

Re: Evergreen Packaging LLC
Docket No. CAA-06-2023-3335

3. Respondent, Evergreen Packaging LLC, is a limited liability company doing business in the state of Arkansas. Respondent is a “person” as defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e).

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

B. JURISDICTION

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

6. EPA and the United States Department of Justice jointly determined that this matter, although it involves a penalty assessment above \$446,456 and 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. On June 2, 2021, EPA issued to Respondent a Notice of Potential Violation and Opportunity to Confer (“NOPVOC”) and provided a copy of the NOPVOC to the State of Arkansas. In the NOPVOC, EPA provided notice to both Respondent and the State of Arkansas that EPA found that Respondent committed the alleged violations described in Section E of this CAFO and provided Respondent an opportunity to confer with EPA. On August 12, 2021, representatives of Respondent and EPA discussed the NOPVOC.

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

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

C. GOVERNING LAW

10. The Act is designed “to protect and enhance the quality of the Nation’s air 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).

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

National Emission Standards for Hazardous Air Pollutants

12. 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).

13. 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).

14. 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.

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15. 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).

16. 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).

17. 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.

18. 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).

NESHAP Subpart S

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

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20. NESHAP Subpart S applies to “the owner or operator of processes that produce pulp, paper, or paperboard; that are located at a plant site that is a major source” pursuant to 40 C.F.R. § 63.2, “. . . and that use the following processes and materials: (1) [k]raft, soda, sulfite, or 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).

21. Pursuant to 40 C.F.R. § 63.443(a)(1)(i), the owner or operator of each pulping system using the kraft process subject to the requirements of NESHAP Subpart S shall control the total HAP emissions from each low volume, high concentration (“LVHC”) system.

22. 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.

23. 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. This includes, *inter alia*, blow heat accumulators, blow tanks, and associated equipment.

24. 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.

25. Pursuant to 40 C.F.R. § 63.445(a)(2), bleaching systems bleaching pulp from kraft, sulfite, or soda pulping processes that use any chlorinated compounds are subject to standards under this section, including the requirement that the owner or operator of a bleaching system of an affected source must control chlorinated HAP emissions by enclosing the system

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equipment at each bleaching stage where chlorinated compounds are introduced and venting gases into a closed-vent system that routes to a control device. *See* 40 C.F.R. § 63.445(b).

26. The bleaching system includes “all process equipment after high-density pulp storage prior to the first application of oxidizing chemicals or reducing chemicals following the pulping system, up to and including the final bleaching stage.” 40 C.F.R. § 63.441. This includes, *inter alia*, washers and towers.

27. NESHAP Subpart S contains standards for enclosures and closed-vent systems, *see* 40 C.F.R. § 63.450.

28. Pursuant to 40 C.F.R. § 63.450(b), the owner or operator shall ensure that “each enclosure [maintains] negative pressure at each enclosure or hood opening . . .” Additionally, “[e]ach enclosure or hood opening closed during the initial performance test . . . shall be maintained in the same closed and sealed position as during the performance test at all times except when necessary to use the opening for sampling, inspection, maintenance, or repairs.” *Id.*

29. Pursuant to 40 C.F.R. § 63.450(d), for “each bypass line in the closed-vent system that could divert vent streams containing HAP to the atmosphere without meeting the emission limitations in [40 C.F.R.] §§ 63.443, 63.444, or 63.445,” the owner or operator must either: (1) “install, calibrate, maintain, and operate according to the manufacturer's specifications a flow indicator that is capable of taking periodic readings” every fifteen (15) minutes; or (2) “[f]or bypass line valves that are not computer controlled . . . maintain the bypass line valve in the closed position with a car seal or a seal placed on the valve or closure mechanism in such a way that valve or closure mechanism cannot be opened without breaking the seal.”

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NESHAP Subpart DDDDD

30. EPA first promulgated NESHAP Subpart DDDDD on March 21, 2011. *See* 76 Fed. Reg. 15664. EPA has subsequently amended NESHAP Subpart DDDDD on several occasions.

31. Pursuant to 40 C.F.R. § 63.7490(a), an “affected source” subject to NESHAP Subpart DDDDD is, *inter alia*, the collection at a major source of all existing industrial, commercial, and institutional boilers with a subcategory as defined in 40 C.F.R. § 63.7575.

32. As defined in 40 C.F.R. § 63.7575, an industrial boiler “means a boiler used in manufacturing, processing, mining, and refining or any other industry to provide steam, hot water, and/or electricity.”

33. NESHAP Subpart DDDDD requires an owner or operator of an affected source to demonstrate initial compliance with each emission limit that applies to the affected source by conducting initial performance tests and fuel analyses and establishing operating limits. 40 C.F.R. § 63.7530(a).

34. Pursuant to 40 C.F.R. § 63.7530(b), if an owner or operator demonstrates compliance through performance stack testing, the owner or operator must conduct fuel analyses according to 40 C.F.R. § 63.7521 and establish maximum fuel pollutant input levels according to paragraphs 40 C.F.R. § 63.7530(b)(1) through (3), as applicable, and as specified in 40 C.F.R. § 63.7510(a)(2).

35. Pursuant to 40 C.F.R. § 63.7530(b)(1), the owner or operator must establish the maximum chlorine fuel input (“Clinput”) during the initial fuel analysis, using Equation 7 of this section.

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36. Pursuant to 40 C.F.R. § 63.7530(b)(2), the owner or operator must establish the maximum mercury fuel input level (“Mercuryinput”) during the initial fuel analysis, using Equation 8 of this section.

37. Pursuant to 40 C.F.R. § 63.7545(e), if a facility is required to perform an initial compliance demonstration as specified in 40 C.F.R. § 63.7530, then the facility must submit a Notification of Compliance Status, which includes all performance test results and fuel analyses, before the close of business on the 60th day following the completion of all performance tests and/or other initial compliance demonstrations for all boiler or process heaters at the facility.

D. FINDINGS OF FACT AND CONCLUSIONS OF LAW

38. Evergreen Packaging LLC (“Evergreen” or “Respondent”) owns and operates the Pine Bluff Mill located at 5201 Fairfield Road, Pine Bluff, AR 71601 (the “Facility”).

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

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

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

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

43. The Facility is a “stationary source” as that term is defined in Section 112(a)(3) of the Act, 42 U.S.C. § 7412(a)(3), and 40 C.F.R. § 63.2.

44. The Facility is subject to NESHAP Subparts S and DDDDD.

45. The Facility is required to control the total HAP emissions from each low volume, high concentration (“LVHC”) system, including its digesters, blow heat accumulators, and blow

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tanks, by enclosing the equipment and venting gases into a closed-vent system that routes to a control device. *See* 40 C.F.R. § 63.443(c).

46. The Facility is required to enclose the equipment in its bleaching system that use chlorinated compounds, including washers and towers, and vent gases into a closed-vent system that routes to a control device. *See* 40 C.F.R. § 63.445(b).

47. The Facility is required to ensure that, for each enclosure and closed vent system subject to 40 C.F.R. § 63.443(c) (covering LVHC equipment including digesters, blow heat accumulators, and blow tanks) and 40 C.F.R. § 63.445(b) (covering bleaching system equipment), that “each enclosure [maintains] negative pressure at each enclosure or hood opening” and that “each enclosure or hood opening closed during the initial performance test . . . shall be maintained in the same closed and sealed position as during the performance test at all times except when necessary to use the opening for sampling, inspection, maintenance, or repairs.” *See* 40 C.F.R. § 63.450(b).

48. For each bypass line in a closed-vent system that could divert vent streams containing HAPs to the atmosphere without meeting the emission limitations in 40 C.F.R. §§ 63.443, 63.444, or 63.445, the Facility is required to either install and operate a flow indicator capable of taking readings every fifteen minutes, or to install a car seal or other valve seal or closure mechanism.

49. For its boilers subject to NESHAP Subpart DDDDD, and specifically boilers that demonstrate compliance with the initial performance testing requirements of 40 C.F.R. § 63.7530(a) by conducting performance stack testing, the Facility is required to establish maximum fuel pollutant input levels for chlorine according to the requirements of 40 C.F.R. § 63.7530(b)(1), including Equation 7 of that subsection, and to establish the maximum fuel

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pollutant levels for mercury according to the requirements of 40 C.F.R. § 63.7530(b)(3), including Equation 8 of that subsection.

50. From January 14 to January 17, 2020, EPA Inspectors conducted an on-site inspection at the facility. On March 6, 2020, EPA issued a final inspection report.

51. Based on the January 17-20, 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.

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

53. Between October 2020 and October 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 September 10, 2021 and October 12, 2022, Respondent provided records of repair of its digesters, reflecting dates of repair on January 20, 2020; March 30, 2020; June 3, 2020; July 5, 2020; July 27, 2020; August 4, 2020; September 8, 2020; September 21, 2020; September 28, 2020; October 6 2020; October 12, 2020; November 9, 2020; November 30, 2020; January 6, 2021; January 25, 2021; February 28, 2021; April 5, 2021; April 26, 2021; and May 3, 2021.
- b. On September 10, 2021 and October 12, 2022, Respondent provided records of repair of its blow heat accumulator, reflecting a date of repair on January

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22, 2020, and records of repair of its blow tanks, reflecting dates of repair on January 22, 2020 and on March 30, 2020.

- c. On September 10, 2021 and October 12, 2022, Respondent provided records of repair of its bleaching system equipment, reflecting dates of repair on March 30, 2020; May 25, 2020; June 3, 2020; June 20, 2020; and January 2021.

Open Washer Windows

- d. Respondent provided records on January 16, 2020 indicating instances of open washer windows on bleaching system equipment between January 2017 and December 2019. The records indicated that collectively, the total amount of time that a washer window was open prior to being fixed in this time period was twenty-four (24) months with each open window taken into account.

Sealed Sewer Vent Line Without Flow Indicator or Car Seal

- e. On September 10, 2021, Respondent provided records indicating that its sealed sewer vent line had been shut off and taken out of service as of July 5, 2021.

Boiler Fuel Analysis Calculations for Chlorine and Mercury Inputs

- f. On March 14, 2022, Respondent provided records showing the required fuel analysis calculations required by § 63.7530(b)(1) for chlorine content, and § 63.7530(b)(2) for mercury content in its boilers, including Equation 7 for chlorine and Equation 8 for mercury, were provided to EPA Region 6.

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E. ALLEGED VIOLATIONS

Claim 1: Failure to control gases that contain HAPs from digesters, by routing gases through a closed vent system to a control device.

54. The Facility's digesters are "LVHC systems" under 40 C.F.R. § 63.443(a)(1)(i).

55. On information and belief, during the on-site inspection, the inspectors observed visible emissions from twelve digesters.

56. Respondent violated 40 C.F.R. § 63.443(c) because in emitting HAP gases from its digesters, it failed to control the total amount of HAPs by enclosing the equipment and routing HAP gases through a closed vent system to a control device.

Claim 2: Failure to control gases that contain HAPs from the blow heat accumulator and blow tanks.

57. The Facility's blow heat accumulator and blow tanks are "LVHC systems" under 40 C.F.R. § 63.443(a)(1)(i).

58. On information and belief, during the on-site inspection, the inspectors observed visible emissions from a blow heat accumulator, and two blow tanks, "Blow Tanks B and C."

59. Respondent violated 40 C.F.R. § 63.443(c) because in emitting HAP gases from its blow heat accumulator and blow tanks, it failed to control the total amount of HAPs by enclosing the equipment and routing HAP gases through a closed vent system to a control device.

Claim 3: Failure to control gases that contain HAPs from the bleaching system equipment, including bleaching washer and towers.

60. The Facility's bleaching washers and towers are subject to the requirements of 40 C.F.R. § 63.445(b), as this equipment uses chlorinated compounds in its operations.

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61. On information and belief, during the on-site inspection, the inspectors observed visible emissions from four bleaching washers, and two towers.

62. Respondent violated 40 C.F.R. § 63.445(b) because it failed to enclose the equipment in its bleaching system that uses chlorinated compounds and vent gases into a closed-vent system that routes to a control device.

Claim 4: Failure to keep washer windows closed during operation.

63. The Facility's bleaching washer equipment is subject to the 40 C.F.R. § 63.450 standards for enclosures and closed vent systems, including the requirement to keep those enclosures and hood openings which are required to be kept closed during the initial performance test outlined in 40 C.F.R. § 63.457(a), in the same closed and sealed position during operation, except when necessary to use the opening for sampling, inspection, maintenance, or repairs.

64. On information and belief, the inspectors observed open windows on washers in the bleaching plant. To further investigate this issue, EPA requested records in the time period between January 2017 and December 2019, and upon reviewing such records found numerous instances of open washer windows while the equipment was operating, and not when being used for sampling, inspection, maintenance, or repair.

65. Respondent violated § 63.450(b) because it operated bleaching washers with open windows and hood openings, with one bleach plant washer window observed to be open on January 16, 2020, and 26 times in the records that EPA reviewed.

Claim 5: Failure to maintain a flow indicator or car seal on the sealed sewer vent line.

66. The Facility's sealed sewer vent line was a bypass line in the closed vent system that was subject to the standards for closed vent systems at 40 C.F.R. § 63.450(d), including the requirement that each bypass line in a closed-vent system that could divert vent streams

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containing HAPs to the atmosphere without meeting the emission limitations in 40 C.F.R. §§ 63.443, 63.444, or 63.445, the Facility is required to either install and operate a flow indicator capable of taking readings every fifteen minutes, or to install a car seal or other valve seal or closure mechanism, because piping transferring condensate must be controlled.

67. Upon information and belief, inspectors found the sealed sewer vent line operating without a flow indicator or car seal.

68. Upon information and belief, the sealed sewer vent line was disconnected on July 5, 2021 and is no longer in service.

69. Respondent violated 40 C.F.R. § 63.450(d) because it operated its sealed sewer vent line without a flow indicator or car seal, or other valve seal or closure mechanism.

Claim 6: Failure to demonstrate initial compliance fuel specifications for boilers

70. The Facility is an “affected source” under 40 C.F.R. § 63.7490(a), subject to NESHAP Subpart DDDDD, as it contains industrial boilers as defined in 40 C.F.R. § 63.7575, and thus must comply with the requirement of 40 C.F.R. § 63.7530(a) to demonstrate initial compliance with each emission limit that applies to the affected source by conducting initial performance tests and fuel analyses and establishing operating limits.

71. The Facility is subject to the requirement of 40 C.F.R. § 63.7530(b) that if an owner or operator demonstrates compliance through performance stack testing, the owner or operator must conduct fuel analyses according to 40 C.F.R. § 63.7521 and establish maximum fuel input levels for chlorine according to 40 C.F.R. § 63.7530(b)(1) and Equation 7, and to establish maximum fuel input levels for mercury according to 40 C.F.R. § 63.7530(b)(2) and Equation 8.

72. Because it is required to perform initial compliance demonstrations of its industrial boilers under 40 C.F.R. § 63.7530, the Facility is subject to the requirement of 40

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C.F.R. § 63.7545(e) to submit a Notification of Compliance Status within 60 days of completion of the initial compliance demonstration, which is required to include the results of all required fuel analyses performed.

73. On March 14, 2022, Respondent submitted documents to EPA Region 6 showing that the Facility had calculated the maximum fuel input levels for chlorine pursuant to 40 C.F.R. § 63.7530(b)(1) and Equation 7, and the maximum fuel input levels for mercury pursuant to 40 C.F.R. § 63.7530(b)(2) and Equation 8, but, on information and belief, these required calculations were not included on the Notification of Compliance Status submitted to the Arkansas Department of Environmental Quality (ADEQ) on July 21, 2016.

74. Respondent violated 40 C.F.R. § 63.7545(e) because its Notification of Compliance Status did not include the results of all fuel analyses performed pursuant to its initial compliance demonstration, specifically the maximum fuel input levels for chlorine pursuant to 40 C.F.R. § 63.7530(b)(1) and Equation 7, and the maximum fuel input levels for mercury pursuant to 40 C.F.R. § 63.7530(b)(2) and Equation 8.

F. CIVIL PENALTY AND CONDITIONS OF SETTLEMENT

General

75. 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;

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- 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.
76. 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 Arkansas;
 - 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

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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

77. Upon consideration of the entire record herein, including the Findings of Fact and Conclusions of Law, which are hereby adopted and made a part hereof, and upon consideration of the size of the business, the economic impact of the penalty on the business, the Respondent's full compliance history and good faith efforts to comply, the duration of the violation, payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, the seriousness of the violation, and other factors as justice may require, EPA has assessed a civil penalty in the amount of \$256,973 ("EPA Penalty"). The EPA Penalty has been determined in accordance with Section 113 of the Act, 42 U.S.C. § 7413 and at no time exceeded EPA's statutory authority.

78. Respondent agrees to:

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- 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:

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"

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

PLEASE NOTE: The docket number CAA-06-2023-3335 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-06-2023-3335. 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:

Justin Chen
U.S. EPA Region 6
chen.justin@epa.gov

And

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

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

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- 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.

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

81. 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

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- 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

82. Regarding Claim 4 ("Failure to keep washer windows closed during operation"), and Paragraph 83, subparagraph c. of this CAFO, Respondent has provided documentation to EPA showing that it has updated inspection and startup procedures, manuals, and training to include a step in the process where personnel are required to check and ensure that all hood openings and/or enclosures of bleaching equipment are closed before resuming or starting operation.

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

- a. By 365 days from the Effective Date of this CAFO, Respondent will maintain a digester capping valve repair and replace program consisting of inspection, testing, and maintenance procedures that includes sending out used capping valves for repair and testing to a third-party capping valve repair service provider every 3 years, at a minimum.
- b. By 60 days from the Effective Date of this CAFO, Respondent will hire or contract with an independent third-party inspector (in accordance with Appendix A, "Inspector Qualifications") to conduct an inspection of the bleach plant and all

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pieces of bleaching equipment, to determine if any of the bleaching equipment needs to be replaced or repaired to resolve ongoing unauthorized emissions or the potential of unauthorized emissions. By 180 days from the Effective Date of this CAFO, Respondent will develop a schedule to repair or replace any of the bleaching equipment identified by the independent third-party inspector as needing to be repaired or replaced, and make those repairs or replacements, as expeditiously as possible. Once the repairs or replacements are complete, Respondent shall submit to EPA documentation showing the repairs or replacements made to the bleaching equipment as a result of the third-party inspection.

- c. Respondent shall prepare and submit a report to USEPA identifying each instance that a hood opening or enclosure is found to be open during operation of the bleaching equipment (excluding any instance when it is necessary to use the hood opening or enclosure for sampling, removal, or for equipment inspection, maintenance, or repair) during the period beginning on the Effective Date of this CAFO and ending 365 days after the Effective Date of this CAFO (the "Reporting Period"). and submit a summary report providing to EPA its findings. Respondent's findings will be due 425 days from the Effective Date of the CAFO (*i.e.*, 60 days after the end of the Reporting Period). Such document will be certified by Respondent as set forth in paragraph 84 of this CAFO.
- d. By 365 days from the Effective Date of this CAFO, Respondent will submit a new Notification of Compliance Status with the complete June 1, 2016 Initial Performance Test report for boilers, including CLInput and HgInput calculations

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(reflective of the calculations submitted by email to EPA Region 6 on March 14, 2022), or submit an addendum with that information which was provided to EPA Region 6 on March 14, 2022 to ADEQ.

84. 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 82-83 above and provide any necessary documentation. Respondent represents that the signing representative will be fully authorized by Respondent to certify that the terms and conditions of this CAFO have been met. The certification should include the following statement.

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

EPA has 90 days to respond with (a) questions or disagreement that the conditions of the CAFO have been satisfied, or (b) upon request from Respondent, correspondence confirming that Respondent has completed all requirements under the CAFO satisfactorily. Any dispute regarding whether the Conditions of Settlement are complete shall be subject to the Dispute Resolution process set forth in Section H of this CAFO.

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

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

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86. Respondent agrees that the time period from the Effective Date of this CAFO until all the conditions specified in Paragraphs 82-83 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.

87. 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 86, 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.

88. 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).

89. 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

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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.

90. 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.

91. 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: rosnell.christian@epa.gov

To Respondent: sandra.cobden@activeevergreen.com

92. Respondent specifically waives its right to seek reimbursement of its costs and attorneys' fees under 5 U.S.C. § 504 and 40 C.F.R. Part 17. Except as qualified by Paragraph 80, each party shall bear its own attorneys' fees, costs, and disbursements incurred in this proceeding.

G. SUPPLEMENTAL ENVIRONMENTAL PROJECT

93. In response to the alleged violations of Section 112 of the CAA, 42 U.S.C. § 7412, and in settlement of this matter, although not required by Section 112 of the CAA, 42 U.S.C. § 7412 or any other federal, state or local law, Respondent agrees to implement a supplemental environmental project ("SEP"), as described below in paragraph 94 and Attachment A.

94. Respondent shall complete a Pollution Reduction SEP, which involves the

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replacement and relocation of aerators within the wastewater treatment system (WWTS) and relocating the primary discharge location for the WWTS (the “outfall”). The SEP is more specifically described in Attachment A and incorporated herein by reference.

95. Respondent shall spend no less than Two Million One Hundred Thousand Dollars (\$2,100,000) on implementing the SEP. Respondent shall include documentation of the expenditures made in connection with the SEP as part of the SEP Completion Report.

96. Respondent shall complete the SEP by no later than the timeframes set forth in Attachment A of this Consent Agreement and Final Order.

97. The SEP is consistent with applicable EPA policy and guidelines, specifically EPA's 2015 Update to the 1998 Supplemental Environmental Projects Policy (March 10, 2015). The SEP advances at least one of the objectives of the CAA, 42 U.S.C. § 7401 *et seq.*, by reducing the potential emissions of HAPs through the operation of an upgraded wastewater treatment system with an increased number of aerators and an optimized outfall location. The SEP is not inconsistent with any provision of the CAA. The SEP relates to the alleged violation(s), and is designed to reduce:

- a. The amount of HAPs released to atmosphere from condensate generated in the pulping and bleaching process that is processed by the WWTS;
- b. The adverse impact to public health and/or the environment to which the alleged violations contribute, specifically the SEP will decrease HAPs released from the WWTS to atmosphere; and
- c. The overall risk to public health and/or the environment potentially affected by the alleged violations by reducing HAPs released from the WWTS to atmosphere.

98. Respondent certifies the truth and accuracy of each of the following:

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99. That all cost information provided to the EPA in connection with the EPA's approval of the SEP is complete and accurate and that the Respondent in good faith estimates that the cost to implement the SEP is Two Million One Hundred Thousand Dollars (\$2,100,000);

- a. That, as of the date of executing this CAFO, Respondent is not required to perform or develop the SEP by any federal, state, or local law or regulation and is not required to perform or develop the SEP by agreement, grant, or as injunctive relief awarded in any other action in any forum;
- b. That the SEP is not a project that Respondent was planning or intending to construct, perform, or implement other than in settlement of the claims resolved in this CAFO;
- c. That Respondent has not received and will not have received credit for the SEP in any other enforcement action;
- d. That Respondent will not receive reimbursement for any portion of the SEP from another person or entity;
- e. That for federal income tax purposes, Respondent agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP; and
- f. That Respondent is not a party to any open federal financial assistance transaction that is funding or could fund the same activity as the SEP described in Paragraph 94 and Attachment A.

100. Any public statement, oral or written, in print, film, or other media, made by Respondent or a representative of Respondent making reference to the SEP under this CAFO from the date of execution of this CAFO shall include the following language: "This project was

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undertaken in connection with the settlement of an enforcement action taken by the U.S.

Environmental Protection Agency for alleged violations of federal laws.”

101. SEP Reports.

a. Respondent shall submit a SEP Completion Report to EPA within sixty (60) days after completion of the SEP. The SEP Completion Report shall contain the

following information, with supporting documentation:

- i. A detailed description of the SEP as implemented;
- ii. A description of any operating problems encountered and the solutions thereto;
- iii. Itemized costs;
- iv. Certification that the SEP has been fully implemented pursuant to the provisions of this CAFO; and
- v. A description of the environmental and public health benefits resulting from implementation of the SEP (with a quantification of the benefits and pollutant reductions, if feasible).
- vi. The Respondent shall submit the following certification set forth below in the SEP Completion Report, signed by a responsible corporate official.

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

EPA has 90 days to respond with (a) questions or disagreement that the SEP has been completed, or (b) upon request from Respondent, correspondence confirming that Respondent has completed all

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requirements under the CAFO satisfactorily. Any dispute regarding whether the SEPs are complete shall be subject to the Dispute Resolution process set forth in Section H of this CAFO.

vii. See Attachment A for further SEP Completion Report requirements.

- b. Periodic Reports. Respondent shall submit additional reports as required by Attachment A to EPA in accordance with the schedule and requirements recited therein.
- c. Respondent agrees that failure to submit the SEP Completion Report or any Periodic Report required by subsections (a) and (b) above shall be deemed a violation of this CAFO and Respondent shall become liable for stipulated penalties pursuant to paragraph 102 below.
- d. Respondent shall submit all notices and reports required by this CAFO to Justin Chen at chen.justin@epa.gov.
- e. In itemizing its costs in the SEP Completion Report, Respondent shall clearly identify and provide acceptable documentation for all eligible SEP costs. Where the SEP completion report includes costs not eligible for SEP credit, those costs must be clearly identified as such. For purposes of this Paragraph, "acceptable documentation" includes invoices, purchase orders, or other documentation that specifically identifies and itemizes the individual costs of the goods and/or services for which payment is being made. Canceled drafts do not constitute acceptable documentation unless such drafts specifically identify and itemize the individual costs of the goods and/or services for which payment is being made.

102. Stipulated Penalties

- a. Except as provided in subparagraph (b) below, if Respondent does not

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satisfactorily complete the SEP, including spending the minimum amount on the SEP set forth in paragraph 95 above, Respondent agrees to pay, in addition to the civil penalty of paragraph 77, the following per day stipulated penalty for each day the Respondent is late meeting the SEP requirement.

- i. \$250 per day for days 1-60
 - ii. \$1000 per day for days 61-90
 - iii. \$2500 per day for days 91 and beyond.
- b. If Respondent fails to timely submit any SEP reports, such as those referred to in Paragraph 101, in accordance with the timelines set forth in this CAFO, Respondent agrees to pay the following per day stipulated penalty for each day after the report was due until Respondent submits the report in its entirety:
- i. \$250 per day for days 1-60
 - ii. \$1000 per day for days 61-90
 - iii. \$2500 per day for days 91 and beyond.
- c. "Satisfactory completion" of the SEP is defined as the Respondent spending no less than Two Million One Hundred Thousand Dollars (\$2,100,000) to replace and relocate aerators within the WWTS and relocate the primary discharge location for the WWTS as described in Attachment A by thirty (30) months of the Effective Date of the Consent Agreement and Final Order. The determinations of whether the SEP has been satisfactorily completed shall be in the sole discretion of EPA.
- d. EPA retains the right to waive or reduce a stipulated penalty at its sole discretion.
- e. Respondent shall pay stipulated penalties not more than thirty (30) days after

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receipt of written demand by EPA for such penalties. The method of payment shall be in accordance with the provisions of paragraph 78 above. Interest and late charges shall be paid as stated in paragraph 79.

H. DISPUTE RESOLUTION

103. If the Respondent objects to any decision or directive of EPA, the Respondent shall notify the following persons in writing of its objections, and the basis for those objections, within fifteen (15) calendar days of receipt of EPA's decision or directive:

Branch Manager, Air Toxics Enforcement Section
Compliance Assurance and Enforcement Division
U.S. EPA - Region 6
1201 Elm St, Suite 500
Dallas, TX 75270-2101

104. The Air Toxics Enforcement Branch Manager (Manager) or his designee, and the Respondent shall then have an additional fifteen (15) calendar days from receipt by EPA of the Respondent's written objections to attempt to resolve the dispute. If an agreement is reached between the Manager and the Respondent, the agreement shall be reduced to writing and signed by the Manager and the Respondent and incorporated by reference into this CAFO. Any material modification to the CAFO shall be made pursuant to the Modification requirements of Section I.

105. If no agreement is reached between the Manager and the Respondent within that time period, the dispute shall be submitted to the Director of the Enforcement and Compliance Assurance Division (Division Director) or his designee. The Division Director and the Respondent shall then have a second 15-day period to resolve the dispute. If an agreement is reached between the Division Director and the Respondent, the resolution shall be reduced to writing and signed by the Division Director and Respondent and incorporated by reference into this CAFO. If the Division Director and the Respondent are unable to reach agreement within

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this second 15-day period, the Division Director shall provide a written statement of EPA's decision to the Respondent, which shall be binding upon the Respondent and incorporated by reference into the CAFO. Any material modification to the CAFO shall be made pursuant to the Modification requirements of Section I.

I. MODIFICATIONS

106. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of all parties and approval of the Regional Judicial Officer, except that the Regional Judicial Officer need not approve written agreements between the parties for nonmaterial changes and written agreements between the parties modifying the SEP schedules described in Attachment A for good cause. The enforcement branch manager shall sign the written agreements that do not require Regional Judicial Officer approval. Written agreements will be filed with the Regional Hearing Clerk. Revisions to the names of individuals in the notification provisions set forth in paragraphs 85 or 91, will be modified by e-mailing the other party.

J. EFFECT OF CONSENT AGREEMENT AND FINAL ORDER

107. 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 and the Conditions of Settlement set forth in paragraphs 82 through 84.

108. If Respondent fails to timely and satisfactorily complete every condition stated in Paragraphs 82-83 (including payment of any stipulated penalties owed), then Complainant may compel Respondent to perform the conditions in Paragraphs 82-83, seek civil penalties that

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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.

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

110. 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 Paragraphs 82-83 is restitution, remediation, or required to come into compliance with the law.

111. 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.

112. Any violation of the included Final Order may result in a civil judicial action for an injunction or civil penalties of up to \$117,468 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.

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

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114. 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.

K. EFFECTIVE DATE

115. 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. The Conditions of Settlement outlined in Paragraphs 82-83 of the CAFO shall terminate upon issuance of EPA's written confirmation that the Conditions of Settlement are complete (as described in Paragraph 84 of this CAFO). The SEP set out in Section G of this CAFO and Attachment A to this CAFO shall terminate upon issuance of EPA's written confirmation that the SEP is complete (as described in Paragraph 101.a.vi. of this CAFO).

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The foregoing Consent Agreement In the Matter of Evergreen Packaging LLC, Docket No. CAA-06-2023-3335, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:

Date: 25 September 2023

Chandra Mitchell

Evergreen Packaging LLC, a wholly-owned
subsidiary of Pactiv Evergreen Inc.
By : Chandra J. Mitchell, Vice President, General
Counsel and Secretary
Pactiv Evergreen Inc.
1900 W Field Ct, Lake Forest, IL 60045

FOR COMPLAINANT:

Date: _____

Margaret Osbourne

Digitally signed by
MARGARET OSBOURNE
Date: 2023.09.26 14:43:03
-05'00'

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

FILED

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

23 SEP 27 AM 11:17

REGIONAL HEARING CLERK
EPA REGION VI

IN THE MATTER OF:	(DOCKET NO. CAA-06-2023-3335
	(
Evergreen Packaging, LLC	(
Pine Bluff, Arkansas	(
	(
	(
	(
	(
RESPONDENT	(
	(
	(
	(

FINAL ORDER

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

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

Dated _____

**THOMAS
RUCKI**

Digitally signed by THOMAS RUCKI
DN: c=US, o=U.S. Government,
ou=Environmental Protection
Agency, cn=THOMAS RUCKI,
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Date: 2023.09.27 11:09:06 -0400'

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

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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

Sandra Cobden
Chief Counsel, Litigation & Compliance
sandra.cobden@pactivevergreen.com

U.S. EPA, Region 6
Dallas, Texas

APPENDIX A

I. Inspector Qualifications

The Inspector shall satisfy the following independence requirements:

1. The Inspector shall be impartial and independent in conducting all third-party inspection activities.
2. The Inspector shall receive no compensation or financial benefit from the outcome of the inspection, apart from payment for inspecting services.
3. The Inspector shall be:
 - a. Knowledgeable about air quality-related regulatory requirements, applicable and generally accepted good engineering practices, and technical elements related to paper mills (e.g. NAICS: 322121).
 - b. Trained or certified in proper inspecting techniques.

Attachment A

Evergreen Packaging LLC – Pine Bluff Mill Supplemental Environmental Project

Wastewater Treatment System Improvement Project

Item #1: Aerator Replacement and Relocation

Completion Timeline: TBD based on CAFO finalization date, no later than 30 months from the effective date

Cost: \$900,000

Details: The project shall replace and install 10 new mechanical aerators into the wastewater treatment system's segregated zone, which is used to treat condensate from the foul condensate line. This shall keep the number of aerators in the segregated zone at 20 units. The 10 replaced aerators shall be installed in the other basins of the wastewater treatment system (South Aeration Basin and North Aeration Basin), bringing the cumulative total of aerators through the entire wastewater treatment system from 30 units to 40 units.

Item #2: Wastewater Outfall Relocation

Completion Timeline: TBD based on CAFO finalization date, no later than 30 months from the effective date

Cost: \$1,200,000

Details: The current location of the wastewater treatment system outfall causes unwanted water level fluctuations, which generates increased total suspended solids (TSS), inhibits consistent wastewater flow rates, inhibits wastewater flow monitoring, and creates challenges for managing wastewater residence time. This all results in decreased performance of controlling hazardous air pollutants ("HAPs") in the wastewater. The project shall move the wastewater outfall to a location which will allow the installation of a Parshall flume, resulting in reduced TSS at the outfall, stabilizing wastewater flow, and providing more accurate and reliable flow monitoring. This in effect will increase wastewater retention time, resulting in more time for the treatment microbes to remove HAPs from the wastewater.

Total Cost: \$2,100,000

The following demonstrates how the project satisfies the requirements of the EPA SEP Policy:

- A. The Wastewater Treatment System Improvement Project proposes to install and operate new mechanical aerators in the Wastewater Treatment System (“WWTS”) and to move the location of the Wastewater Treatment System’s outfall. The WWTS is used to control HAPs from wastewater and condensate resulting from the facility’s papermaking, including pulping and bleaching operations, which are regulated by the Clean Air Act in NESHAP Subpart S (40 CFR Part 63). The Wastewater Treatment System Improvement Project will improve the control efficiency of HAPs sent to the WWTS, resulting in lesser releases of HAPs to the atmosphere. Post installation sampling and water quality measurements, consistent with NESHAP Subpart S and NPDES evaluation and/or compliance methodologies, will be used to document the environmental benefits of the project. These methodologies and measurements shall be included as part of the SEP Completion Report.
- B. Evergreen will submit periodic reports after 12 months and 24 months from the Effective Date of the CAFO. The periodic reports will be due 60 days after 12 months and 24 months from the Effective Date of the CAFO. The reports shall contain the following information, with supporting documentation:
 - a. A detailed description of the SEP as it has been implemented at the time of reporting;
 - b. Itemized costs at the time of reporting;
 - c. A detailed description of any challenges to the implementation of the SEP at the time of reporting;
- C. The SEP will be undertaken in connection with the settlement of an EPA enforcement action, Docket No. CAA-06-2023-3335.
- D. Evergreen is not otherwise required to install and operate this project by any federal, state, or local law or regulation, nor pursuant to any agreement or grant, nor as injunctive relief awarded in any other action in any forum.
- E. The installation and operation of the equipment pursuant to this SEP is not a project Evergreen had planned or committed to perform prior to the initiation of this enforcement action by EPA, which will be resolved in the CAFO.
- F. Evergreen has not received, and is not negotiating to receive credit, for the Wastewater Treatment System Improvement Project SEP in any other enforcement action.
- G. Evergreen will not receive any reimbursement for any portion of the eligible SEP.