

IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF KANSAS  
(Topeka Docket)

|                                  |   |                                     |
|----------------------------------|---|-------------------------------------|
| <b>UNITED STATES OF AMERICA,</b> | ) |                                     |
|                                  | ) |                                     |
| <b>Plaintiff,</b>                | ) |                                     |
|                                  | ) |                                     |
| <b>v.</b>                        | ) | <b>Case No.: 19-CR-40021-02-DDC</b> |
|                                  | ) |                                     |
|                                  | ) |                                     |
| <b>HARCROS CHEMICALS, INC.</b>   | ) |                                     |
| <b>Defendants.</b>               | ) |                                     |

**SUPERSEDING INFORMATION**

The United States Attorney Charges:

**COUNT ONE**

At all times material to this Information:

1. Defendant, Harcros Chemicals, is a Kansas corporation, headquartered in Kansas City, Kansas. Harcros manufactures and distributes industrial and specialty chemicals and blends throughout the United States. Harcros operates two (2) chemical manufacturing facilities and twenty seven (27) distribution locations. Harcros distributes hazardous materials including sulfuric acid, sodium hydroxide, sodium hypochlorite and propylene oxide to MGP Ingredients, Inc. (“MGPI”), which MGPI uses in the processing of product.

**THE INCIDENT**

2. At approximately 7:35 AM on October 21, 2016, a driver for defendant Harcros (“the driver”) arrived at the MGPI Atchison facility to complete a scheduled delivery of 30% sulfuric acid.

3. At 7:44 AM, the MGPI operator (“the operator”) escorted the Harcros driver to the chemical unloading area. When they reached the rear of the building, the driver set his

paperwork on the back of the cargo tank and walked down the passenger side to finish donning his personal protective equipment. Also during this time, the MGPI operator unlocked the gate in front of the transfer equipment and removed the lock on the cam lever dust cap for the sulfuric acid fill line. The MGPI operator placed the lock from the sulfuric acid fill line on the angle iron above the fill line.

4. The driver then removed the seal from the back of the cargo tank, handed it to the MGPI operator, and retrieved the hose to begin the connection. The driver removed the dust cap from the first unlocked fill line that he saw at the facility, which he thought to be the sulfuric acid fill line but which was in fact a sodium hypochlorite fill line. The driver connected the hose to the sodium hypochlorite fill line and then connected the other end of the hose to the cargo tank of sulfuric acid and began filling.

5. Shortly thereafter, a greenish yellow chlorine gas cloud began to form in the area. four thousand (4,000) gallons of Sulfuric Acid were combined with five thousand eight hundred (5,800) gallons of Sodium Hypochlorite over a forty five (45) minute period, causing a plume of toxic chlorine gas.

6. The Atchison County Department of Emergency Management ordered community members to shelter-in-place and to evacuate in some areas. Over one hundred forty (140) individuals, including members of the public, first responders, MGPI employees and a Harcos employee sought medical attention.

## **THE CLEAN AIR ACT**

7. On October 21, 2016, within the District of Kansas, a driver for defendant Harcros Chemicals negligently released and caused to be released into the ambient air, a hazardous air pollutant to wit, chlorine gas, and negligently placed other persons in imminent danger of serious bodily injury; in violation of Title 42, United States Code Section 7413(c)(4).

STEPHEN R. McALLISTER  
United States Attorney

s/Richard L. Hathaway  
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### **PENALTIES:**

Count 1: 42 U.S.C. § 7413(c)(4)

A fine of not more than \$200,000, or in the case of a second or subsequent conviction, not more than \$500,000. Title 42, United States Code, Section 7413(c)(4) & Title 18, United States Code, Section 3571(c)(5); or, alternatively, if the offense results in pecuniary loss to a person other than the defendant, the defendant may be fined not more than the greater of twice the gross gain or twice the gross loss, unless imposition of a fine under this subsection would unduly complicate or prolong the sentencing process, Title 18, United States Code, Section 3571(d).