator with listing and revising categories of stationary sources; standards of performance; and information on pollution control techniques. 42 U.S.C. 7411(b)(1).

11. CAA Section 111(b)(1)(A) requires EPA to publish and periodically revise a list of categories of stationary sources that, in EPA’s judgment, cause or contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. These categories generally correspond to distinct manufacturing processes or equipment within a given industry. For example, 40 C.F.R. Part 60, Subpart BB applies to Kraft Pulp Mills. 42 U.S.C. § 7411(b)(1)(A).

12. 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 New Source Performance Standard (“NSPS”) to regulate emissions from new sources within the category.

13. Section 111(a)(2), 42 U.S.C. § 7411(a)(2), of the CAA defines “new source” to mean any stationary source for which construction or modification is commenced after an applicable NSPS is published or proposed.

14. Section 111(a)(3) of the CAA, 42 U.S.C. § 7411(a)(3), defines “stationary source” to mean a building, structure, facility, or installation which emits or may emit any air pollutant.

15. The NSPS are located at 40 C.F.R. Part 60. Pursuant to 40 C.F.R. § 60.1, 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.

16. Pursuant to the NSPS, an “affected facility” means any apparatus to which a standard is applicable. 40 C.F.R. § 60.2.

NSPS Subpart BB

17. Pursuant to Section 111 of the CAA, 42 U.S.C. § 7411, EPA has promulgated Standards of Performance for Kraft Paper Mills. 40 C.F.R. §§ 60.280-60.285 (“NSPS Subpart BB”).

18. Pursuant to 40 C.F.R. § 60.280(a), an “affected facility” is, *inter alia*, a brown stock washer system in a kraft pulp mill. A chemi-washer system is a type of brown stock washer system.

19. Except as noted in 40 C.F.R. § 60.283(a)(1)(iv), any facility under 40 C.F.R. § 60.280(a) of this section 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).

20. Pursuant to 40 C.F.R. § 60.283(a)(1), on and 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 shall cause to be discharged into the atmosphere from any brown stock washer system any gases which contain total reduced sulfur (“TRS”) in excess of 5 ppm by volume on a dry basis, corrected to 10 percent oxygen unless the gases are combusted in a lime kiln, recovery

furnace, incinerator, or other device in accordance with requirements stated in the rule.

National Emission Standards for Hazardous Air Pollutants

21. 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).

22. 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).

23. 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).

24. 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).

25. 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 “maximum achievable control technology” (“MACT”) standards. These emission standards are found in Part 63 of Title 40 of the Code of Federal Regulations.

26. 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).

27. Section 112(a)(1) of the CAA, 42 U.S.C. § 7412(a)(1), defines a “major source” to mean “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.” *See also* 40 C.F.R. § 63.2.

NESHAPs Subpart S

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

29. 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 uses the following processes and materials: (1) [k]raft, soda, sulfite, or semichemical 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).

30. 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.

31. 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).

32. The pulping system includes “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.” 40 C.F.R. § 63.441.

33. Pursuant to 40 C.F.R. § 453(l)(3), owners or operators that identify visible defects in the closed collection system are required to carry out corrective actions as specified in § 63.964(b).

34. 40 C.F.R. § 964(b)(2) establishes that repairs may be delayed beyond the 15 calendar days requirement if repair of the defect requires “emptying or temporary removal from service of the individual drain system” with no alternative capacity available at the site to accept the material normally managed in the drain system. The repair is to occur during the next time the process or unit generating the material stops operation and the repair “shall be completed before the process or unit resumes operation.”

35. Pursuant to 40 C.F.R. § 63.443(c), total HAP emissions from each low volume, high concentration equipment system must be controlled by enclosing the equipment and venting gases into a closed-vent system that routes to a control device. 40 C.F.R. § 63.441 defines “low volume, high concentration system” to mean the collection of equipment that includes the digester, turpentine recovery, evaporator, and steam stripper systems. 40 C.F.R. § 63.441 defines “high volume, low concentration system” to mean the collection of equipment that includes the pulp washing system and weak liquor storage tanks or other equipment serving the same functions.

36. Pursuant to 40 C.F.R. § 453(k), “[e]ach enclosure and closed-vent system used to comply with § 63.450(a) shall comply with the requirements” of this section. “Each enclosure opening, a visual inspection of the closure mechanism specified in [40 C.F.R.] § 63.450(b) shall

be performed at least once every 30 days to ensure the opening is maintained in the closed position and sealed.” 40 C.F.R. § 63.453(k)(1).

37. Pursuant to 40 C.F.R. § 63.453(l), “[o]wners or operators shall comply with the inspection and monitoring requirements for closed-vent systems and control devices specified in paragraphs (a) and (k) of this section.” 40 C.F.R. § 63.453(k)(2) specifies “Each closed-vent system required by [40 C.F.R.] § 63.450(a) shall be visually inspected every 30 days and at other times as requested by the Administrator” and such visual inspections “shall include inspection of ductwork, piping, enclosures, and connections to covers for visible evidence of defects.”

38. Pursuant to 40 C.F.R. § 63.454(b), the owner or operator is required to “prepare and maintain a site-specific inspection plan including a drawing or schematic of the components of applicable affected equipment” and include additional information for each inspection.

NESHAPs Subpart MM

39. NESHAPs Subpart MM applies to “the owner or operator of each kraft, soda, sulfite or stand-alone semichemical pulp mill that is a major source of hazardous air pollutants (HAP) emissions as defined in 40 C.F.R. § 63.2.” 40 C.F.R. § 63.860.

40. NESHAPs Subpart MM applies to “affected sources” at kraft pulp mills. Under 40 C.F.R. § 63.860(b)(1) an “affected source” includes each existing chemical recovery system located at a kraft pulp mill.

41. 40 C.F.R. § 63.861 defines “chemical recovery system” as “all existing [direct contact evaporator] and [non-direct contact evaporator] recovery furnaces, smelt dissolving tanks, and lime kilns at a kraft pulp mill.”

42. 40 C.F.R. § 63.864(d) requires the owner or operator of each affected kraft or soda recovery furnace must install, calibrate, maintain, and operate a continuous opacity

Re: International Paper Company
Docket No. CAA 06-2023-3303

monitoring system (“COMS”) that, *inter alia*, completes a minimum of one cycle of sampling and analyzing for each successive 10-second period and one cycle of data recording for each successive 6-minute period.

43. 40 C.F.R. § 63.867 establishes reporting requirements for owners and operators of kraft pulp mills.

44. 40 C.F.R. § 63.867(c)(3)(iii) requires the submission of opacity excess emission reports that include specific identification of periods of parameter monitoring exceedances.

D. FINDINGS OF FACT AND CONCLUSIONS OF LAW

45. International Paper (“International Paper” or “Respondent”) owns and/or operates the kraft pulp and paper mill located eight miles northeast of the City of Orange in Orange County Texas (the “Facility”).

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

47. Respondent is the owner and/or operator of the Facility within the meaning of the Act, Section 111(a)(5) and 112(a)(9), 42 U.S.C. §§ 7411(a)(5) and 7412(a)(9), and 40 C.F.R. §§ 60.2 and 63.2.

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

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

50. 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), and 40 C.F.R. §§ 60.2 and 63.2.

51. The Facility is subject to NSPS Subpart BB and NESHAPs Subparts S and MM.

52. The Facility is required to control chemiwasher gases that contain TRS in excess of 5 ppm by volume on a dry basis, corrected to 10 percent oxygen, pursuant to 40 C.F.R. § 60.283(a)(1).

53. The Facility is required to complete repair of equipment prior to resuming operations, pursuant to 40 C.F.R. § 63.453(l)(1) (referencing 40 C.F.R. § 63.964(b)(2)).

54. The Facility is required to conduct visible inspections on Facility enclosure openings, closed-vent systems, and valve or closure mechanisms used to comply with 40 C.F.R. § 63.450(a) within 30 days of the previous visible inspection, pursuant to 40 C.F.R. § 63.453(k).

55. The Facility is required to conduct visible inspections on Facility pulping process condensate closed collection systems within 30 days of the previous visible inspection, pursuant to 40 C.F.R. § 63.453(l).

56. The Facility is required to record, in its inspection report, the equipment type and identification of each equipment being inspected, pursuant to 40 C.F.R. § 63.454(b).

57. The Facility is required to submit excess emission reports and include an Excess Emissions and Continuous Monitoring System Performance report including specific identification of each period of excess emissions and parameter monitoring exceedances, pursuant to 40 C.F.R. § 63.867(c).

58. From February 18 to February 20, 2020, EPA Inspectors conducted an on-site inspection at the facility. On April 23, 2020, EPA issued a final inspection report.

59. Based on the February 18-20, 2020 on-site inspection, a 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.

Re: International Paper Company
Docket No. CAA 06-2023-3303

60. On December 2, 2021, EPA sent Respondent the NOPVOC, notifying them of alleged violations of the CAA.

61. Between April 2021 and February 2022, Respondent submitted additional information to EPA regarding corrective action measures taken at the facilities to address the alleged violations. Specifically:

Equipment Repairs

- a. On April 9, 2021, Respondent provided records and/or photographs of repair of the process equipment documented to have visible emissions during the on-site inspection. Specifically:
 - a. Condensate flash tank return line valve steam packing was repaired and the external surface cleaned.
 - b. Chemiwasher NCG inlet was repaired during the chemiwasher outage on March 31, 2020.
 - c. Chemiwasher entrance/exit rolls and body were repaired during the chemiwasher outage on March 31, 2020.
 - d. The #4 Reject Refiner leak was stopped and cleaned up during the on-site inspection.

Inspection Reports

- b. On February 22, 2022, Respondent provided its September 2017 inspection report including the schematics of figures 1000-1, 1000-2, 1000-3, 1000-4, 3000-7, 3000-8, 1000-10, 1000-11, 1000-12, 1000-13, and 1000-15.

Loop Seal Repairs

- c. Based on review of Facility's monthly visual inspections of the condensate closed collection system, the Facility determined that a turpentine underflow standpipe loop seal ("Loop Seal") was leaking in consecutive months from March 2018 through September of 2019, for a total of 19 consecutive months.
- d. In May 2018, Respondent conducted a study of the non-condensable gas system and determined that, in order to conduct a complete repair of the leaking Loop Seal, the Facility would be required to stop operating the process associated with that equipment.
- e. In July 2019, Respondent performed delayed repairs of the Loop Seal during the Facility's planned annual shutdown of the associated process.
- f. On information and belief, Respondent restarted operations of the process associated with the Loop Seal prior to August 2019.
- g. In both August and September 2019, the Loop Seal was observed leaking during visual inspections of the condensate closed collection system.
- h. Respondent was unable to complete repairs to the Loop Seal during the Facility's planned annual outage in July 2019 and before resuming operation, as evidenced by observations of leaks from the Loop Seal in August and September 2019.
- i. Respondent completed repairs of the Loop Seal in October 2019, confirmed by subsequent inspections.

E. ALLEGED VIOLATIONS

NSPS Subpart BB

Claim 1: Failure to control chemiwasher gases that contain TRS in excess of 5 ppm by volume on a dry basis, corrected to 10 percent oxygen.

62. The Facility's chemiwasher is an "affected facility" under 40 C.F.R. § 60.280(a) because it is a brownstock washer in a kraft pulp mill.

63. On information and belief, during the on-site inspection, the inspectors observed visible emissions from multiple sections of the chemiwasher, including:

- a. Air inlet piping associated with the non-condensable gases ("NCG") header;
- b. Hole at the top of the chemiwasher hood near the entrance roll;
- c. Entrance roll;
- d. East and west side of the roof;
- e. Edges of the entrance and exit rolls;
- f. Sight glass at the entrance of the washer; and
- g. Door at the midpoint of the washer body.

64. International Paper violated 40 C.F.R. § 60.283(a)(1) because it discharged into the atmosphere from the Facility's chemiwasher gases that contain TRS in excess of 5 ppm by volume on a dry basis, corrected to 10 percent oxygen.

NESHAP Subpart S

Claim 2: Failure to complete repair prior to resuming operations.

65. NESHAP Subpart S applies to International Paper because it is the owner and operator of the Facility, which produces paper products using kraft processes at a major source. 40 C.F.R. § 63.440.

66. In July 2019, International Paper performed delayed repairs of the Loop Seal during the Facility's planned annual shutdown of the associated process.

67. Prior to August 2019, International Paper restarted operations of the process associated with the Loop Seal.

68. In August and September 2019, the Loop Seal was observed leaking during visual inspections of the condensate closed collection system.

69. International Paper was unable to complete repairs to the Loop Seal during the Facility's planned annual outage in July 2019.

70. International Paper violated 40 C.F.R. § 63.453(l)(1) (referencing 40 C.F.R. § 63.964(b)(2)) by failing to repair the Loop Seal leak before resuming operations.

Claim 3: Failure to conduct a visible inspection 30 days after the previous visible inspection on each of the enclosure openings, closed-vent systems, and valve or closure mechanisms.

71. Based on a review of Facility records, the Facility failed to conduct a visible inspection within 30 days of the previous visible inspection on each of the following enclosure openings, closed-vent systems, and valve or closure mechanisms used to control total HAP emissions from the Facility's LVHC system:

Equipment	Dates of Previous Inspections	Dates of Inspections	Number of Days Late	Leaks Detected
All applicable equipment	10/4/17	11/28/17	25	N
All applicable equipment	1/18/18	2/20/18	3	N
FA-15027 (Bark boiler flame arrestor)	5/7/18	6/11/18	5	Y
PVB-2020 (Pressure Vacuum Breaker-Foul Condensate)	6/11/18	7/24/18	13	Y
BP-12056 (HVLC Booster Fan)	5/7/18	6/11/18	4	Y
CV-15018 (LVHC control valve)	4/16/19 5/20/19	5/20/19 6/27/19	4 8	Y
T-15028	4/16/19	5/20/19	4	Y

Re: International Paper Company
Docket No. CAA 06-2023-3303

(LVHC tap)	5/20/19	6/27/19	8	
------------	---------	---------	---	--

72. International Paper violated 40 C.F.R. § 63.453(k) because, between February 20, 2018 and September 23, 2019, it failed to conduct multiple visible inspections on Facility enclosure openings, closed-vent systems, and valve or closure mechanisms used to comply with 40 C.F.R. § 63.450(a) within 30 days of the previous visible inspection.

Claim 4: Failure to conduct a visible inspection within 30 days of the previous visible inspection on pulping process condensate closed collection systems.

73. Based on a review of Facility records, the Facility failed to conduct a visible inspection within 30 days of the previous visible inspection on each of the following closed collection system equipment used to convey pulping process condensates where leaks were observed:

Equipment	Date of Previous Inspection	Date of Inspection	Number of Days Late	Leaks Detected
HAP-2000A (foul condensate line from Turpentine Underflow Standpipe)	4/4/18	5/7/18	3	Y
	5/7/18	6/11/18	5	
	6/11/18	7/24/18	13	
	2/13/19	3/19/19	4	
	4/16/19	5/20/19	4	
	5/20/19	6/27/19	8	
	6/27/19	7/29/19	2	
TT-16007 (Temperature Transmitter Hardpipe Condensate Collection)	7/29/19	9/23/19	5	Y
	6/11/18	7/24/18	13	
HAP-4000J (Evaporator Hotwell Tower)	4/4/18	5/7/18	3	Y

LVHC Manual Valve (MV-14012)	12/3/18 2/13/19	1/23/19 3/19/19	21 4	Y
P-11009C (Plug on foul condensate tank)	5/20/19	6/27/19	8	Y

74. International Paper violated 40 C.F.R. § 63.453(l) because, between February 20, 2018 and September 23, 2019, it failed to conduct multiple visible inspections on Facility pulping process condensate closed collection systems within 30 days of the previous visible inspection.

Claim 5: Failure to record the equipment type and identification of each equipment being inspected.

75. Based on a review of Facility records, the Facility failed to record and was unable to produce a September 2017 inspection report that included information that was required by 40 C.F.R. § 63.454(b), such as the equipment type and identification. The Facility typically includes equipment type and identification and other required information in the schematics of each monthly inspection report. The September 2017 inspection report, however, failed to include the inspection schematics of figures 1000-1, 1000-2, 1000-3, 1000-4, 3000-7, 3000-8, 1000-10, 1000-11, 1000-12, 1000-13, and 1000-15.

76. International Paper violated 40 C.F.R. § 63.454(b) because it failed to record, in its September 2017 inspection report, the equipment type and identification of each equipment being inspected, as evidenced by International Paper's failure to include the schematics of figures 1000-1, 1000-2, 1000-3, 1000-4, 3000-7, 3000-8, 1000-10, 1000-11, 1000-12, 1000-13, and 1000-15.

NESHAP Subpart MM

Claim 6: Failure to report opacity exceedances.

77. NESHAP Subpart MM applies to International Paper because it is the owner and operator of the Facility, which is a kraft pulp mill and a major source of HAP emissions. 40 C.F.R. § 63.860(a).

78. The Facility's chemical recovery system is an existing chemical recovery system under NESHAP Subpart MM.

79. The Facility's existing chemical recovery system, including Recovery Furnace No. 1 and Recovery Furnace No. 2., is an "affected source" under 40 C.F.R. § 63.860(b)(1) because it is located at a kraft pulp mill.

80. Respondent monitors the recovery furnaces by operating a COMS.

81. From 2016-2019, the Facility's COMS detected:

- a. 443 instances where the six-minute opacity average exceeded the opacity limit of 30% at Recovery Furnace No. 1; and
- b. 53 instances where the six-minute opacity average exceeded the opacity limit of 30% at Recovery Furnace No. 2.

82. Based on review of Facility records, from 2017-2019, the Facility:

- a. Failed to report 12 of the aforementioned exceedances of the opacity limit for Recover Furnace No. 1; and
- b. Failed to report 33 of the aforementioned exceedances of the opacity limit for Recover Furnace No. 2.

83. International Paper violated 40 C.F.R. § 63.867(c) because it failed to include the following information in its 2017-2019 semiannual reports: 12 instances in which Recovery

Re: International Paper Company
Docket No. CAA 06-2023-3303

Furnace No. 1 exceeded the applicable opacity limit; and 33 instances in which Recovery

Furnace No. 2 exceeded the applicable opacity limit.

F. CIVIL PENALTY AND CONDITIONS OF SETTLEMENT

General

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

Respondent:

- a. admits that EPA has jurisdiction over the subject matter alleged in this CAFO;
- b. neither admits nor denies the specific factual allegations contained in this 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 order;
- e. consents to the conditions specified in this CAFO;
- f. consents to any stated Permit Action;
- 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.

85. 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 Clean Air 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 Eastern District of Texas;
- e. waives any right it may possess at law or in equity to challenge the authority of 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 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

86. 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

Re: International Paper Company
Docket No. CAA 06-2023-3303

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 three hundred forty-four thousand two hundred fifty dollars (\$344,250) ("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.

87. 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 U.S. currency; or (5) Online 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:

Re: International Paper Company
Docket No. CAA 06-2023-3303

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

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 Online Payment:

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

PLEASE NOTE: The docket number CAA-06-2023-3303 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-06-2023-

Re: International Paper Company
Docket No. CAA 06-2023-3303

3303. 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 addresses:

Colleen McCarthy
U.S. EPA Region 6
McCarthy.Colleen01@epa.gov

And

Lorena Vaughn
Region 6 Hearing Clerk
U.S. EPA Region 6
vaughn.lorena@epa.gov

88. 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 ninety (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.

89. 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 attorney's fees incurred by the United States for collection proceedings.

90. If Respondent fails to timely pay any portion of the penalty assessed under this CAFO, 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 EPA or engaging in programs EPA sponsors or funds, 40 C.F.R. § 13.17.

Conditions of Settlement

91. As a Condition of Settlement, EPA and Respondent agree that Respondent has taken measures to apply for and pursue an exemption as to the NSPS BB requirement applicable to the chemiwasher for TRS emissions. EPA will review the exemption request. An approved exemption request would resolve the chemiwasher compliance issues noted in paragraph 64. If

Re: International Paper Company
Docket No. CAA 06-2023-3303

EPA does not approve the exemption request Respondent shall comply with all requirements of 40 C.F.R. § 60.283.

92. As a Condition of Settlement, EPA and Respondent agree that Respondent has taken measures to obtain an Alternative Monitoring Plan (“AMP”) for the Facility, conditionally approved by EPA on December 19, 2022.

93. As a Condition of Settlement, Respondent agrees to the following:

a. Within sixty (60) days of the Effective Date of this CAFO, Respondent shall:

1. Submit to TCEQ revised Semiannual Excess Emissions Reports to include all unreported periods of opacity exceedances for 2017, 2018, and 2019 referenced in Paragraph 82 above.

b. Within ninety (90) days of the Effective Date of this CAFO, Respondent shall submit to EPA:

1. A copy of Respondent’s revised Semiannual Excess Emissions Reports submitted to TCEQ.
2. An updated Facility LDAR Site-Specific Inspection Plan (“LDAR Plan”). Respondent must review and update the LDAR Plan, making any updates necessary to support compliance with all applicable federal, state, and local LDAR regulations. Respondent must integrate quality assurance and quality control measures into the LDAR Plan. The Facility’s LDAR Plan will include procedures for checking for accuracy of component listings and schematics.

3. An LDAR Training Protocol and Program, which requires initial and annual training for employees who have duties relevant to LDAR.
4. Updated reporting protocols to ensure excess emissions and opacity exceedances are timely and accurately reported in accordance with 40 C.F.R. § 63.867(c).

Additional Terms of Settlement

94. Respondent shall implement the Environmental Mitigation Actions (“Mitigation Actions”) described below within one year of the effective date of this CAFO.
 - a. Respondent shall demonstrate no detectable leaks for positive pressure closed-vent systems as specified in 40 C.F.R. 63.450(c) six months after the previous annual demonstration as required by 40 C.F.R. 63.453(k)(3).
 - b. Respondent shall demonstrate that each enclosure opening is maintained at negative pressure as specified as specified in 40 C.F.R. 63.457(e) six months after the previous annual demonstration as required by 40 C.F.R. 63.453(k)(4).
95. Respondent shall maintain, and present to the EPA upon request, all documents regarding mitigation dollars expended and shall provide these documents to the EPA within thirty (30) days of a request by the EPA for the documents.
96. By signing this CAFO, Respondent certifies that it is not otherwise required by law to perform the Mitigation Actions described in Paragraph 94, that Respondent is unaware of any other person who is required by law to perform the Mitigation Actions, and that Respondent will not use any Mitigation Actions, or portion thereof, to satisfy any obligations that it may have under other applicable requirements of law.

Re: International Paper Company
Docket No. CAA 06-2023-3303

97. Respondent shall complete the Mitigation Actions described in Paragraph 94 within one (1) year of the effective date of this CAFO, and shall notify the EPA upon completion of the Mitigation Actions.

98. Within sixty (60) days following the completion of the Mitigation Actions required under this CAFO, Respondent shall submit to the EPA a report that documents: the date that the Mitigation Action was completed; Respondent's results of implementing the Mitigation Action, including the emission reductions or other environmental benefits achieved; and the cost expended by Respondent in implementing the Mitigation Action.

99. At such time as the 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 Paragraphs 91-98 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.

100. Any information or correspondence submitted by Respondent to EPA under this CAFO shall be submitted by email to:

James Leathers, Section Chief
Air Toxics Enforcement Section (ECDAT)
U.S. EPA Region 6
Leathers.James@epa.gov

101. Respondent agrees that the time period from the Effective Date of this CAFO until all the conditions specified in Paragraphs 91-100 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.

102. 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 101, 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 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 EPA has provided written approval.

103. 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. *See* 40 C.F.R. Part 2, Subpart B (Confidentiality of Business Information).

104. 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

Re: International Paper Company
Docket No. CAA 06-2023-3303

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.

105. 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.

106. EPA and Respondent agree to the use of electronic signatures for this matter. EPA and Respondent further agree to electronic service of this CAFO by email to the following addresses:

To EPA: Smith.Christian.A@epa.gov

To Respondent: Brian.Heim@ipaper.com

107. 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 89, each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.

G. EFFECT OF CONSENT AGREEMENT AND FINAL ORDER

108. 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.

109. If Respondent fails to timely and satisfactorily complete every condition stated in Paragraphs 91-99 (including payment of any stipulated penalties owed), then Complainant may compel Respondent to perform the conditions in Paragraphs 91-99, seek civil penalties that

Re: International Paper Company
Docket No. CAA 06-2023-3303

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.

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

111. For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 1.162-21(b)(2), performance of Paragraph 86 is restitution, remediation, or required to come into compliance with the law.

112. 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.

113. 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.

114. Any violation of the included Final Order may result in a civil judicial action for an injunction or civil penalties of up to \$109,024 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). EPA may use any information submitted under this CAFO in an administrative, civil judicial, or criminal action.

115. 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 EPA's authority to seek compliance with any applicable laws or regulations, nor shall it

Re: International Paper Company
Docket No. CAA 06-2023-3303

be construed to be a ruling on, or a determination of, any issue related to any federal, state, or local permit.

116. Nothing herein shall be construed to limit the power of 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

117. Respondent and Complainant agree to the issuance of the included Final Order. Upon filing, 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 Company
Docket No. CAA 06-2023-3303

The foregoing Consent Agreement in the Matter of International Paper Company, Docket No. CAA-06-2023-3303, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:

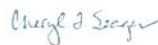
Date: 03/21/2023



Steven W. Heatt
Associate General Counsel
International Paper Company
6400 Poplar Avenue
Memphis, TN 38197

FOR COMPLAINANT:

Date: March 22, 2023



Digitally signed by Seager,
Cheryl
Date: 2023.03.22 15:20:02
-05'00'

Cheryl T. Seager
Director
Enforcement and
Compliance Assurance Division
U.S. EPA, Region 6

Re: International Paper Company
Docket No. CAA 06-2023-3303

CERTIFICATE OF SERVICE

I hereby certify that on the date in the electronic signature below, an electronic copy of the foregoing Consent Agreement and Final Order was electronically 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:

EMAIL - READ RECEIPT REQUESTED

Brian E. Heim
General Counsel
Intellectual Property &
EHS
International Paper
6400 Poplar Avenue
Memphis, TN 38197
C (901) 229-0724
brian.heim@ipaper.com

U.S. EPA, Region 6
Dallas, Texas