



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION III

1650 Arch Street

Philadelphia, Pennsylvania 19103-2029

RECEIVED

2015 SEP 30 PM 12:08

September 30, 2015

REGIONAL HEARING CLERK
EPA REGION III, PHILA. PA

VIA OVERNIGHT MAIL

Bernadette M. Rappold, Esquire
McGuire Woods
2001 K Street N.W.
Suite 400
Washington, DC 20006-1040

Re: City of Hopewell, Virginia, EPA Docket No. CAA-03-2015-0265

Dear Bern:

Enclosed, please find the final Consent Agreement and Consent Order resolving the above-referenced matter. Pursuant to the Consent Order, payment of the penalty plus interest shall be made within thirty (30) days of the effective date of the Order. The effective date of the Order is the date on which the Order was filed with the Regional Hearing Clerk, in this case March 30, 2015.

Payment of the penalty shall be made as specified in section IV of the Consent Agreement. At the same time that any payment is made, mail copies of any corresponding check, or written notification confirming any electronic wire transfer to Lydia A. Guy, Regional Hearing Clerk (3RC00), U.S. EPA, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029, and to me at the above-referenced address. The written notification to the Regional Hearing Clerk and to me should reference the above case caption and docket number.

Thank you for your cooperation in settling this matter. If you have any questions, I can be reached at (215) 814-2607.

Sincerely,

Daniel E. Boehmcke
Senior Assistant Regional Counsel
EPA Region III

Enclosure

Customer Service Hotline: 1-800-438-2474

RECEIVED

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region III

2015 SEP 30 PM 12: 08

1650 Arch Street

Philadelphia, Pennsylvania 19103-2029 HEARING CLERK

EPA REGION III PHILA. PA

IN RE:

	:	Docket No. CAA-03-2015-0265
City of Hopewell, Virginia	:	
	:	
Respondent	:	
	:	
	:	
Hopewell Regional Wastewater Treatment Facility	:	
231 Hummel Ross Road	:	
Hopewell Virginia 23860	:	
	:	
Facility	:	Proceeding Under the Clean Air Act, Section 113(a) and (d)

CONSENT AGREEMENT

I. Preliminary Statement

This administrative Consent Agreement (the "Consent Agreement") is entered into by and between the Complainant, the Director of the Air Protection Division, United States Environmental Protection Agency, Region III ("EPA" or "Complainant"), and the Respondent, City of Hopewell, Virginia ("Hopewell" or the "Respondent"), pursuant to Section 113(a) and (d) of the Clean Air Act ("CAA" or "the Act"), 42 U.S.C. § 7413(a) and (d), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 C.F.R. Part 22 (the "Consolidated Rules of Practice"). The Consolidated Rules of Practice at 40 C.F.R. § 22.13 provide, in pertinent part, that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be commenced and concluded simultaneously by the issuance of a consent agreement and final order pursuant to 40 C.F.R. § 22.18(b)(2) and (3).

This Consent Agreement and the accompanying Final Order (collectively referred to as the "CAFO") address violations set forth herein, which occurred at Respondent's wastewater treatment facility located at 231 Hummel Ross Road, Hopewell, Virginia 23860 (the "Facility").

II. General Provisions

1. Section 113(a) and (d) of the Act, 42 U.S.C. § 7413(a) and (d), authorizes the Administrator of EPA to issue an administrative order assessing a civil administrative penalty whenever, on the basis of any information available to the Administrator, the Administrator finds that any person has violated, or is in violation of, any requirement, rule, plan, order, waiver, or permit promulgated, issued, or approved under Subchapters I, IV, V and VI [also referred to as Titles I, IV, V and VI] of the Act. The authority to issue the accompanying Final Order has been duly delegated to the Regional Judicial Officer, EPA Region III.
2. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO and agrees not to contest EPA's jurisdiction with respect to the issuance, execution and enforcement of this Consent Agreement and the accompanying Final Order.
3. Except as provided in paragraph 2 above, Respondent neither admits nor denies the specific findings of fact and the conclusions of law set forth in this CAFO.
4. Respondent consents to the issuance of this CAFO, agrees to comply with the terms and conditions set forth herein, and consents to the payment of a civil penalty as set forth in this CAFO.
5. Respondent agrees to pay its own costs and attorney fees.
6. Respondent agrees that this CAFO shall apply to, and be binding upon, Respondent, its officers, directors, servants, employees, agents, successors and assigns

III. Applicable Statutes And Regulations

7. The CAA establishes a regulatory framework 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." Section 101(b)(1) of the CAA, 42 U.S.C. § 7401(b)(1).

National Emission Standards for Hazardous Air Pollutants

8. The CAA establishes several provisions and programs to achieve its goal, including, inter alia, Section 112 of the CAA, 42 U.S.C. § 7412, which addresses emissions of hazardous air pollutants ("HAPs").
9. Section 112(b) of the CAA, 42 U.S.C. § 7412(b) sets forth a list of HAPs, including methanol (CAS number 67561).
10. Section 112(c) of the CAA, 42 U.S.C. § 7412(c) requires EPA to publish a list of all categories and subcategories of major sources and area sources of HAP emissions.

EPA's initial list included Publicly Owned Treatment Works ("POTW") Emissions as a source category. 57 Fed. Reg. 31576 at 31591 (July 16, 1992).

11. Section 112(d) of the CAA, 42 U.S.C. § 7412(d), requires EPA to promulgate NESHAPs for each category or subcategory of major and area sources of HAPs listed pursuant to Section 112(c) of the CAA, 42 U.S.C. § 7412(c).
12. Section 112(e)(5) of the CAA, 42 U.S.C. § 7412(e)(5), requires EPA to promulgate standards pursuant to Section 112(d) of the CAA, 42 U.S.C. § 7412(d), for POTWs.
13. A "POTW" means a treatment works, as that term is defined by Section 112(e) of the CAA, which is owned by, inter alia, a municipality, as that term is defined by Section 502(e)(5) of the Clean Water Act ("CWA"), 33 U.S.C. § 1281 et seq. 40 C.F.R. § 63.1595.
14. Pursuant to Section 112(e)(5) of the CAA, "treatment works" has the meaning defined in Title II of the CWA, and includes any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature to implement section 1281 of the CWA, or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment, and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process (including land used for the storage of treated wastewater in land treatment systems prior to land application) or is used for ultimate disposal of residues resulting from such treatment and acquisition of other land, and interests in land, that are necessary for construction. Section 212(2)(A) of the CWA, 33 U.S.C. § 1292(2)(A).
15. As defined by Section 502(4) of the CWA, 33 U.S.C. § 1362(4), "municipality" means, inter alia, a city, town, district, association, or other public body created by or pursuant to State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes.
16. Pursuant to Section 112(d) and (e) of the CAA, 42 U.S.C. § 7412(d) and (e), EPA promulgated the National Emission Standards for Hazardous Air Pollutants ("NESHAP") for Publicly Owned Treatment Works ("POTW NESHAP"), found at 40 C.F.R. Part 63, Subpart VVV, §§ 63.1580-63.1595. 64 Fed. Reg. 57572 (Oct. 26, 1999).
17. As defined by 40 C.F.R. § 63.1595, for the purposes of Subpart VVV, "affected source" means the group of all equipment that comprises the POTW treatment plant.
18. As defined by 40 C.F.R. § 63.1595, "POTW treatment plant" means that portion of the POTW which is designed to provide treatment (including recycling and reclamation) of municipal sewage and industrial waste.
19. POTWs subject to the POTW NESHAP are subject to the requirements of the

NESHAP(s) applicable to all of the waste stream(s) discharged by industrial user(s) for treatment to the POTW. 40 C.F.R. § 63.1582(c). In the case of overlapping NESHAP requirements, the more stringent of the requirements applies. *Id.*

20. POTWs subject to the POTW NESHAP must operate treatment and control devices that meet all requirements specified in the NESHAP(s) applicable to the waste stream(s) treated by the POTW. 40 C.F.R. §§ 63.1583 and 63.1585.
21. The compliance date for POTWs in existence prior to October 26, 1999 which are subject to the POTW NESHAP is 60 days after October 26, 1999, or the appropriate compliance date for the NESHAP(s) applicable to the regulated waste streams accepted by the POTW, whichever is later. 40 C.F.R. § 63.1584.
22. Pursuant to Section 112(d) of the CAA, 42 U.S.C. § 7412(d), EPA promulgated the National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry (“Pulp and Paper NESHAP”), found at 40 C.F.R. Part 63, Subpart S, §§ 63.440-63.459. The compliance date for the Pulp and Paper NESHAP was April 16, 2001. 63 Fed. Reg. 18504 (Apr. 15, 1998).
23. Pursuant to Section 112(d) of the CAA, 42 U.S.C. § 7412(d), EPA promulgated the National Emission Standards for Hazardous Air Pollutants: Group IV Polymers and Resins (“Polymers and Resins NESHAP”), found at 40 C.F.R. Part 63, Subpart JJJ, §§ 63.1310-63.1336. The compliance date for the Polymers and Resins NESHAP was June 19, 2001. 65 Fed. Reg. 38030 (June 19, 2000). DuPont Teijin Films (“DTF”), a source which discharged industrial waste to Facility at all times relevant to this Consent Agreement, requested and received a one-year extension of time to comply with the Polymers and Resins NESHAP, until June 19, 2002.
24. Pursuant to Section 112(d) of the CAA, 42 U.S.C. § 7412(d), EPA promulgated the National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater (“Hazardous Organics NESHAP” or the “HON”), found at 40 C.F.R. Part 63, Subpart G, §§ 63.110-63.153. The compliance date for process wastewater streams to be in compliance with the HON was April 22, 1999. 40 C.F.R. § 63.100(k)(2)(ii).
25. Pursuant to Section 112(i)(3)(A) of the CAA, 42 U.S.C. § 7412(i)(3)(A), after the compliance date of any NESHAP, no person shall operate any existing source subject to the NESHAP in violation of the NESHAP, unless EPA has granted an extension of time to comply with the NESHAP, pursuant to Section 112(i)(3)(B) of the CAA, 42 U.S.C. § 7412(i)(3)(A). *See also* 40 C.F.R. §§ 63.6(c), (i) and (j).

Title V Permit Program

26. Title V of the CAA, 42 U.S.C. §§ 7661-7661f, establishes an operating permit program for certain sources, including “major sources” and any source subject to standards or regulations under Section 112 of the CAA, 42 U.S.C. §7412.

27. Pursuant to Sections 502(a) and 503(a) of the CAA, 42 U.S.C. §§ 7661a(a) and 7661b(a), all “major sources” must obtain a Title V Permit. *See also* 40 C.F.R. § 70.5.
28. Pursuant to Section 502(a) of the CAA, 42 U.S.C. § 7661a(a), it is unlawful for any person to violate any requirement of a Title V Permit or to operate a major source except in compliance with a permit issued by the appropriate permitting authority.
29. Title V Permits must contain “enforceable emission limitations and standards ... and such other conditions as are necessary to assure compliance with applicable requirements of [the CAA], including the requirements of the applicable implementation plan.” Section 504(a) of the CAA, 42 U.S.C. § 7661c(a).
30. Pursuant to Section 502(b) of the CAA, 42 U.S.C. § 7661a(b), on July 21, 1992, EPA promulgated regulations implementing the requirements of Title V and establishing the minimum elements of a major source operating permit program to be administered by any air pollution control agency. 57 Fed. Reg. 32250 (July 21, 1992). These regulations are codified at 40 C.F.R. Part 70.
31. In 2001, EPA granted final approval of Virginia’s Title V operating permit program. “Clean Air Act Full Approval of Operating Permit Program; Virginia,” 66 Fed. Reg. 62961 (Dec. 4, 2001); *see also* 40 C.F.R. Part 70, Appendix A.
32. Virginia’s Title V Permit Program is codified in Title 9 (Environment), Agency 5 (State Air Pollution Control Board), Chapter 80 (Permits for Stationary Sources), 9 VAC 5-80-50 through 5-80-300 (Federal Operating Permits for Stationary Sources).
33. Pursuant to 9 VAC 5-80-80, the owner of any stationary source, which includes any major source, must submit a timely and complete permit application, within twelve months after the source becomes subject to the provisions of Virginia’s Title V Permit Program. *See also* 9 VAC 5-80-50 and 5-80-60; 40 C.F.R. § 70.5(a)(1).
34. Each permit application submitted pursuant to 9 VAC 5-80-80 must include a citation and description of all applicable federal and state requirements. 9 VAC 50-80-90 E. *See also* 40 C.F.R. § 70.5(a)(2) and (c)(4)(1).
35. Any non-compliance with a permit issued pursuant to Virginia Title V Permit Program constitutes a violation of the CAA or Virginia’s Air Pollution Control Law or both, and is grounds for enforcement action and for permit termination, revocation and reissuance, or modification. 9 VAC 50-80-110 G.2; 40 C.F.R. §§ 70.1(b), 71.1(b) and 72.12.
36. All terms and conditions in a permit issued pursuant to Virginia’s Title V Permit Program are federally enforceable by the EPA Administrator, unless the permit designates any terms and conditions that are not required under the CAA as state-enforceable only. 9 VAC 5-80-110 N. Section 502(a) of the CAA, 42 U.S.C. § 7661a(a).

Enforcement Provisions

37. Section 502(a) of the Act, 42 U.S.C. § 7661a(a), provides that it is unlawful for any

person to violate any requirement of a permit issued under Title V of the Act after the effective date of any permit program approved under Title V of the Act.

38. Section 113(a)(3) of the CAA, 42 U.S.C. § 7413(a)(3), authorizes the Administrator of EPA to issue pursuant to Section 113(d) of the Act, 42 U.S.C. § 7413(d), an administrative order assessing a civil administrative penalty whenever, on the basis of any information available to the Administrator, the Administrator finds that any person has violated, or is in violation of, a requirement or prohibition of among other provisions of the Act, Sections 111, 112, or 502 of the CAA, 42 U.S.C. §§ 7411, 7412, or 7661a, or any rule, plan, order, waiver, or permit promulgated, issued, or approved under such provision. Section 113(d)(1) of the CAA limits the Administrator's authority to matters where the first alleged violation occurred no more than 12 months prior to initiation of an administrative action, except where the Administrator and the Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action. The Administrator and the Attorney General, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

III. Findings Of Fact And Conclusions Of Law

39. Respondent is the owner and operator of the Facility.
40. Hopewell is an independent, chartered city, incorporated under the laws of the Commonwealth of Virginia.
41. Respondent is a "municipality" within the meaning of Section 302(f) of the CAA, 42 U.S.C. § 7602(f).
42. Respondent is a "person" within the meaning of Section 302(e) of the CAA, 42 U.S.C. § 7602.
43. The Facility operates pursuant to a Title V operating permit, Permit No. 50735, issued January 9, 2002 and renewed October 2, 2014 (the "Title V Permit").
44. Respondent obtained a written opinion from Virginia, the terms of which Respondent believed authorized the Facility to accept and manage DTF's group 1 wastewater stream in the manner described in paragraphs 88-90 below. These terms were incorporated into the Facility's Title V Permit. EPA subsequently determined that incorporation of those terms into the Title V Permit was inconsistent with the Polymers and Resins NESHAP.

Failure to Conduct Daily Monitoring of Approved Parameter Values

45. Pursuant to 40 C.F.R. § 63.1580(a), a POTW is subject to the POTW NESHAP if, inter alia: (1) the POTW includes an "affected source," as defined by 40 C.F.R. § 63.1595; (2) the affected source is located at a POTW that is a major source of HAP emissions or is located at any industrial POTW, regardless of whether or not it is a major source of HAP

emissions; and (3) the POTW is required to develop and implement a pretreatment program, as defined by 40 C.F.R. § 403.8.

46. The Facility treats domestic and industrial wastewater. The Facility has a design flow rate of 50 million gallons per day.
47. The Facility, at all times relevant to this Consent Agreement, was a “stationary source,” as defined at 40 C.F.R. § 63.2.
48. Respondent, at all times relevant to this Order, was an “owner or operator” of a stationary source, as defined by 40 C.F.R. § 63.2.
49. The Facility is a POTW, within the meaning of 40 C.F.R. § 63.1595.
50. The Facility includes an affected source, within the meaning of 40 C.F.R. § 63.1595.
51. As defined by Section 112(a)(1) of the CAA, 42 U.S.C. § 7412(a), “major source” means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any HAP or 25 tons per year or more of any combination of HAPs.
52. At all times relevant to the Consent Agreement, the Facility has had the potential to emit at least 10 tons per year of methanol, a listed HAP in Section 112 of the CAA.
53. The Facility is a “major source” as defined by Section 112(a)(1) of the CAA, 42 U.S.C. § 7412(a).
54. As defined by 40 C.F.R. § 63.1595, an industrial POTW means a POTW that accepts a waste stream regulated by an industrial NESHAP and provides treatment and controls as an agent for the industrial discharger.
55. The Facility treats wastewater from industrial users, including wastewater from the pulp and paper mill located at 910 Industrial Street, Hopewell, Virginia, 23860 (VADEQ Reg. No. 50370), owned and operated by WestRock CP, LLC (formerly RockTenn CP, LLC) (the “RockTenn Facility”).
56. The Facility is an industrial POTW, within the meaning of 40 C.F.R. § 63.1595.
57. The Facility is required to develop and implement a pretreatment program, as defined by 40 C.F.R. § 403.8.
58. The Facility is subject to the POTW NESHAP (40 C.F.R. Part 63, Subpart VVV, §§ 63.1580-1595).
59. On July 7, 2009, EPA issued a Notice of Violation (“NOV”) to Hopewell and the Hopewell Regional Wastewater Commission (the “Commission”), through the Hopewell City Attorney, for violations of the CAA Title V Permit for the Facility, and for

violations of the Virginia State Implementation Plan (“SIP”) at the Facility, pursuant to Section 113(a)(1) and (a)(3) of the CAA, 42 U.S.C. § 7413(a)(1) and (a)(3).

60. On July 7, 2009, EPA issued a Finding of Violation (“FOV”) to Hopewell and the Commission, through the Hopewell City Attorney, for violations of the POTW NESHAP, promulgated under Section 112 of the CAA, 42 U.S.C. § 7412, pursuant to section 113(a)(3) of the CAA, 42 U.S.C. § 7413(a).
61. On December 17, 2010, EPA issued another NOV to Hopewell and the Commission, through the Hopewell City Attorney, for violations of the Title V Permit for the Facility, and for violations of the Virginia SIP at the Facility, pursuant to Section 113(a)(1) and (a)(3) of the CAA, 42 U.S.C. § 7413(a)(1) and (a)(3).
62. More than 30 days have elapsed since the issuance of the NOVs and FOV referred to in the preceding paragraphs.
63. The United States Department of Justice (“USDOJ”), on behalf of EPA, and Respondent have previously executed a Tolling Agreement relating to these claims, executed between the parties on December 13, 2013 and extended on May 30, 2014, August 27, 2014, January 30, 2015, and May 5, 2015. EPA and Respondent have executed a Tolling Agreement relating to these claims, incorporating the previous Tolling Agreements executed between USDOJ and Respondent, extending the period of tolling of the Statute of Limitations through September 30, 2015.
64. Pursuant to 40 C.F.R. § 63.1582(c), the Facility is subject to all the requirements of the Pulp and Paper NESHAP (40 C.F.R. Part 63, Subpart S, §§ 63.440-63.459) for the RockTenn Facility’s waste stream.
65. Pursuant to 40 C.F.R. § 63.446(e), pulping process condensates from digester systems, turpentine recovery systems, HVLC collection systems, and LVHC collection systems must be treated in accordance with one of five listed options.
66. The Facility treats pulping process condensate from the RockTenn Facility’s turpentine recovery system.
67. To comply with 40 C.F.R. §63.446(e), the Facility is required to discharge the pulping process condensate below the liquid surface of a biological treatment system and treat the condensate to reduce or destroy the total HAPs by 92% or more by weight, and total HAPs shall be measured as specified in 40 C.F.R. § 63.457(g). 40 C.F.R. § 63.446(e)(2)&(3). *See also* Title V Permit, Conditions V.A.1 and V.A.2.
68. Owners and operators using a biological treatment system to comply with 40 C.F.R. § 63.446(e)(2) may perform daily monitoring of site-specific parameters, established according to the procedures specified in 40 C.F.R. § 63.453(m) - (n), in order to comply with the monitoring requirements of 40 C.F.R. § 63.453.
69. When alternative site-specific parameters are used, owners and operators must 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. 40 C.F.R. § 63.453(m). *See also* Title V Permit, Condition V.B.4.

70. Pursuant to 40 C.F.R. §63.453(n), to establish appropriate parameters for paragraphs 40 C.F.R. § 63.453(j)(2) and (m), and to establish the value for each operating parameter required to be monitored under paragraphs 40 C.F.R. § 63.453(j) and (m), each owner and operator must use the following procedures:
 - a) During the initial performance test required in 40 C.F.R. § 63.457(a) or any subsequent performance test, continuously record the operating parameter;
 - b) Determinations shall be based on the control performance and parameter data monitored during the performance test, supplemented if necessary by engineering assessments and the manufacturer's recommendations;
 - c) The owner or operator shall provide for the Administrator's approval the rationale for selecting the monitoring parameters necessary to comply with paragraph ... (m) of this section; and
 - d) Provide for the Administrator's approval the rationale for the selected operating parameter value, and monitoring frequency, and averaging time. Include all data and calculations used to develop the value and a description of why the value, monitoring frequency, and averaging time demonstrate continuous compliance with the applicable emission standard.
71. On February 5, 2001, July 25, 2001, and September 25, 2001, Respondent submitted to EPA an Alternative MACT Compliance Monitoring Proposal and supplementary information, which requested approval for the use of alternative monitoring parameters to meet the requirements of 40 C.F.R. § 63.453(m).
72. On February 23, 2003, EPA approved the following alternative monitoring parameters: UNOX System oxygen supply flow rate; horsepower of UNOX System aerators; regulated wastewater inlet flow to UNOX System; total inlet liquid flow to UNOX system. Additionally oxygen vent purity in the UNOX system must be maintained at less than or equal to 96%, which is consistent with normal operations. *See also* Title V Permit, Conditions V.B.4. and V.B.5.
73. EPA's approval further stated that: "The operating range of each of the above [parameters] will be based on the results of the initial performance test. These compliance monitoring parameters will be measured and limits will be established based on the results of the initial performance test. These compliance monitoring parameter limits will be used to indicate on-going compliance."
74. In October 2001, the Facility conducted an initial performance test and established the following as the operating parameter values that demonstrate continuing compliance: UNOX System oxygen supply flow rate: the minimum value indicating compliance is 81.48 tons per day; horsepower of UNOX System aerators: the minimum value indicating compliance is 1200 horsepower; regulated wastewater inlet flow to UNOX System: the maximum value indicating compliance is 0.59 million gallons per day; and

total inlet liquid flow to UNOX system: the maximum value indicating compliance is 27.45 million gallons per day.

75. In its December 2001 Notice of Compliance Status, Respondent stated that additional values also indicate compliance with the applicable emission standard of 92% HAP reduction, based on historic data, engineering assessments, and Facility design capacity. The operating parameter values that Respondent claimed to demonstrate continuing compliance are as follows: UNOX System oxygen supply flow rate: the minimum value indicating compliance is 74.5 tons per day; horsepower of UNOX System aerators: the minimum value indicating compliance is 525 horsepower; regulated wastewater inlet flow to UNOX System: the maximum value indicating compliance is 1 million gallons per day; and total inlet liquid flow to UNOX system: the maximum value indicating compliance is 50 million gallons per day.
76. The Facility MACT Compliance Plan for the UNOX Closed Biological Treatment System, submitted to VADEQ on December 12, 2001, lists the values from the December 2001 Notice of Compliance Status – not the approved values from the October 2001 initial performance test – as the monitoring parameter values that indicate continuous compliance with the compliance with the applicable emission standard of 92% HAP reduction, set forth in 40 C.F.R. § 63.446(e)(2) and (3). The Facility considers the December 2001 parameter values, not the October 2001 parameter values, as the values to indicate compliance with 40 C.F.R. § 63.446(e)(2).
77. Respondent did not seek the Administrator's approval of the December 2001 operating parameter values, the data and calculations used to develop those values, or a description of why those values demonstrate continuous compliance with the applicable emission standard of 92% HAP reduction, set forth in 40 C.F.R. § 63.446(e)(2) and (3).
78. Accordingly, Respondent has not obtained the necessary approval from EPA for the site-specific parameter values continuously utilized by Respondent since December 2001 in monitoring the Facility's compliance, and therefore has not monitored compliance in accordance with the approved parameters as required by 40 C.F.R. § 63.453(n) at any point in time since December 2001 to the present.
79. Thus, Respondent has failed to conduct daily monitoring of site-specific parameters established according to the procedures specified in 40 C.F.R. § 63.453(n), in violation of 40 C.F.R. § 63.453(j)(2).

Failure to Comply with Condensate Treatment Standards

80. Pursuant to 40 C.F.R. § 63.446(e), pulping process condensates from digester systems, turpentine recovery systems, HVLC collection systems, and LVHC collection systems must be treated in accordance with one of five listed options.
81. The Facility treats pulping process condensate from RockTenn Facility's turpentine recovery system.
82. To comply with 40 C.F.R. §63.446(e), the Facility is required to discharge the pulping

process condensate below the liquid surface of a biological treatment system and treat the condensate to reduce or destroy the total HAPs by 92% or more by weight, and total HAPs shall be measured as specified in 40 C.F.R. § 63.457(g). 40 C.F.R. § 63.446(e)(2)&(3). *See also* Title V Permit, Conditions V.A.1 and V.A.2.

83. The Facility's July 16, 2010 Title V Semi-Annual Monitoring Report, covering the period January 1 – June 30, 2010, reported 32 days of excess emissions, in which the Facility failed to reduce or destroy total HAPS by 92% or more by weight, in violation of 40 C.F.R. § 63.446(e)(3) and Title V Permit, Condition V.A.2.

Failure to Treat DTF Stream in Compliance with Polymers and Resins NESHAP

84. Pursuant to Section 112(f)(4) of the Act, 42 U.S.C. § 7412(f), no HAP may be emitted from any stationary source in violation of the standard established under Section 112(d) of the Act, that applies to that source.
85. 40 C.F.R. § 63.1330(b) requires that the owner or operator of each affected source shall comply with the requirements of 40 C.F.R. §§ 63.132 through 63.149 (with differences as noted in paragraphs (b)(1) through (b)(22)).
86. DTF sent a Group I wastewater stream to the Facility for treatment pursuant to the Polymers and Resins NESHAP (the "DTF Stream") between approximately January 2000 to November 2002 and January 2003 to May 2012.
87. 40 C.F.R. § 63.136(a) states that for each individual drain system that receives or manages a Group 1 wastewater stream or a residual removed from a Group 1 wastewater stream, the owner or operator shall comply with the requirements of paragraphs (b), (c), and (d) or with paragraphs (e), (f), and (g) of 40 C.F.R. § 63.136. Generally the requirements of 40 C.F.R. § 63.136 require treatment of a Group 1 wastewater stream to occur completely under cover and to be vented through a control system.
88. The DTF Stream was, at all times during the period identified in paragraph 86, transported by truck from DTF's facility to the Facility and unloaded into an open tank (the "DTF Stream Receiving Tank"). The DTF Stream Receiving Tank has had, at all times relevant to this Consent Agreement, a vent to the atmosphere and is considered an open tank. The DTF Stream Receiving Tank does not meet the control requirements in either of 40 C.F.R. §§ 63.133(a)(1) or (a)(2).
89. From the open DTF Stream Receiving Tank, the DTF Stream was, at all times relevant to this Consent Agreement, transferred via an open trench to the open Primary Clarifier at the Facility. The open Primary Clarifier did not, at any time relevant to this Consent Agreement, meet the control requirements in either 40 C.F.R. §§ 63.133(a)(1) or (a)(2).
90. After the Primary Clarifier, the wastewater containing the DTF Stream was, at all times relevant to this Consent Agreement, routed through an open diversion basin and then into the UNOX biological treatment unit. The open trench at the Facility does not meet the requirements of an individual drain system in 40 C.F.R. § 63.136, and the open Primary Clarifier does not meet the requirements of a wastewater tank in 40 C.F.R.

§§ 63.133(a)(1) or (a)(2).

91. Respondent failed to handle the DTF Stream in accordance with the requirements of 40 C.F.R. §§ 63.133(a) and 61.136, in violation of 40 C.F.R. § 63.1330(b), and Section 112(f) of the Act, 42 U.S.C. § 7412(f) from at least December 13, 2008 through May 2012.

*Failure to Comply with Inspections Reporting and Record-Keeping
Requirements for DTF Stream*

92. 40 C.F.R. § 63.147(b) provides that the owner or operator shall keep in a readily accessible location the records specified in paragraphs (b)(1) through (8).
93. 40 C.F.R. § 63.146(c) provides that, for each waste management unit that receives, manages, or treats a Group 1 wastewater stream or residual removed from a Group 1 wastewater stream, the owner or operator shall submit as part of the next Periodic Report required by 40 C.F.R. § 63.152(c) the results of each inspection required by 40 C.F.R. § 63.143(a) in which a control equipment failure was identified. Each Periodic Report must include the date of the inspection, identification of each waste management unit in which a control equipment failure was detected, description of the failure, and description of the nature of and date the repair was made.
94. 40 C.F.R. § 63.1330(b)(14) provides that, when the Periodic Report requirements contained in 40 C.F.R. § 63.152(c) are referred to in 40 C.F.R. § 63.146, the Periodic Report requirements contained in 40 C.F.R. § 63.1335(e)(6) shall apply for the purposes of Subpart JJJ, and that, in addition, when 40 C.F.R. §§ 63.132 through 63.149 require that information be reported in the Periodic Reports required in 40 C.F.R. § 63.152(c), the owner or operator of an affected source shall report the specified information in the Periodic Reports required in 40 C.F.R. § 63.1335(e)(6) for the purposes of Subpart JJJ.
95. At no time relevant to this Consent Agreement did the Facility conduct any of the required inspections and monitoring on the DTF Receiving Tank, Primary Clarifier and associated open conveyance at the Facility as required by 40 C.F.R. § 63.143 because the DTF Stream Receiving Tank was an open tank with a vent to the atmosphere in violation of the control requirements in 40 C.F.R. §§ 63.133(a)(1) or (a)(2). From at least December 13, 2008 through May 2012, the Facility failed to perform the required inspections and monitoring required by 40 C.F.R. § 63.143 and also failed to comply with the record keeping requirements in 40 C.F.R. §§ 63.147(b), the reporting requirements in 40 C.F.R. § 63.146(c), and the requirements of 40 C.F.R. § 63.1330(b)(14), all in violation of 40 C.F.R. § 63.1330(b), and Section 112(f) of the Act, 42 U.S.C. § 7412(f).

IV. Settlement Recitation, Settlement Conditions, and Civil Penalty

96. Respondent herein certifies to Complainant EPA that upon investigation, to the best of its knowledge and belief, all violations alleged in this Consent Agreement have been

remedied.

97. Complainant and Respondent enter into this Consent Agreement and the accompanying Final Order in order to settle and resolve all violations set forth in Section III of this Consent Agreement.
98. In settlement of the alleged violations enumerated above in Section III of this Consent Agreement, Respondent consents to the assessment and agrees to pay a civil penalty in the amount of One Hundred Thousand Dollars (\$100,000.00) within the time and manner specified herein.
99. The settlement amount of One Hundred Thousand Dollars (\$100,000.00) is based upon Complainant's consideration of and application of the statutory penalty factors set forth in Section 113(e), of the Act, 42 U.S.C. § 7413(e), (which include the size of the business, economic impact of the penalty, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence, the economic benefit of noncompliance, the payment of penalties previously assessed for same violation, the seriousness of violation and such other matters as justice may require), and EPA's Clean Air Act Stationary Source Civil Penalty Policy (dated October 25, 1991), as indexed for inflation in keeping with 40 C.F.R. Part 19 (Adjustment to Civil Monetary Penalties for Inflation). Complainant has determined that Respondent's payment of this civil penalty shall constitute full and final satisfaction of the violations set forth in Section III of this Consent Agreement.
100. Respondent shall pay the civil penalty of One Hundred Thousand Dollars (\$100,000.00) no later than thirty (30) days after the effective date of this CAFO in order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with such civil penalty as described in this CAFO.

101. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment or to comply with the conditions in this Consent Agreement and Final Order shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.
102. Interest on the civil penalty assessed in this Consent Agreement and Final Order will begin to accrue on the date that a copy of this executed Consent Agreement and Final Order is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).
103. The cost of EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's Resources Management Directives - Cash Management, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) day period in which the penalty remains unpaid.
104. A penalty charge of six percent per year will be assessed monthly on any portion of the civil penalty which remains delinquent for more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
105. Payment of the civil penalty set forth in Paragraph 98, above, shall be made by cashier's check, certified check, or electronic wire transfer, Automated Clearing House ("ACH"), or an on line, internet payment as specified below. All payments are payable to Treasurer, United States of America and shall reference the above case caption and docket number (CAA-03-2015-0265).
106. Instructions for submitting payment of the penalty, including available methods, or combination of methods, are provided at the following EPA website addresses: <http://www2.epa.gov/financial/additional-instructions-making-payments-epa> and <http://www2.epa.gov/financial/makepayment>.

107. All payments also shall reference the above case caption and docket number, CAA-03-2015-0265. At the same time that any payment is made, copies of any corresponding check or written notification confirming any electronic transfer through wire transfer, ACH, or internet payment shall be mailed to Lydia A. Guy, Regional Hearing Clerk (3RC00), U.S. EPA, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029, to Daniel E. Boehmcke, Senior Assistant Regional Counsel (3RC10), U.S. EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103-2029, and to Kris Hall (3AP20), U.S. EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103-2029.
108. Respondent agrees not to deduct for federal tax purposes the civil penalty specified in, and any civil penalty amount paid pursuant to, this CAFO.
109. Payment of the penalty specified in Paragraph 98, above, in the manner set forth in this Consent Agreement and payment of any applicable interest, handling costs and/or late payment charges as set forth above shall constitute satisfaction of all civil claims for penalties for the specific violation alleged in Section III of this Consent Agreement. Compliance with this CAFO shall not be a defense to any action commenced at any time for any other violation of any federal laws and regulations administered by EPA.
110. Respondent's failure to make timely payment of the civil penalty or any portion of the civil penalty provided herein may result in referral of this matter to the United States Attorney for enforcement of this CAFO in the appropriate United States District Court. Additionally, Respondent's failure to make timely payment of the civil penalty or any portion of the civil penalty provided herein may result in the assessment of additional interest, penalties and/or late payment penalty charges.

V. Reservation of Rights

This CAFO resolves only the civil claims for the specific violations alleged in Section III of this Consent Agreement. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. Nor shall anything in this Consent Agreement and Final Order be construed to limit the United States' authority to pursue criminal sanctions. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in 40 C.F.R. § 22.18(c). Further, Complainant reserves any rights and remedies available to it under the Act, the regulations promulgated thereunder, and any other federal laws or regulations for which Complainant has jurisdiction, to enforce the provisions of CAFO following its filing with the Regional Hearing Clerk.

VI. Effective Date

The effective date of this CAFO is the date on which the CAFO is filed with the Regional Hearing Clerk of EPA Region III.

VII. Waiver of Hearing

For the purposes of this proceeding only, Respondent hereby expressly waives its right to a hearing pursuant to Section 113(d)(2)(A) of the Act, 42 U.S.C. § 7413(d)(2)(A), with respect to any issue of law or fact set forth in this CAFO. Respondent also waives its right to appeal the accompanying Final Order.

VII. Entire Agreement

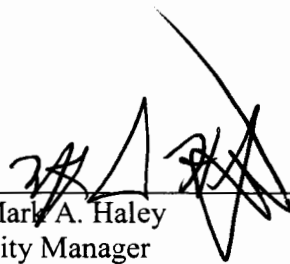
This Consent Agreement and the accompanying Final Order constitute the entire agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Consent Agreement and the accompanying Final Order. Nothing in this Consent Agreement or the accompanying Final Order shall be construed to affect or limit in any way the obligation of Respondent to comply with all federal, state and local laws and regulations governing any activity required by this Consent Agreement and the accompanying Final Order.

X. Execution

The person signing this Consent Agreement on behalf of Respondent acknowledges and certifies by his/her signature that he/she is fully authorized to enter into this Consent Agreement and to legally bind Respondent, to the terms and conditions of this Consent Agreement and the accompanying Final Order.

For the Respondent City of Hopewell, Virginia:

9-23-2015
Date:

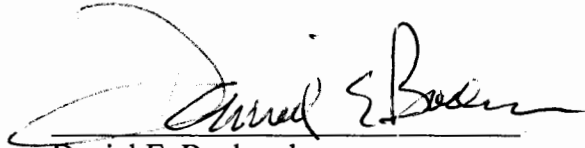


Mark A. Haley
City Manager

For the Complainant:

9/29/15

Date:



Daniel E. Boehmcke
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency,
Region III

Accordingly, the Air Protection Division, United States Environmental Protection Agency, Region III, recommends that the Regional Administrator of EPA Region III or his designee, the Regional Judicial Officer, ratify this CAFO. The amount of the recommended civil penalty assessment is One Hundred Thousand Dollars (\$100,000.00).

9/29/15

Date



Diana Esher, Director
Air Protection Division
U.S. Environmental Protection Agency,
Region III

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

IN RE:

	:	Docket No. CAA-03-2015-0265
City of Hopewell, Virginia	:	
	:	
Respondent	:	
	:	
	:	
Hopewell Regional Wastewater	:	
Treatment Facility	:	
231 Hummel Ross Road	:	
Hopewell Virginia 23860	:	
	:	
Facility	:	Proceeding Under the Clean Air Act, Section 113(a) and (d)
	:	

FINAL ORDER

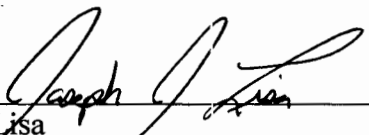
Complainant, the Director of the Air Protection Division, U.S. Environmental Protection Agency, Region III, and Respondent, City of Hopewell, Virginia, have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22, Sections 22.13(b) and 22.18(b)(2) and (3). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA's Clean Air Act Stationary Source Civil Penalty Policy (dated October 25, 1991), as indexed for inflation in keeping with 40 C.F.R. Part 19 (Adjustment to Civil Monetary Penalties for Inflation), and the statutory factors set forth in Section 113(e) of the Clean Air Act, 42 U.S.C. § 7413(e).

NOW, THEREFORE, PURSUANT TO Section 113 of the Clean Air Act, 42 U.S.C. § 7413, and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of **ONE HUNDRED THOUSAND DOLLARS (\$100,000.00)**, in accordance with the payment provisions set forth in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

The effective date of the attached Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

Sept. 30, 2015
Date



Joseph J. Lisa
Regional Judicial and Presiding Officer
U.S. Environmental Protection Agency,
Region III

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029**

IN RE:

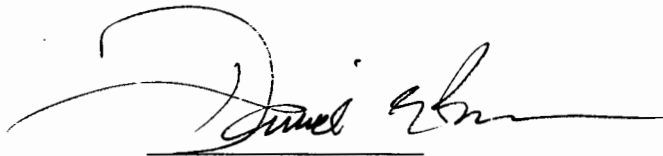
City of Hopewell, Virginia	:	Docket No. CAA-03-2015-0265
	:	
Respondent	:	
	:	
Hopewell Regional Wastewater	:	
Treatment Facility	:	
231 Hummel Ross Road	:	
Hopewell Virginia 23860	:	
	:	
Facility	:	Proceeding Under the Clean Air Act, Section 113(a) and (d)

CERTIFICATE OF SERVICE

I hereby certify that the original and true and correct copies of the foregoing Consent Agreement and Final Order were hand delivered to the Regional Hearing Clerk, and delivered via e-mail and overnight mail, to the following persons:

Bernadette M. Rappold, Esquire
McGuire Woods
2001 K Street N.W.
Suite 400
Washington, DC 20006-1040

9/30/15
Date


Daniel E. Boehmcke
Senior Assistant Regional Counsel