IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
PITTSBURGH DIVISION

UNITED STATES OF AMERICA, and COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION Plaintiffs, v. INDSPEC CHEMICAL CORPORATION, Defendant.	)	Civil Action No.

COMPLAINT

The United States of America, by the authority of the Attorney General and through the undersigned attorneys, acting at the request and on behalf of the Administrator of the United States Environmental Protection Agency ("EPA"), and the Commonwealth of Pennsylvania Department of Environmental Protection ("PADEP"), file this Complaint and allege as follows:

NATURE OF ACTION

1. This is a civil action against INDSPEC Chemical Corporation ("INDSPEC" or "Defendant") seeking civil penalties and injunctive relief for violations of Section 112 of the Clean Air Act, 42 U.S.C. § 7412, and the implementing regulations at: (a) 40 C.F.R. Part 63, Subpart F (National Emission Standards for Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry); (b) 40 C.F.R. Part 63, Subpart H (National Emission

Standards for Organic Hazardous Air Pollutants for Equipment Leaks); (c) 40 C.F.R. Part 63, Subpart OOO (National Emission Standards for Hazardous Air Pollutant Emissions: Manufacture of Amino/Phenolic Resins); (d) 40 C.F.R. Part 63, Subpart UU (National Emission Standards for Equipment Leaks – Control Level 2 Standards); (e) EPA Reference Method 21 at 40 C.F.R. Part 60, Appendix A; and for violations of Sections 4006.1 and 4006.6 of the Pennsylvania Air Pollution Control Act of January 8, 1960, P.L. 2119, *as amended*, 35 P.S. §§ 4006.1 and 4006.6. Pennsylvania has adopted and incorporated by reference the relevant provisions of 40 C.F.R. Part 63. 25 Pa. Code § 127.35(b). These regulations pertain to leak detection and repair requirements for Hazardous Air Pollutants ("HAPs") emitted from various types of chemical manufacturing operations. The focus of the Leak Detection and Repair Program is the facility-wide inventory of possible leaking equipment, the regular monitoring of that equipment to identify leaks, and the repair of leaks found during monitoring.

2. This action is based on violations that occurred at INDSPEC's chemical manufacturing facility located in Petrolia, Butler County, Pennsylvania.

JURISDICTION AND VENUE

3. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1345, and 1355, and Section 113(b) of the Clean Air Act, 42 U.S.C. § 7413(b).

4. This Court has supplemental jurisdiction over PADEP's claims alleged herein pursuant to 28 U.S.C. § 1367(a) because the claims are so related to the federal claims as to form part of the same case or controversy.

5. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391 and 1395, and under Section 113(b) of the Clean Air Act, 42 U.S.C. § 7413(b), because the violations that

constitute the basis of this Complaint occurred at Defendant's Facility located in this District and INDSPEC resides in this District.

NOTICE

6. As the Commonwealth of Pennsylvania Department of Environmental Protection is a party, the Commonwealth has actual notice of the commencement of this action, as required by Section 113(b) of the Clean Air Act, 42 U.S.C. § 7413(b).

7. EPA issued a Finding of Violation to INDSPEC on March 28, 2013, numbered CAA-III-12-002, alleging violations of Section 112 of the Clean Air Act, 42 U.S.C. § 7412, and the implementing regulations at 40 C.F.R. Part 63, Subparts H and UU.

AUTHORITY

8. The United States Department of Justice has authority to bring this action on behalf of the Administrator of the EPA under 28 U.S.C. §§ 516 and 519 and, for Section 305(a) of the Clean Air Act, 42 U.S.C. § 7605(a).

9. The Commonwealth of Pennsylvania Department of Environmental Protection has authority to join this Complaint pursuant to Section 4004 of the Pennsylvania Air Pollution Control Act, 35 P.S. § 4004.

DEFENDANT

10. INDSPEC is incorporated in the Commonwealth of Pennsylvania and is headquartered in Petrolia, Butler County, Pennsylvania.

11. INDSPEC owns and operates a chemical manufacturing facility located at 133 Main Street, Petrolia, Butler County, Pennsylvania, 16050 (the "Facility").

12. INDSPEC is a "person" within the meaning of Sections 113(b) and 302(e) of the Clean Air Act, 42 U.S.C. §§ 7413(b) and 7602(e).

13. INDSPEC is the "owner or operator" of the Facility, as defined in Section 112(a)(9) of the Clean Air Act. 42 U.S.C. § 7412(a)(9) and 40 C.F.R. § 63.2.

STATUTORY AND REGULATORY BACKGROUND

14. The Clean Air Act establishes a regulatory scheme designed to protect and enhance the quality of the nation's air so as to promote the public health and welfare and the productive capacity of its population. 42 U.S.C. § 7401(b)(1).

A. National Emission Standards for Hazardous Air Pollutants (NESHAPs)

a. *General Provisions*

15. Section 112 of the Clean Air Act sets forth a national program for the control of HAPs. 42 U.S.C. § 7412. Under Section 112, Congress established a list of 188 HAPs believed to cause adverse health or environmental effects. 42 U.S.C. § 7412(b)(1).

16. Under Section 112, Congress directed EPA to publish a list of all categories and subcategories of, *inter alia*, major sources of HAPs. 42 U.S.C. § 7412(c).

17. "Major source" is defined as 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 ("HAP") or 25 tons per year or more of any combination of HAPs. 42 U.S.C. § 7412(a)(1).

18. "Stationary source" is defined as any building, structure, facility, or installation which emits or may emit any air pollutant. 42 U.S.C. § 7412(a)(3) (stating that "stationary source" under Section 112(a) has the same meaning as that term has under Section 111(a) of the Clean Air Act, 42 U.S.C. § 7411(a)(3)).

19. A "category" of sources is a group of sources having some common features suggesting that they should be regulated in the same way and on the same schedule. 57 F.R. 31576, 31578 (July 16, 1992). A single stationary source can be comprised of multiple source categories. *Id.*

20. Under Section 112(d)(1) of the Clean Air Act, 42 U.S.C. § 7412(d)(1), Congress directed EPA to promulgate regulations establishing emission standards for each category or subcategory of, *inter alia*, major sources of HAPs listed under Section 112(c), 42 U.S.C. § 7412(c). These emission standards must require the maximum degree of reduction in emissions of HAPs that the EPA 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. 42 U.S.C. § 7412(d)(2).

21. Under Section 112(h) of the Clean Air Act, to the extent that it is not feasible to prescribe or enforce an emission standard for control of a HAP, Congress authorized EPA to promulgate "design, equipment, work practice, or operational" standards, which are to be treated as emission standards. 42 U.S.C. § 7412(h).

22. The emission standards under Section 112 of the Clean Air Act, 42 U.S.C. § 7412, are known as the National Emission Standards for Hazardous Air Pollutants ("NESHAPs") for Source Categories or "MACT" ("Maximum Achievable Control Technology") standards. These emission standards are found in Part 63 of Title 40 of the Code of Federal Regulations.

23. After the effective date of any emission standard, limitation, or regulation promulgated pursuant to Section 112 of the Clean Air Act, no person may operate such source in violation of such standard, limitation, or regulation. 42 U.S.C. § 7412(i)(3).

ii. *National Emission Standards for Organic Hazardous Air Pollutants – 40 C.F.R. Part 63, Subparts F, G, and H*

24. Pursuant to Section 112(c) of the Clean Air Act, 42 U.S.C. § 7412(c), EPA identified synthetic organic chemical manufacturing as a source category of HAPs. 57 F.R. 31576, 31591 (Table 1) (July 16, 1992).

25. Pursuant to Section 112(d) of the Clean Air Act, 42 U.S.C. § 7412(d), EPA promulgated the National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry. 59 F.R. 19402 (April 22, 1994). These standards commonly are referred to as the "Hazardous Organic NESHAP."

26. The Hazardous Organic NESHAP consists of four Subparts in Part 63 of Title 40 of the Code of Federal Regulations: Subparts F, G, H, and I. 59 F.R. at 19405. Of relevance to this Complaint are Subparts F and H.

27. Subpart F, in general, provides the applicability criteria for Synthetic Organic Chemical Manufacturing Industry sources and requires that owners and operators of such sources comply with Subparts G and H, and specifies general recordkeeping and reporting requirements. 59 F.R. at 19405. Subpart H generally sets forth work practice standards relating to equipment leaks. *Id*. at 19409.

a. *40 C.F.R. Part 63, Subpart F – Applicability*

28. The requirements of Subpart F apply to chemical manufacturing process units that: (1) manufacture as a primary product one or more of the chemicals listed in Table 1 of Subpart F, including, *inter alia*, Resorcinol; (2) use as a reactant or manufacture as a product, or

co-product, one or more of the organic HAPs listed in Table 2 of Subpart F, including formaldehyde or methanol; and (3) are located at a plant site that is a major source as defined in Section 112(a) of the Clean Air Act. 40 C.F.R. § 63.100(b)(1)-(3).

29. A "chemical manufacturing process unit" is defined, *inter alia*, as the equipment assembled and connected by pipes or ducts to process raw materials and to manufacture an intended product. 40 C.F.R. § 63.101(b).

30. Subpart F, in general, requires that owners and operators of Synthetic Organic Chemical Manufacturing Industry sources comply with 40 C.F.R. Part 63, Subpart H, and specifies general recordkeeping and reporting requirements. 40 C.F.R. § 63.102(a).

b. *40 C.F.R. Part 63, Subpart H – Equipment Leaks*

31. Subpart H sets forth work practice standards and testing and recordkeeping requirements to ensure that any leaks of organic HAPs from equipment are timely detected and repaired. The provisions in Subpart H commonly are referred to as "Leak Detection and Repair" ("LDAR") provisions.

32. The "equipment" to which Subpart H applies includes pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, surge control vessels, bottoms receivers, instrumentation systems, and control devices or closed-vent systems required by Subpart H that are intended to operate in organic HAP service 300 hours or more during the calendar year within a source subject to the provisions of a specific Subpart in 40 C.F.R. Part 63 that references Subpart H. 40 C.F.R. § 63.160 – 63.183 and Appendices.

33. "In organic HAP service" means that a piece of equipment either contains or contacts a fluid (liquid or gas) that is at least 5% by weight of total organic HAPs. 40 C.F.R. § 63.161.

34. With certain exceptions not relevant here, existing sources were required to be in compliance with applicable provisions in Subpart H between October 24, 1994, and October 23, 1995, depending on the "Group" status of the chemicals being manufactured. 40 C.F.R. § 63.100(k)(3)(i), (v).

iii. ***NESHAP for the Manufacture of Amino/Phenolic Resins – Part 63, Subpart OOO***

35. Pursuant to Section 112(c) of the Clean Air Act, 42 U.S.C. § 7412(c), EPA identified amino resins production and phenolic resins production as source categories of HAPs. 57 F.R. 31576, 31591 (Table 1) (July 16, 1992).

36. Pursuant to Section 112(d) of the Clean Air Act, 42 U.S.C. § 7412(d), EPA promulgated the National Emission Standards for Hazardous Air Pollutants from the Manufacture of Amino/Phenolic Resins. 65 F.R. 3276 (Jan. 20, 2000). These provisions are found at 40 C.F.R. Part 63, Subpart OOO ("Subpart OOO"). 40 C.F.R. §§ 63.1400 – 63.1419.

a. ***40 C.F.R. Part 63, Subpart OOO – Applicability***

37. The requirements of Subpart OOO apply to the owner or operator of processes that: (1) produce amino/phenolic resins; and (2) are located at a plant site that is a major source as defined in Section 112(a) of the Clean Air Act. 40 C.F.R. § 63.1400(a).

38. For the Manufacture of Amino/Phenolic Resins source category, the "affected source" to which the emission standards of Subpart OOO apply is defined as: (1) the total of all amino/phenolic resins process units; (2) the associated heat exchange systems; (3) equipment required by, or utilized as a method of compliance with, this subpart which may include control

devices and recovery devices; (4) equipment that does not contain HAPs and is located within an amino/phenolic resins process unit that is part of an affected source; (5) vessels and equipment storing and/or handling material that contain no organic HAP and/or organic HAP as impurities only; (6) equipment that is intended to operate in organic HAP service for less than 300 hours during the calendar year; (7) each waste management unit; and (8) maintenance wastewater. 40 C.F.R. § 63.1400(b).

39. Owners and operators of sources that are subject to Subpart OOO are required to comply with 40 C.F.R. Part 63, Subpart UU ("Subpart UU") for all equipment that contains or contacts 5% HAP or greater and operates 300 hours per year or more. 40 C.F.R. § 63.1410.

iv. ***40 C.F.R. Part 63, Subpart UU—Equipment Leaks – Control Level 2 Standards***

40. Pursuant to Section 112(c) of the Clean Air Act, 42 U.S.C. § 7412(c), EPA identified equipment leaks as a category of sources of HAPs.

41. Pursuant to Section 112(d) of the Clean Air Act, 42 U.S.C. § 7412(d), EPA promulgated the National Emission Standards for Equipment Leaks – Control Level 2 Standards at 40 C.F.R. Part 63, Subpart UU. 40 C.F.R. §§ 63.1019 – 63.1039.

42. Subpart OOO incorporates Subpart UU by reference, and thus an owner or operator who is subject to the provisions of Subpart OOO is also subject to the equipment leak provisions of Subpart UU for all equipment that contains or contacts 5% HAP or greater and operates 300 or more hours per year. 40 C.F.R. §§ 63.1410.

43. Subpart UU sets forth work practice standards and testing and recordkeeping requirements to ensure that any leaks of HAPs from equipment are timely detected and repaired. The provisions in Subpart UU commonly are referred to as LDAR provisions.

44. Subpart UU and the referencing Subpart, OOO, apply to equipment that contains or contacts regulated material. Subpart UU applies to pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, and instrumentation systems in organic HAP service, and any control devices or systems required by 40 C.F.R. § 63.1410. 40 C.F.R. § 63.1402.

v. *Monitoring Method Relevant to this Action*

45. Subpart H generally requires owners and operators to monitor equipment subject to Subpart F, *inter alia*, for leaks. With certain alternatives and exceptions not relevant here, an owner or operator subject to Subpart H is required to monitor valves in light liquid and gas/vapor service ("LL/GV valves"), and connectors in light liquid and gas/vapor service ("LL/GV connectors") by the method specified in 40 C.F.R. § 63.180(b). 40 C.F.R. §§ 63.168(b)(1); 63.163(b)(1); 63.174(a)(1).

46. Subpart H requires each owner or operator to comply with the monitoring procedures and requirements of Method 21 at 40 C.F.R. Part 60, Appendix A, and that all monitoring instruments must be calibrated before use each day by the procedures specified in Method 21 at 40 C.F.R. Part 60, Appendix A. 40 C.F.R. §§ 63.180(b)(1), (3).

47. Subpart UU generally requires owners and operators to monitor equipment subject to Subpart OOO, *inter alia*, for leaks. With certain alternatives and exceptions not relevant here, an owner or operator subject to Subpart UU is required to monitor LL/GV valves, and LL/GV connectors by the method specified in 40 C.F.R. § 63.1023(b). 40 C.F.R. §§ 63.1025(b); 63.1027(b).

48. Subpart UU requires each owner or operator to comply with the monitoring procedures and requirements of Method 21 at 40 C.F.R. Part 60, Appendix A, and that all

monitoring instruments must be calibrated before use each day by the procedures specified in Method 21 at 40 C.F.R. Part 60, Appendix A. 40 C.F.R. §§ 63.1023(b)(1), (3).

49. Method 21, at 40 C.F.R. Part 60, Appendix A-7, Method 21, Section 8.3.1, requires the owner or operator of an affected source to do as follows:

> Place the probe inlet [of the portable instrument that is capable of detecting emissions from equipment] at the surface of the component interface where leakage could occur. Move the probe along the interface periphery while observing the instrument readout. If an increased meter reading is observed, slowly sample the interface where leakage is indicated until the maximum meter reading is obtained. Leave the probe inlet at this maximum reading location for approximately two times the instrument response time. If the maximum observed meter reading is greater than the leak definition in the applicable regulation, record and report the results [as a leaking component].

50. Method 21, at 40 C.F.R. Part 60, Appendix A-7, Method 21, Section 7.1.2., requires the owner or operator of an affected source to do as follows regarding calibration gas in the monitoring instrument: "for each organic species that is to be measured during individual source surveys, obtain or prepare a known standard in air at a concentration approximately equal to the applicable leak definition specified in the regulation."

vi. ***Reporting Standards Relevant to this Action***

51. Each owner or operator of a source subject to Subpart H is required to submit periodic reports that must include, among other information, the number of components monitored for specific categories of components, including LL/GV valves and LL/GV connectors. 40 C.F.R. §§ 63.182(d)(1), (2).

52. Each owner or operator of a source subject to Subpart UU and Subpart OOO is required to submit periodic reports that must include, among other information, the total number of components monitored for specific categories of components, including LL/GV valves, LL/GV connectors, and LL/GV agitators. 40 C.F.R. §§ 63.1039(b)(1); 63.1417(f).

vii. *Identification Standards Relevant to this Action*

53. Each owner or operator is required to identify each piece of equipment in a process unit to which Subpart H applies, such that it can be distinguished readily from equipment that is not subject to Subpart H. 40 C.F.R. § 63.162(c). Each owner or operator of a process unit that is subject to Subpart H also must record a list of identification numbers for equipment (except connectors exempt from monitoring and recordkeeping identified in 40 C.F.R § 63.174) subject to the requirements of Subpart H.

54. Each owner or operator is required to identify each piece of equipment in a process unit to which 40 C.F.R. Part 63, Subpart UU, is applicable. 40 C.F.R. 63.1022(a). Except for specific types of inaccessible or ceramic types of connectors, connectors that are subject to Subpart UU must be identified. 40 C.F.R. § 63.1022(b)(1). Connectors in a designated area or length of pipe may be identified as a group if the number of connectors within such group is identified. *Id.* The identification of connectors is required to be completed by no later than the completion of the identification of equipment in accordance with 40 C.F.R. § 63.1022(a). *Id.*

B. Violation of the NESHAPs

55. After the effective date of any emission standard, limitation, or regulation promulgated pursuant to Section 112 of the Clean Air Act, no person may operate such source in violation of such standard, limitation, or regulation. 42 U.S.C. § 7412(i)(3).

C. Enforcement of the Clean Air Act

56. Section 113(b) of the Clean Air Act, 42 U.S.C. § 7413(b), authorizes EPA to bring a civil action if the Administrator of EPA finds that any person is in violation of, *inter alia*, any regulations promulgated under Section 112 of the Clean Air Act, 42 U.S.C. § 7412.

57. Section 113(b) of the Clean Air Act, 42 U.S.C. § 7413(b), authorizes the Court to enjoin a violation, to require compliance, to assess and recover a civil penalty, and to award any other appropriate relief for each violation.

58. Section 113(b) of the Clean Air Act, 42 U.S.C. § 7413(b), authorizes civil penalties of up to $25,000 per day for each violation of the Clean Air Act.

59. The Civil Penalties Inflation Act of 1990, 28 U.S.C. § 2461 *et seq.*, as amended by the Debt Collection Improvements Act of 1996, 31 U.S.C. § 3701 *et seq*., requires EPA to periodically adjust its civil penalties for inflation. On December 31, 1996, February 13, 2004, and December 11, 2008, EPA adopted and revised regulations entitled "Adjustment of Civil Monetary Penalties for Inflation," 40 C.F.R. Part 19, to upwardly adjust the maximum civil penalty under the Clean Air Act. For each violation that occurs between January 31, 1997, and March 15, 2004, inclusive, penalties of up to $27,500 per day may be assessed; for each violation that occurs between March 16, 2004, and January 12, 2009, inclusive, penalties of up to $32,500 per day may be assessed; and for each violation that occurs on and after January 13, 2009, penalties of up to $37,500 per day may be assessed. 60 F.R. 69360 (December 31, 1996); 60 F.R. 7121 (February 12, 2004); 73 F.R. 75340 (December 11, 2008); 78 F.R. 66643 (November 6, 2013).

60. Pursuant to Section 4009.1 of the Pennsylvania Air Pollution Control Act, 35 P.S. § 4009.1, the Court may impose civil penalties of up to $25,000 per day for each violation.

GENERAL ALLEGATIONS

i. General Allegations Related to Claims 1-8

61. INDSPEC owns and operates a chemical manufacturing facility located at 133 Main Street, Petrolia, Butler County, Pennsylvania, 16050 (the "Facility").

62. INDSPEC is the "owner or operator," as defined in Section 112(a)(9) of the Clean Air Act, 42 U.S.C. § 7412(a)(9), of the Facility.

63. The Facility includes a building, structure, facility, or installation which emits or may emit air pollutants.

64. The Facility emits air pollutants and is therefore a "stationary source" within the meaning of Section 112(a)(3) of the Clean Air Act, 42 U.S.C. § 7412(a)(3), and 40 C.F.R. § 63.2.

65. The Facility is a stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any HAP or 25 tons per year or more of any combination of HAPs, including, but not limited to, formaldehyde, benzene, phenol, and styrene.

66. The Facility is a "major source" within the meaning of Section 112(a)(1) of the Clean Air Act, 42 U.S.C. § 7412(a)(1), and 40 C.F.R. § 63.2.

67. The Facility's Resorcinol Production Process Unit is an "affected source," as defined at 40 C.F.R. § 63.2 and 40 C.F.R. § 63.100. The Facility's Resorcinol-Based Resins Production Process Unit is also an "affected source," as defined at 40 C.F.R. § 63.2 and 40 C.F.R. § 63.1400(b). Accordingly, the Resorcinol Production Process Unit and the Resorcinol-Based Resins Production Process Unit are subject to NESHAP regulations promulgated under Section 112(d) of the Clean Air Act, 42 U.S.C. § 7412(d).

68. Authorized representatives of EPA conducted an inspection of the Facility during September 29 – October 1, 2009. EPA also reviewed information submitted by INDSPEC in

response to requests for information pursuant to Section 114 of the Clean Air Act, 42 U.S.C. § 7414.

ii. General Allegations Related to 40 C.F.R. Part 63, Subparts F and H

69. The Facility contains a process unit that manufactures Resorcinol as a primary product ("Resorcinol Production Process Unit"). Resorcinol is one of the chemicals listed in Table 1 of Subpart F, and identified as part of Group I. The manufacture of Resorcinol involves the use or production of organic compounds, including benzene, phenol, and ethyl ether.

70. The Resorcinol Production Process Unit is a "chemical manufacturing process unit," as defined at 40 C.F.R. § 63.101(b), because it includes pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, instrumentation systems, and control devices or systems. Accordingly, INDSPEC is subject to the requirements of Subparts F and H of 40 C.F.R. Part 63 for the Resorcinol Production Process Unit at the Facility.

71. By letter dated August 17, 1994, INDSPEC notified EPA that the chemical process identified as "Resorcinol (CAS 108463)" was subject to 40 C.F.R. Part 63, Subparts F and H, and that the Facility was an existing source with a Subpart H compliance date of October 24, 1994 for the Resorcinol chemical process unit.

iii. General Allegations Related to 40 C.F.R. Part 63, Subparts OOO and UU

72. The Facility contains a process unit that manufactures Resorcinol-Based Resins as a primary product ("Resorcinol-Based Resins Production Process Unit"). The Resorcinol-Based Resins Production Process Unit produces amino/phenolic resins, and involves the use or production of formaldehyde, styrene, and methanol and methyl isobutyl ketone ("Solox").

73. The Resorcinol-Based Resins Process Unit is an "amino/phenolic resin process unit" as defined at 40 C.F.R. § 63.1402 because it includes unit operations, process vents, storage vessels, and equipment subject to the equipment leak provisions of 40 C.F.R. § 63.1410. Accordingly, INDSPEC is subject to the requirements of Subparts OOO and UU of 40 C.F.R. Part 63 for the Resorcinol-Based Resins Production Process Unit at the Facility.

74. By Notification of Compliance Status letter dated July 17, 2006, INDSPEC identified the Resorcinol-Based Resins Production Process Unit as subject to both 40 C.F.R. Part 63, Subpart OOO, and the equipment leak provisions set forth at 40 C.F.R. Part 63, Subpart UU.

FIRST CLAIM FOR RELIEF
40 C.F.R. Part 63, Subpart H
Failure to Monitor LL/GV Connectors and LL/GV Valves in HAP Service – Resorcinol Production Process Unit

75. The allegations of the foregoing Paragraphs are realleged and incorporated herein by reference.

76. Subpart H generally requires owners and operators to monitor equipment for leaks. With certain alternatives and exceptions not relevant here, an owner or operator subject to Subpart H is required to monitor connectors in light liquid and gas/vapor ("LL/GV") service by the method specified in 40 C.F.R. § 63.180(b) on an annual basis. 40 C.F.R. § 63.174(a)(1).

77. At various times between January – December 2008, INDSPEC failed to monitor each LL/GV connector in HAP Service in the Resorcinol Production Process Unit, in violation of the requirements of 40 C.F.R. § 63.174.

78. With certain exceptions and alternatives not relevant here, pursuant to the requirements of 40 C.F.R. § 63.168(b), an owner or operator subject to Subpart H is required to monitor all valves in light liquid/gas vapor ("LL/GV") service at the frequency required by 40 C.F.R. § 63.168.

79. At various times between January – March 2010, INDSPEC failed to monitor each LL/GV valve within the Resorcinol Production Process Unit in accordance with the requirements of 40 C.F.R. § 63.168(b).

80. INDSPEC's failure to monitor each LL/GV valve in the Resorcinol Production Process Unit between at least January – March 2010 at the required frequency violated the requirements of 40 C.F.R. § 63.168 and 25 Pa. Code § 127.35(b). Unless restrained by an Order of this Court, these violations may recur.

SECOND CLAIM FOR RELIEF
40 C.F.R. Part 63, Subpart H
Failure to Identify LL/GV Connectors in HAP Service – Resorcinol Production Process Unit

81. The allegations of the foregoing Paragraphs are realleged and incorporated herein by reference.

82. Subpart H requires owners and operators to identify equipment, including connectors, that is subject to the requirements of Subpart H. 40 C.F.R. § 63.162(c).

83. Subpart H further requires that owners and operators record a list of identification numbers for equipment, including connectors, that is subject to the requirements of Subpart H. 40 C.F.R. § 63.181(b).

84. Between January 2008 – October 2009, INDSPEC failed to identify all LL/GV connectors in HAP service within the Resorcinol Production Process Unit in accordance with 40 C.F.R. § 63.162(c), and failed to record a list of identification numbers for LL/GV connectors subject to 40 C.F.R. Part 63, Subpart H, in violation of the requirements of 40 C.F.R. § 63.181(b) and 25 Pa. Code § 127.35(b). Unless restrained by an Order of this Court, these violations may recur.

THIRD CLAIM FOR RELIEF
40 C.F.R. Part 63, Subpart H
Failure to Properly Monitor LL/GV Valves and LL/GV Agitators in HAP Service – Resorcinol Production Process Unit

85. The allegations of the foregoing Paragraphs are realleged and incorporated herein by reference.

86. As set forth in further detail in Paragraphs 86-89, at various times between January 2008 – September 2009, INDSPEC failed to properly calibrate the monitoring instrument, and thus failed to properly monitor LL/GV valves and LL/GV agitators in HAP service within the Resorcinol Production Process Unit in accordance with the requirements of 40 C.F.R. § 63.180(b).

87. Pursuant to the requirements set forth in Subpart H, LL/GV valves and LL/GV agitators within the Resorcinol Production Process Unit at the Facility are subject to the monitoring requirements of 40 C.F.R. § 63.180(b)(1), which requires monitoring of components in accordance with Method 21, and 40 C.F.R. § 63.180(b)(3), which requires calibration of the monitoring instrument. *See* 40 C.F.R. §§ 63.168(b)(1) [LL/GV valves], 63.173(a)(1) [LL/GV agitators].

88. Instruments used to conduct monitoring pursuant to Method 21 are required to be calibrated before use on each day of use according to procedures specified in Method 21. 40 C.F.R. § 63.180(b)(3).

89. Method 21, Requirement 7.1.2, requires that the calibration gas used for each monitoring event must be at a concentration approximately equal to the applicable leak definition specified in the regulation. The minimum concentration of calibration gas permitted to be used for monitoring LL/GV valves and LL/GV agitators in the Resorcinol Production Process Unit at

the Facility is 500ppm and 10,000ppm, respectively. 40 C.F.R. §§ 63.168(b)(2) [LL/GV valves], 63.173(a)(2) [LL/GV agitators].

90. The calibration gas that INDSPEC used for monitoring components in the Resorcinol Production Process Unit at the Facility during January 2008 – September 2009 was only as high as 100 ppm, a concentration below the leak definition for each LL/GV valve and LL/GV agitator monitored during this time period, and therefore a violation of 40 C.F.R. § 63.180(b)(1) and 25 Pa. Code § 127.35(b) for each monitoring event. Unless restrained by an Order of this Court, these violations may recur.

FOURTH CLAIM FOR RELIEF
40 C.F.R. Part 63, Subpart H
Failure to Accurately Report Monitoring Data – Resorcinol Production Process Unit

91. The allegations of the foregoing Paragraphs are realleged and incorporated herein by reference.

92. 40 C.F.R. § 63.182 requires owners and operators of sources subject to 40 C.F.R. Part 63, Subpart H to submit Periodic Reports as specified in 40 C.F.R. § 63.182(d). Periodic Reports are required to be submitted every six months. 40 C.F.R. § 63.182(d)(1). Pursuant to the requirements of 40 C.F.R. § 63.182(d)(2), the Periodic Reports for the process unit components (pumps, valves, connectors, and agitators) subject to Subpart H must identify, *inter alia*: the total number of each type of component found leaking, the percentage of each type of component found leaking, and the total number of each type of component monitored.

93. In four Periodic Reports submitted between July 2009 – January 2011, INDSPEC failed to accurately report monitoring data, including the total number of connectors and valves monitored in the Resorcinol Production Process Unit, in violation of the requirements of 40

C.F.R. § 63.182(d)(2) and 25 Pa. Code § 127.35(b). Unless restrained by an Order of this Court, these violations may recur.

FIFTH CLAIM FOR RELIEF
40 C.F.R. Part 63, Subpart UU
Failure to Monitor LL/GV Connectors and LL/GV Valves in HAP Service – Resorcinol-Based Resins Production Process Unit

94. The allegations of the foregoing Paragraphs are realleged and incorporated herein by reference.

95. Subpart UU generally requires owners and operators to monitor equipment for leaks. With certain alternatives and exceptions not relevant here, an owner or operator subject to Subpart UU is required to monitor connectors in LL/GV service by the method specified in 40 C.F.R. § 63.1023(b) on an annual basis. 40 C.F.R. § 63.1027(b).

96. At various times between January 2008 – December 2009, INDSPEC failed to monitor each LL/GV connector in HAP service within the Resorcinol-Based Resins Production Process Unit in accordance with the requirements of 40 C.F.R. § 63.1027.

97. INDSPEC's failure to monitor each LL/GV connector in HAP service in the Resorcinol-Based Resins Production Process Unit annually between at least January 2008 – December 2009 violated the requirements of 40 C.F.R. § 63.1027 and 25 Pa. Code § 127.35(b).

98. With certain exceptions and alternatives not relevant here, pursuant to the requirements of 40 C.F.R. § 63.1025(b), an owner or operator subject to Subpart UU is required to monitor all valves in LL/GV service at the frequency required by 40 C.F.R. § 63.1025(b).

99. During January – March 2009, and October – December 2009, INDSPEC failed to monitor each LL/GV valve within the Resorcinol-Based Resins Production Process Unit in accordance with the requirements of 40 C.F.R. § 63.1025(b).

100. INDSPEC's failure to monitor each LL/GV valve in the Resorcinol-Based Resins Production Process Unit between at least January – March 2009 and October – December 2009 at the required frequency violated the requirements of 40 C.F.R. § 63.1025 and 25 Pa. Code § 127.35(b). Unless restrained by an Order of this Court, these violations may recur.

SIXTH CLAIM FOR RELIEF
40 C.F.R. Part 63, Subpart UU
Failure to Identify LL/GV Connectors in HAP Service – Resorcinol-Based Resins Production Process Unit

101. The allegations of the foregoing Paragraphs are realleged and incorporated herein by reference.

102. With certain exceptions and alternatives not relevant here, Subpart UU requires owners and operators to identify equipment, including connectors, that is subject to the requirements of Subpart UU. 40 C.F.R. § 63.1022(b)(1).

103. Between January 2008 – October 2009, INDSPEC failed to identify all LL/GV connectors in HAP service within the Resorcinol-Based Resins Production Process Unit in accordance with the requirements of 40 C.F.R. § 63.1022(b)(1).

104. INDSPEC's failure to identify all LL/GV connectors in HAP service within the Resorcinol-Based Resins Production Process Unit between January 2008 – October 2009 violated the requirements of 40 C.F.R. § 63.1022(b)(1) and 25 Pa. Code § 127.35(b). Unless restrained by an Order of this Court, these violations may recur.

SEVENTH CLAIM FOR RELIEF
40 C.F.R. Part 63, Subpart UU
Failure to Properly Monitor LL/GV Valves and LL/GV Agitators in HAP Service – Resorcinol-Based Resins Production Process Unit

105. The allegations of the foregoing Paragraphs are realleged and incorporated herein by reference.

106. As set forth in further detail in Paragraphs 106-109, at various times between January 2008 – September 2009, INDSPEC failed to properly calibrate the monitoring instrument, and thus failed to properly monitor LL/GV valves and LL/GV agitators in HAP service within the Resorcinol-Based Resins Production Process Unit in accordance with the requirements of 40 C.F.R. § 63.1023(b).

107. Pursuant to the requirements set forth in Subpart UU, LL/GV valves and LL/GV agitators within the Resorcinol Production Process Unit at the Facility are subject to the monitoring requirements of 40 C.F.R. § 63.1023(b)(1), which requires monitoring of components in accordance with Method 21, and 40 C.F.R. § 63.1023(b)(3), which requires calibration of the monitoring instrument. 40 C.F.R. §§ 63.1025(b)(1) [LL/GV valves]; 63.1028(c)(1) [LL/GV agitators].

108. Instruments used to conduct monitoring pursuant to Method 21 are required to be calibrated before use on each day of use according to procedures specified in Method 21. 40 C.F.R. § 63.1023(b)(3).

109. Method 21, Requirement 7.1.2, requires that the calibration gas used for each monitoring event must be at a concentration approximately equal to the applicable leak definition specified in the regulation. The minimum concentration of calibration gas permitted to be used for monitoring LL/GV valves and LL/GV agitators in the Resorcinol-Based Resins Production Process Unit at the Facility is 500 ppm and 10,000 ppm, respectively. 40 C.F.R. §§ 63.1025(b)(2) [LL/GV valves], 63.1028(c)(2) [LL/GV agitators].

110. The calibration gas that INDSPEC used for monitoring components in the Resorcinol-Based Resins Production Process Unit at the Facility during January 2008 – September 2009 was only as high as 100 ppm, a concentration below the leak definition for each

LL/GV valve and LL/GV agitator monitored during this time period, and therefore a violation of 40 C.F.R. § 63.1023(b)(1) and 25 Pa. Code § 127.35(b) for each monitoring event. Unless restrained by an Order of this Court, these violations may recur.

EIGHTH CLAIM FOR RELIEF
40 C.F.R. Part 63, Subpart UU
Failure to Accurately Report Monitoring Data - Resorcinol-Based Resins Production Process Unit

111. The allegations of the foregoing Paragraphs are realleged and incorporated herein by reference.

112. 40 C.F.R. § 63.1039 requires owners and operators of sources subject to 40 C.F.R. Part 63, Subpart UU to submit Periodic Reports as specified in 40 C.F.R. § 60.1039(b). The Periodic Reports must identify, *inter alia*, the following for the pumps and valves in the process unit subject to Subpart UU: the number of components for which leaks were detected, the percent leakers, and the total number of components monitored. 40 C.F.R. § 60.1039(b).

113. In two Periodic Reports submitted between July 2010 – January 2011, INDSPEC failed to accurately report monitoring data, including the total number of pumps and valves in formaldehyde, Solox, or styrene service, monitored in the Resorcinol-Based Resins Production Process Unit, in violation of the requirements of 40 C.F.R. § 63.1039(b) and 25 Pa. Code § 127.35(b). Unless restrained by an Order of this Court, these violations may recur.

REQUEST FOR RELIEF

Wherefore, based on the allegations set forth above, Plaintiffs request that this Court:

1. Permanently enjoin INDSPEC from operating its chemical manufacturing processes at the Facility except in compliance with the Clean Air Act, the Pennsylvania Air Pollution Control Act, and any applicable regulatory requirements;

2. Order INDSPEC to remedy the Facility's past violations of leak detection and repair requirements by, among other things, complying with Section 112 of the Clean Air Act, 42 U.S.C. § 7412, and the implementing regulations in Subparts F, H, OOO, and UU of Part 63 of Title 40 of the Code of Federal Regulations and 25 Pa. Code § 127.35(b);

3. Assess a civil penalty against INDSPEC of up to $32,500 per day for each violation of the Clean Air Act between March 16, 2004, and January 12, 2009; and up to $37,500 per day for each violation of the Clean Air Act on and after January 13, 2009;

4. Assess a civil penalty against INDSPEC of up to $25,000 per day for each violation of the Pennsylvania Air Pollution Control Act;

5. Award Plaintiffs their costs in this action; and

6. Grant such other relief as the Court deems just and proper.

Respectfully Submitted,

FOR THE UNITED STATES OF AMERICA

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