



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
1445 ROSS AVENUE, SUITE 1200  
DALLAS, TX 75202-2733  
JUN 10 2015

CERTIFIED MAIL RETURN RECEIPT REQUESTED #7010 2780 0001 3624 9501

Mr. John C. Bottini  
Senior Counsel – Environmental  
Georgia Pacific LLC  
133 Peachtree Street, NE  
Atlanta, GA 30303

**RE: In the Matter of Georgia Pacific, Crossett, Arkansas 71635**  
**EPA Docket #: EPCRA-06-2015-0507**

Dear Mr. Bottini:

Enclosed is a copy of the fully executed Consent Agreement and Final Order (CAFO) for the above referenced facility that has been filed with the EPA Region 6 Regional Hearing Clerk. As set forth in the CAFO, and agreed upon by both parties Georgia Pacific has thirty (30) days from the filing date to submit its monetary payment of \$27,500.00 to EPA. The remaining settlement amount of \$103,228.13 is to be allocated for a Supplemental Environmental Project (SEP) to be completed within 90 days from the effective date of this CAFO.

Your monetary payment to EPA should be made payable to the Treasurer, United States of America, EPA -- Region 6. To ensure proper credit is applied to your case, please specify the docket number, listed above, on your method of payment. In addition, please forward a photocopy of your payment and transmittal letter to the EPA personnel listed in the CAFO. Once our Cincinnati Finance Office acknowledges receipt of your payment, and the Region has received the final SEP Completion Report indicating at least the specified SEP amount in the CAFO has been expended, we shall consider this case closed.

If you have any questions regarding this matter, please contact Brian Tomasovic at (214) 665-9725, in the Office of Regional Counsel, or Morton E. Wakeland, Jr. ("Mort"), of my staff, at (214) 665-8116. Your cooperation in the settlement of this case is most appreciated.

Sincerely yours,

Wren Stenger  
Director  
Multimedia Planning and  
Permitting Division

Enclosure

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
DALLAS, TX

FILED  
2015 JUN 10 10 37 AM  
REGIONAL OFFICE  
EPA REGION 6  
DALLAS, TEXAS

IN THE MATTER OF:

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GEORGIA-PACIFIC LLC

Consent Agreement and Final Order  
USEPA Docket No. EPCRA-06-2015-0507

RESPONDENT

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CONSENT AGREEMENT AND FINAL ORDER

The Director, Multimedia Planning and Permitting Division, United States Environmental Protection Agency (EPA), Region 6 (Complainant), and Georgia Pacific, LLC (Respondent) [hereinafter Georgia-Pacific] in the above-referenced proceeding, hereby agree to resolve this matter through the issuance of this Consent Agreement and Final Order (CAFO).

I.

PRELIMINARY STATEMENT

1. This proceeding for the assessment of civil penalties pursuant to Section 325(c) of the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. § 11045(c), is simultaneously commenced and concluded by the issuance of this CAFO against the Respondent pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).
2. For the purposes of this proceeding, the Respondent admits the jurisdictional allegations herein; however, the Respondent neither admits nor denies the specific factual allegations contained in this CAFO.
3. The Respondent explicitly waives any right to contest the allegations and its right to appeal

*In the Matter of Georgia-Pacific LLC, Docket No. EPCRA-06-2015-0507*

- the proposed final order contained in this CAFO, and waives all defenses which have been raised or could have been raised to the claims set forth in the CAFO.
4. The CAFO resolves only those violations which are alleged herein.
  5. The Respondent consents to the issuance of this CAFO, to the assessment and payment of the stated civil penalty in the amount and by the method set forth in this CAFO.
  6. The Respondent represents that it is duly authorized to execute this CAFO and that the party signing this CAFO on behalf of the Respondent is duly authorized to bind the Respondent to the terms and conditions of this CAFO.
  7. The Respondent agrees that the provisions of this CAFO shall be binding on its officers, directors, employees, agents, servants, authorized representatives, successors, and assigns.
  8. The Respondent hereby certifies that as of the date of the execution of this CAFO, Georgia Pacific has corrected the violation(s) alleged in this CAFO and is now, to the best of its knowledge, in compliance with all applicable requirements of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

## II.

### STATUTORY AND REGULATORY BACKGROUND

9. Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. §§ 372.22 and 372.30 require the owner or operator of a facility that: (a) has ten or more full-time employees; (b) that is an establishment with a primary Standard Industrial Classification (SIC) major group or industry code listed in 40 C.F.R. § 372.23(a), or a primary North American Industry Classification System (NAICS) subsector or industry code listed in 40 C.F.R. §§ 372.23(b) or (c); and (c) “manufactured, processed, or otherwise used” a toxic chemical listed under Subsection 313(c) of

EPCRA and 40 C.F.R. § 372.65, in excess of the threshold quantity established under Subsection 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. §§ 372.25, 372.27, or 372.28 during the calendar year, to complete and submit a toxic chemical release inventory Form R to the Administrator of EPA and to the State in which the subject facility is located by July 1, for the preceding calendar year, for each toxic chemical known by the owner or operator to be “manufactured, processed, or otherwise used” in quantities exceeding the established threshold quantity during that preceding calendar year.

10. According to Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25, the threshold amount for reporting under Section 313(b) of EPCRA, 42 U.S.C. § 11023(b), and 40 C.F.R. § 372.30, is 25,000 pounds for any toxic chemical “manufactured or processed,” and 10,000 pounds for any toxic chemical “otherwise used” for the applicable calendar year. Alternative reporting thresholds are set forth in 40 C.F.R. §§ 372.27 and 372.28.

### III.

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

11. Respondent is a limited liability company incorporated under the laws of the State of Delaware and is authorized to do business in the State of Arkansas.
12. Respondent is a “person” as defined by Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).
13. Georgia-Pacific LLC owns and operates the businesses located at 100 Mill Supply Road and 101 Plywood Mill Road in Crossett, Arkansas.
14. Respondent’s businesses, identified in Paragraph 13, are part of a multi-establishment “facility,” as that term is defined by Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and 40

C.F.R. § 372.3.

15. Respondent's facility has three separate economic units: a pulp and paper mill establishment, a resin and chemical manufacturing establishment, and a plywood mill and studmill establishment.
16. Each of these business units are establishments, as that term is defined by 40 CFR § 372.3.
17. The Respondent's facility had ten (10) or more "full-time employees" as that term is defined by 40 C.F.R. § 372.3 for calendar years 2009 to present.
18. The Respondent's establishments have NAICS codes to which 40 CFR Part 372 applies, as specified by 40 C.F.R. § 372.23(b).
19. Diisocyanates are a "toxic chemical" within the meaning of 40 C.F.R. § 372.3 and are a listed chemical category for which reporting is required, as specified at 40 C.F.R. § 372.65(c).
20. Sodium Nitrite is a "toxic chemical" within the meaning of 40 CFR § 372.3 and is a listed chemical for which reporting is required, as specified at 40 C.F.R. § 372.65(a) and (b).
21. Nitrate Compounds are a "toxic chemical" within the meaning of 40 C.F.R. § 372.3 and are a listed chemical category for which reporting is required, as specified at 40 C.F.R. §372.65(c).
22. During calendar year 2011, Respondent's paper mill establishment "manufactured, processed, or otherwise used" Nitrate Compounds, as those terms are defined by 40 C.F.R. §372.3.
23. During calendar years 2009-2012, Respondent's paper mill establishment "manufactured, processed, or otherwise used" Sodium Nitrite, as those terms are defined by 40 C.F.R. §372.3.
24. During calendar year 2010, Respondent's plywood mill establishment "manufactured,

processed, or otherwise used” Diisocyanates, as those terms are defined by 40 C.F.R. § 372.3.

25. On March 19, 2014, U.S. EPA Region 6 began an investigation of Respondent’s EPCRA reporting practices. This investigation revealed several failures to timely report by completing and timely submitting a toxic chemical release inventory Form R’s pursuant to EPCRA.

**Claim 1: Failure to Timely Report (Nitrate Compounds, 2011, Paper Mill)**

26. During calendar year 2011, the Respondent “manufactured, processed, or otherwise used” Nitrate Compounds at Respondent’s pulp and paper mill establishment in excess of the applicable threshold quantity.

27. The Respondent failed to timely report a Form R for Nitrate Compounds with EPA and the State of Arkansas by the applicable due date for calendar year 2011 (July 1, 2012, < 1 year late in reporting).

28. Therefore, the Respondent violated Section 313(a) of EPCRA, 42 U.S.C. § 11023(a) and 40 C.F.R. § 372.30 by failing to submit a complete and accurate Form R for Nitrate Compounds for calendar year 2011 to EPA and to the State of Arkansas by the applicable due date.

**Claim 2: Failures to Timely Report (Sodium Nitrite, 2009-2012, Paper Mill)**

29. During calendars year 2009, 2010, 2011, and 2012, the Respondent each year “manufactured, processed, or otherwise used” Sodium Nitrite at Respondent’s pulp and paper mill establishment in excess of the applicable threshold quantities.

30. The Respondent failed to timely report a Form R for Sodium Nitrite with EPA and the State of Arkansas by the applicable due dates for calendar years 2009, 2010, 2011, and 2012 (> 1

year late in reporting for all years).

31. Therefore, the Respondent committed four violations of Section 313(a) of EPCRA, 42 U.S.C. § 11023(a) and 40 C.F.R. § 372.30 by failing to submit complete and accurate Form R's for Nitrate Compounds for calendar year 2009, 2010, 2011 and 2012 to EPA and to the State of Arkansas by the applicable due dates.

**Claim 3: Failures to Timely Report (Diisocyanates, 2010, Plywood Mill)**

32. During calendar year 2010, the Respondent "manufactured, processed, or otherwise used" Diisocyanates at Respondent's plywood mill and studmill establishment in excess of the applicable threshold quantity.
33. The Respondent failed to timely report a Form R for Diisocyanates with EPA and the State of Arkansas by the applicable due date for calendar year 2010 (July 1, 2011, > 1 year late in reporting).
34. Therefore, the Respondent violated Section 313(a) of EPCRA, 42 U.S.C. § 11023(a) and 40 C.F.R. § 372.30 by failing to submit a complete and accurate Form R for Diisocyanates for calendar year 2010 to EPA and to the State of Arkansas by the applicable due date.

IV.  
TERMS OF SETTLEMENT

i. **Penalty**

35. For the reasons set forth above, the Respondent has agreed to pay a civil penalty which has been determined in accordance with Section 325(e) of EPCRA, 42 U.S.C. § 11045(e), which authorizes EPA to assess a civil penalty of up to Thirty-Seven Thousand Five Hundred

Dollars (\$37,500) per day for each violation of EPCRA. 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 nature, circumstances, extent and gravity of the alleged violations, and with respect to the Respondent, ability to pay, history of prior EPCRA Section 313 violations, the degree of culpability, economic benefit or savings (if any) resulting from the violations, and other factors as justice may require, it is **ORDERED** that respondent be assessed a civil penalty of **Twenty Seven Thousand Five Hundred Dollars and no cents (\$27,500.00)**.

36. The penalty shall be made payable to "Treasurer, United States of America."
37. The penalty shall be paid within thirty (30) calendar days of the effective date of this CAFO.
38. The following are Respondent's options for transmitting the penalties:

Regular Mail, U.S. Postal Mail (including certified mail) or U.S. Postal Service Express

Mail, the check should be remitted to:

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

Overnight Mail (non-U.S. Postal Service), the check should be remitted to:

U.S. Bank  
Government Lockbox 979077  
US EPA Fines and Penalties  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, MO 63101  
314-418-1028



*In the Matter of Georgia-Pacific LLC, Docket No. EPCRA-06-2015-0507*

Wire Transfer:

Federal Reserve Bank of New York  
ABA: 021030004  
Account No. 68010727  
SWIFT address – FRNYUS33  
33 Liberty Street  
New York, NY 10045

The case name and docket number (In the Matter of Georgia-Pacific LLC, Docket No. EPCRA-06-2015-0507) shall be documented on or within your chosen method of payment to ensure proper credit.

39. The Respondent shall send a simultaneous notice of such payment to the following:

Lorena S. Vaughn  
Regional Hearing Clerk (6RC-D)  
U.S. EPA, Region 6  
1445 Ross Avenue  
Dallas, Texas 75202-2733

Morton E. Wakeland, Jr., Ph.D.  
EPCRA 313 Enforcement Coordinator  
Toxics Section (6PID-1)  
U.S. EPA, Region 6  
1445 Ross Avenue  
Dallas, Texas 75202-2733

The Respondent's adherence to this request will ensure proper credit is given when penalties are received by EPA.

40. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, unless otherwise prohibited by law, EPA will assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the cost of process and handling a delinquent claim. Interest on

the civil penalty assessed in this CAFO will begin to accrue on the effective date of the CAFO and will be recovered by EPA on any amount of the civil penalty that is not paid within thirty (30) calendar days of the civil penalty's due date and 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). Moreover, the costs of the Agency'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). EPA will also assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) day period the penalty remains unpaid. In addition, a penalty charge of up to six percent per year will be assessed monthly on any portion of the debt which remains delinquent more than ninety (90) days. 40 C.F.R. § 13.11(b). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 40 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

**ii. Penalty Condition of Settlement**

41. As a Penalty Condition of Settlement, Respondent agrees to the performance of a Supplemental Environmental Project (SEP) as follows:
- a. Respondent has selected the Crossett, Arkansas Fire Department (the "Fire Department") to receive the SEP. Respondent will provide the following activities, services or products to the Fire Department:
    - i. Facilitate, at its sole expense, the Fire Department's acquisition of the

following pieces of emergency response equipment:

1. 16-Air Pack 5500 PSA with QC, DUAL EBSS, PASS
  2. 32-5500 45-minute Carbon Cylinders
  3. 16-Face Masks with Communications Brackets
  4. 16-Epic 3 Voice Amps
- ii. Confirm that the Fire Department has received from the vendor the emergency response equipment identified above from the respective vendors.
- b. Respondent further certifies to the truth and accuracy of each of the following:
- i. That all cost information provided to the EPA in connection with the EPA's approval of the SEP is complete and accurate and that Respondent in good faith estimates that the cost to implement the SEP is no less than **\$103,228.13**;
  - ii. That, as of the date of its execution of 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 other forum;
  - iii. That the SEP is not a project that the Respondent was planning or intending to construct, perform, or implement other than in settlement of the claims resolved in this CAFO.
  - iv. That Respondent has not received and will not receive credit for the SEP in any other enforcement action.
  - v. That Respondent will not receive reimbursement for any portion of the SEP

from another person or entity.

- vi. 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.
- vii. 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 41.a.

42. Respondent certifies that it has inquired of the Fire Department whether it is a current recipient of any federal grant that is funding or could fund the same activity as the SEP described in paragraph 41.a, and has been informed by the Crossett Fire Department that it is not a party to such a transaction.

43. Any public statement, oral or written, in print, film, or other media, made by Respondent making reference to the SEP under this CAFO shall include the following language: "This project was undertaken in connection with the settlement of an administrative enforcement action taken by the U.S. Environmental Protection Agency to enforce federal laws."

44. Satisfactory completion of the SEP is defined as Respondent having done the activities identified in paragraph 41.a by ninety (90) days of the effective date of this CAFO;

45. If Respondent fails to satisfactorily complete the SEP by 90 days of the effective date of this CAFO, Respondent agrees to lump-sum stipulated penalties of at least 150% SEP cost, minus documented amounts already expended by Respondent in pursuit of the SEP, payable no later than 30 days from deadline according to the payment instructions in this CAFO.

46. The EPA may, in the unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due under this CAFO.

47. At such time as the Respondent believes that it has satisfactorily completed the SEP, Respondent agrees to submit a final SEP completion report. The report shall provide evidence of SEP completion that will include vendor invoices or receipts, correspondence from the SEP recipient, and document all SEP expenditures. The report will: (1) quantify the benefits associated with the project; (2) set forth how the benefits were measured or estimated, or (3) explain why it is infeasible to quantify any benefits associated with the project. The final SEP report will be signed, and 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.

48. The certification required above shall be sent to:

Morton E. Wakeland, Jr., Ph.D.  
EPCRA 313 Enforcement Coordinator  
Toxics Section (6PD-T)  
U.S. EPA, Region 6  
1445 Ross Avenue  
Dallas, Texas 75202-2733

49. EPA has 90 days to respond with questions or disagreement that the conditions of the CAFO have been satisfied. Unless EPA Region 6 objects within 90 days of receipt of the SEP

completion report, then this CAFO is terminated on the basis of Respondent's certification. Respondent agrees that the time period from the Effective Date of this CAFO until all the conditions specified in Paragraphs 41 through 48 are completed 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 the Amended Complaint. 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 above described time period in any action brought on the claims set forth in the Amended Complaint.

50. 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 49, 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" as defined in the Amended Complaint. Simultaneously with such notice, Respondent shall provide written notice of such transfer, assignment, or delegation to the EPA. In the event of any such transfer, assignment or delegation, Respondent shall continue to be bound by the obligations or liabilities of this CAFO until the EPA has provided written approval to release the Respondent from the obligations or liabilities of this CAFO.
51. 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.

52. By signing this CAFO, the undersigned representative of Complainant and the undersigned representative of Respondent each certify that he or she is fully authorized to execute and enter into the terms and conditions of this CAFO and has legal capacity to bind the party he or she represents to this CAFO.
53. 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.
54. Each party shall bear its own costs and attorney's fees. Furthermore, Respondent specifically waives its right to seek reimbursement of its costs and attorney's fees under the Equal Access to Justice Act (5 U.S.C. § 504), as amended by the Small Business Regulatory Enforcement Fairness Act (P.L. 04-121), and any regulations promulgated pursuant to those Acts.

**iii. Effective Date of Settlement**

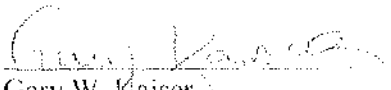
55. This CAFO shall become effective upon filing with the Regional Hearing Clerk.

*In the Matter of Georgia-Pacific LLC, Docket No. EPCRA-06-2015-0507*

**THE UNDERSIGNED PARTIES CONSENT TO THE ENTRY OF THIS CONSENT  
AGREEMENT AND FINAL ORDER:**

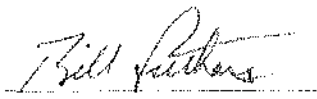
FOR THE RESPONDENT:

Date: 5-20-15

  
\_\_\_\_\_  
Gary W. Kaiser  
Vice-President - Manufacturing  
Georgia-Pacific LLC

FOR THE COMPLAINANT:

Date: June 4, 2015

  
\_\_\_\_\_  
*for* Wren Stenger  
Director  
Multimedia Planning and  
Permitting Division



FINAL ORDER

Pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 CFR Part 22, the foregoing CAFO is hereby ratified. This Final Order shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order shall resolve only those causes of action alleged herein. Nothing in this Final Order shall be construed to waive, extinguish or otherwise affect Respondent's (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. The Respondent is ordered to comply with the terms of settlement and the civil penalty payment instructions as set forth in the CAFO. Pursuant to 40 CFR § 22.31(b) this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Date: 6/9/15

  
\_\_\_\_\_  
Regional Judicial Officer  
Thomas Rucki

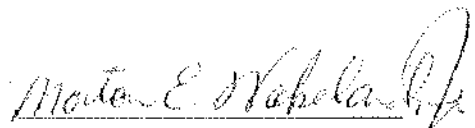
*In the Matter of Georgia Pacific, LLC Docket No. 06-2015-0507*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 16<sup>th</sup> day of June, 2015, the original of the foregoing Consent Agreement and Final Order was hand delivered to the Regional Hearing Clerk, U.S. EPA - Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, and that a true and correct copy of the CAFO was sent to the following by the method identified below:

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED # 7010 2780 0001 3624 9501**

John C. Bottini  
Senior counsel – Environmental  
Georgia-Pacific LLC  
133 Peachtree Street, NE  
Atlanta, Georgia 30303

  
Morton E. Wakeland, Jr., Ph.D.  
EPCRA 313 Enforcement & TRI Program  
Coordinator  
U.S. EPA Region 6  
Dallas, Texas