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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

_____)	
UNITED STATES OF AMERICA,)	
)	
and)	
)	
THE STATE OF NEW JERSEY,)	
)	
Plaintiffs,)	
)	Civil Action No.
v.)	
)	
CHEVRON U.S.A. INC.,)	
)	
and)	
)	<u>COMPLAINT</u>
CHEVRON U.S.A. INC. d/b/a)	
CHEVRON PRODUCTS COMPANY,)	
)	
Defendants.)	
_____)	

The United States of America, by authority of the Attorney General of the United States and through the undersigned attorneys, acting at the request of the Administrator of the United States Environmental Protection Agency (“EPA”), and the State of New Jersey (“New Jersey”), by the authority of the Attorney General of New Jersey and through the undersigned counsel, acting at the request of the New Jersey Department of Environmental Protection (“NJDEP”), file this complaint and allege as follows:

NATURE OF THE ACTION

1. This is a civil action brought pursuant to Section 113 of the Clean Air Act (“Act”), 42 U.S.C. § 7413, and the New Jersey Air Pollution Control Act (“New Jersey Air Act”), N.J.S.A. 26:2C1, *et seq.*, to obtain civil penalties and injunctive relief against Chevron U.S.A. Inc. and Chevron U.S.A. Inc. d/b/a Chevron Products Company (collectively, “Chevron”) for violations of Sections 112 and 114 of the Act, 42 U.S.C. §§ 7412 and 7414, and regulations promulgated thereunder, pertaining to leak detection and repair requirements for hazardous air pollutants emitted from petroleum refinery facilities at Chevron’s Pert Amboy, New Jersey facility.

JURISDICTION AND VENUE

2. 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 Act, 42 U.S.C. § 7413(b).

3. Pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), this Court has personal jurisdiction over Chevron U.S.A. Inc., which upon information and belief is a corporation doing business in the State of New Jersey in its own name and/or as Chevron Products Company.

4. Venue lies in the District of New Jersey pursuant to Section 113(b) of the Act,

42 U.S.C. § 7413(b), and 28 U.S.C. §§ 1391(b) and (c) and 1395(a), because Chevron is found in and conducts business in this District and because the alleged violations occurred within this District.

NOTICE

5. Notice of commencement of this action has been given to New Jersey, specifically, to NJDEP, as required by Section 113(b) of the Act, 42 U.S.C. § 7413(b).

DEFENDANTS

6. Chevron U.S.A. Inc. is a Pennsylvania corporation headquartered in San Ramon, California.

7. At all times pertinent to this action, Chevron U.S.A. Inc., on its own or doing business as Chevron Products Company, owned and/or operated a petroleum refinery located at 1200 State Street, Perth Amboy, New Jersey (the “Facility”).

8. Chevron is a “person” within the meaning of Section 302(e) of the Act, 42 U.S.C. § 7602(e), and applicable federal and state regulations promulgated pursuant to the Act.

STATUTORY AND REGULATORY BACKGROUND

A. CLEAN AIR ACT GENERAL PROVISIONS

9. Pursuant to Section 112 of the Act, 42 U.S.C. § 7412, EPA promulgated regulations that establish national emission standards and/or work practice and equipment standards applicable to “major sources” and “area sources” of “hazardous air pollutants.” The hazardous air pollutants (“HAPs”) are listed under Section 112(b) of the Act, 42 U.S.C. § 7412(b).

10. Pursuant to Sections 112(a)(1), 42 U.S.C. § 7412(a)(1), a “major source” is 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 ten (10) tons per year (“tpy”) or more of any HAP or twenty-five (25) or more of any combination of HAPs.

11. Pursuant to Section 112(a)(4) of the Act, 42 U.S.C. § 7412(a)(4), an “area source” is any stationary source of HAPs that is not a major source.

12. Pursuant to Section 112(c) of the Act, 42 U.S.C. § 7412(c), EPA also published a list of categories or subcategories of major and area sources of listed HAPs.

13. Pursuant to Section 112(d)(3) of the Act, 42 U.S.C. § 7412(d)(3), EPA was required to develop maximum available control technology (“MACT”) standards for categories and subcategories of major and source areas of HAPs.

14. Pursuant to Section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1), EPA is authorized to require the owner/operator of an emission source to, inter alia, submit information regarding its facility; establish and maintain records; make reports; sample emission points; and install, use and maintain monitoring equipment or methods in order to determine whether such person is in compliance with the Act.

15. Section 113(b) of the Act, 42 U.S.C. § 7413(b), authorizes EPA to commence a civil action against any person that is an owner or operator of an affected source or a major stationary source who violates, inter alia, any regulations and standards imposed pursuant to Section 112 of the Act, as well as obtain injunctive relief and civil penalties. Pursuant to the Act, the Debt Collection Procedure Act of 1996, 31 U.S.C. § 3701, and EPA implementing regulations codified at 40 C.F.R. Part 19, Chevron is liable for injunctive relief and for civil penalties not to exceed \$27,5000 per day for each violation occurring prior to and including March 15, 2004, \$32,500 per day for each violation occurring after March 15, 2004 but prior to

and including January 12, 2009, and \$37,500 per day for each violation occurring after January 12, 2009.

B. GENERAL MACT

16. Pursuant to Sections 112 and 114 of the Act, 42 U.S.C. §§ 7412 and 7414, EPA promulgated 40 C.F.R. Part 63, Subpart A, §§ 63.1-63.16 (the “General MACT”).

17. Pursuant to 40 C.F.R. § 63.1(b), the General MACT applies to the “owner or operator” of a “stationary source” that emits or has the potential to emit a HAP, and is subject to standards, limitations and/or other federally enforceable requirements in 40 C.F.R. Part 63. Such owners/operators must comply with the General MACT.

18. Pursuant to 40 C.F.R. § 63.1(a)(4), each relevant standard in 40 C.F.R. Part 63 must identify explicitly whether each provision in the General MACT is or is not included in such relevant standard.

19. Pursuant to 40 C.F.R. § 63.10(b)(2)(iii), the owner or operator of an “affected source” subject to the provisions of 40 C.F.R. Part 63, Subpart A, shall, among other things, maintain files of all information required by 40 C.F.R. Part 63. These files must be retained for at least five years following the date of each occurrence, measurement, maintenance, corrective action, report or record.

20. Pursuant to 40 C.F.R. § 63.2, an “owner or operator” is any person who owns, leases, operates, controls or supervises a stationary source.

21. Pursuant to 40 C.F.R. § 63.2, a “stationary source” is “any building, structure, facility, or installation which emits or may emit any air pollutant.”

22. Pursuant to 40 C.F.R. § 63.2, an “affected source” is “any collection of equipment, activities, or both within a single contiguous area and under common control that is a

major or area source for which a national emission standard for HAPs (“NESHAP”) has been established”.

C. PETROLEUM REFINERY MACT

23. Pursuant to Sections 112 and 114 of the Act, 42 U.S.C. §§ 7412 and 7414, EPA promulgated 40 C.F.R. Part 63, Subpart CC, § 63.640 - 63.679 (the “Petroleum Refinery MACT”).

24. The Petroleum Refinery MACT, at Table 6, lists the provisions of the General MACT which are applicable to the Petroleum Refinery MACT, including 40 C.F.R. §§ 63.2 (Definitions) and 63.10(b)(2)(iii) (Recordkeeping and Reporting Requirements).

25. Benzene, hexane, toluene and xylene are listed, *inter alia*, as HAPs in Table 1 of the Petroleum Refinery MACT.

26. Pursuant to 40 C.F.R. § 63.640(a), the Petroleum Refinery MACT applies to “petroleum refining process units” and related “emission points,” including “equipment leaks” from petroleum refining process units, as specified in 40 C.F.R. § 63.640(c)(4), which are located at “plant sites” that are “major sources” and “affected sources” emitting or having equipment containing and/or coming in contact with one or more HAPs.

27. Pursuant to 40 C.F.R. § 63.641, a “petroleum refining process unit” is a process unit used at an establishment primarily engaged in petroleum refining gas, as defined in Standard Industrial Classification (“SIC”) code 2911, and which is used primarily for, *inter alia*, separating petroleum, or separating, cracking, reacting or reforming intermediate petroleum streams.

28. Pursuant to 40 C.F.R. § 63.641, a “plant site” includes all contiguous or adjoining property that is under common control.

29. Pursuant to 40 C.F.R. § 63.641, an “affected source” is the collection of emission points to which the Petroleum Refinery MACT applies.

30. Pursuant to 40 C.F.R. §63.641, an “emission point” includes equipment leaks associated with petroleum refining process units.

31. Pursuant to 40 C.F.R. § 63.641, an “equipment leak” is an emission of organic HAPs from pumps, compressors, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, or instrumentation systems in “organic HAPs service.”

32. Pursuant to 40 C.F.R. § 63.641, “in organic HAPs service” refers to a piece of equipment that contacts/contains fluid (either liquid or gas) that is at least 5%, by weight, total organic HAPs.

33. Pursuant to 40 C.F.R. § 63.654(d)(1), an owner/operator of an affected source subject to the leak standards in 40 C.F.R. § 63.648 may comply with recordkeeping and reporting requirements, including the recordkeeping and reporting requirements of 40 C.F.R. Part 63, Subpart H, §§ 63.160-183 (the “Equipment Leak MACT,” described infra).

34. Pursuant to 40 C.F.R. § 63.654(f), an owner/operator of an affected source subject to the Petroleum Refinery MACT, must submit a Notification of Compliance Status (“NCS”) within 150 days after dates specified in 40 C.F.R. § 63.640(h).

35. Pursuant to 40 C.F.R. § 63.654(g), an owner/operator of an affected source subject to the Petroleum Refinery MACT, must submit semi-annual Periodic Reports (“Petroleum Refinery MACT semi-annual reports”).

36. Pursuant to 40 C.F.R. 63.654(g), an owner/operator of an affected source subject to the Petroleum Refinery MACT, may instead submit semi-annual Periodic Reports as required by other regulations in place of or as part of the Periodic Reports specified in 40 C.F.R.

§ 63.654(g).

37. Pursuant to 40 C.F.R. § 63.653(iii)-(v), an owner/operator of an affected source subject to the Petroleum Refinery MACT must retain all information specified in 40 C.F.R.

§ 63.654(a)-(h).

D. EQUIPMENT LEAK MACT

38. Pursuant to Sections 112 and 114 of the Act, 42 U.S.C. §§ 7412 and 7414, EPA promulgated 40 C.F.R. Part 63, Subpart H, § 63.160 - 63.183, the Equipment Leak MACT.

39. Pursuant to 40 C.F.R. § 63.160(a), the Equipment Leak MACT applies to pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, storage control vessels, bottoms receivers, instrumentation systems, and control devices or closed vent systems that are intended to operate in organic HAP service 300 hours or more during the calendar year within a source subject to specified provisions in the Equipment Leak MACT.

40. Pursuant to 40 C.F.R. § 63.648(c) of the Petroleum Refinery MACT, an owner/operator of an affected source subject to the Petroleum Refinery MACT may elect to comply with the requirements of 40 C.F.R. §§ 63.161 - 169, §§ 63.171 - 172, §§ 63.175 - 177, and §§ 63.179 - 180 of the Equipment Leak MACT. (Those specified Equipment Leak MACT provisions are also known as the Modified Hazardous Organic NESHAP, or “Modified HON.”)

41. Pursuant to 40 C.F.R. § 63.162(f)(1), when a leak is detected, the owner/operator of an affected source subject to the Equipment Leak MACT must clearly identify the leaking equipment.

42. Pursuant to 40 C.F.R. § 63.163(d), owners/operators of an affected source subject to the Equipment Leak MACT must calculate its percentage of leaking pumps in “light liquid service” on a 6-month rolling average as prescribed in that provision.

43. Pursuant to 40 C.F.R. § 63.161, “light liquid service” refers to pieces of equipment in organic HAP service that is not in “gas/vapor service.”

44. Pursuant to 40 C.F.R. § 63.161, “gas/vapor service” refers to pieces of equipment in organic HAP service that contains a gas or vapor at operating conditions.

45. Pursuant to 40 C.F.R. 63.161, “in organic HAP service” refers to pieces of equipment that contain/contact a fluid (either liquid or gas) that is at least 5%, by weight, of total organic HAPs.

46. Pursuant to 40 C.F.R. § 63.166(a), with exceptions not relevant here, the owner/operator of an affected source must equip each sampling connection system with a closed-vent system purge, closed loop or closed vent system.

47. Pursuant to 40 C.F.R. § 63.167(a)(1), the owner/operator of an affected source must equip each open-ended valve or line with a cap, blind flange, plug or second valve.

48. 40 C.F.R. § 63.168(e)(1) provides a mathematical formula that an owner/operator of an affected source must use to determine the percentage of leaking valves in gas/vapor service and light liquid service.

49. Pursuant to 40 C.F.R. § 168(f)(3), an owner/operator of an affected source must monitor a repaired valve at least once within the first three months after its repair.

50. Pursuant to 40 C.F.R. § 63.180(a), an owner/operator of an affected source subject to the Equipment Leak MACT must comply with the test methods and procedures provided in 40 C.F.R. § 63.180.

51. With respect to detected leaks, pursuant to 40 C.F.R. § 63.181(b)(10), an owner/operator of an affected source subject to the Equipment Leak MACT must attach to the leaking equipment weatherproof and readily-visible identifications, providing the equipment designation number.

52. Pursuant to 40 C.F.R. § 63.181(d), when an owner/operator of an affected source subject to the Equipment Leak MACT detects a leak, the owner/operator must record and maintain for two years the specific information required by 40 C.F.R. 63.181(d)(1)-(9), such as the instrument, the equipment identification number, the operator, the date of the leak, the date of first repair attempt and successful repair, and the reasons for delays in repair.

53. Pursuant to 40 C.F.R. § 63.182(a), an owner/operator of a source subject to the Equipment Leak MACT must submit reports, such as an initial notification (in accordance with 40 C.F.R. § 63.182(b)), a notification of compliance status (“NCS”) (in accordance with 40 C.F.R. § 63.182(c), and periodic reports (“Periodic Reports”) (in accordance with 40 C.F.R. § 63.182(d)).

E. METHOD 21

54. Pursuant to 40 C.F.R. § 63.180(b)(1), an owner/operator of an affected source subject to the Equipment Leak MACT must monitor for volatile organic compound (“VOC”) leaks in accordance with Method 21, contained in 40 C.F.R. Part 60, Appendix A

55. Method 21 includes procedures for certification, calibration and response time testing of leak monitoring equipment.

56. Pursuant to Method 21, at § 7.2, if cylinder gas mixtures are used for calibration of monitoring equipment, the cylinder gas mixture must be analyzed and certified within a 2%

accuracy, and a shelf-life must be specified. Further, the mixture must be re-analyzed and/or replaced at the end of the specified shelf life.

57. Pursuant to Method 21, at § 8.1.2, a calibration precision test must be completed prior to placing an analyzer into service, as well as at subsequent three month (quarterly) intervals or the next use, whichever is later.

58. Pursuant to Method 21, at § 8.1.3, a response time test is required before placing an instrument in service, and if a modification to the sample pumping system or flow configuration is made that would change the response time, a new test is required before further use.

F. THE TITLE V OPERATING PERMIT PROGRAM

59. Section 502(d) of the Act, 42 U.S.C. § 7661a(b), requires the Administrator of EPA to promulgate regulations establishing the minimum elements of a permit program.

60. Section 502(d)(1) of the Act, 42 U.S.C. § 7661a(d)(1), requires each State to develop a permit program meeting the requirements of Title V of the Act.

61. Section 502(d)(1) of the Act, 42 U.S.C. § 7661a(d)(1), requires the Administrator of EPA to approve or disapprove such permit program, in whole or in part.

62. Section 503(b)(2) of the Act, 42 U.S.C. § 7661b(b)(2), provides that the regulations promulgated pursuant to Section 502(b) of the Act must include requirements that the permittee periodically (but no less frequently than annually) certify that the facility is in compliance with any applicable requirements of the Title V Operating Permit, and promptly report any deviations from permit requirements.

63. Section 504(a) of the Act, 42 U.S.C. § 7661c(b)(2), requires that each title V operating permit include enforceable emission limitations and standards, a schedule of

compliance, a requirement that the permittee submit to the permitting authority, no less often than every 6 months, the results of any required monitoring, and any such conditions as are necessary to assure compliance with applicable requirements of the Act, including the requirements of the applicable state implementation plan (“SIP”).

64. Section 502(a) of the Act, 42 U.S.C. § 7661a(a), provides that is unlawful for any person to violate any requirement of a permit issued under Title V of the Act.

65. Pursuant to Sections 113(a)(3) and (b) of the Act, 42 U.S.C. §§ 7413(a)(3) and (b), the provisions of State Title V permits are federally enforceable.

NEW JERSEY AIR ACT REQUIREMENTS AND ENFORCEMENT PROVISIONS

66. The New Jersey Air Pollution Control Act (“New Jersey Air Act”), N.J.S.A. 26:2C-1 et seq. and implementing regulations require that a person who constructs or modifies a significant source must first obtain a permit. N.J.A.C. 7:27-8.3.

67. A person who constructs or modifies a major source of air pollution at a major facility emitting threshold levels of designated air contaminants shall obtain a Title V Operating Permit. N.J.A.C. 7:27-22.1 et seq.

68. The New Jersey Air Act requires any person who constructs, reconstructs, installs or modifies new equipment or control apparatus to incorporate advances in the art of air pollution control as provided by federal and state law and to install the applicable air pollution control technology. N.J.S.A. 26:2C-9.2c.

69. The New Jersey Air Act requires any person who constructs, reconstructs or modifies equipment or control apparatus in non-attainment areas to secure emission offsets. N.J.A.C. 7:27-18.1 et seq.

70. Pursuant to N.J.S.A. 26:2C-19, and implementing regulations at N.J.A.C. 7:27-8.26, 7:27-18.12, and 7:27A-3.1 et seq., New Jersey is authorized to enforce the New Jersey Air Act and institute an action for injunctive relief and civil penalties. Pursuant to Section 110 of the Federal Act, the New Jersey SIP as approved by EPA is federally enforceable. See, 40 C.F.R. § 52.1605.

THE FACILITY'S TITLE V OPERATING PERMIT

71. In accordance with Section 502(d)(1) of the Act, 42 U.S.C. § 7661a(d)(1), and the New Jersey Air Act, NJDEP developed the New Jersey Title V Operating Permit Program, at N.J.A.C. 7:27-22.1, et seq.

72. In accordance with Section 502(d)(1) of the Act, 42 U.S.C. § 7661a(d)(1), EPA granted interim approval of the New Jersey Title V Operating Permit Program, with an effective date of June 17, 1996. 61 Fed. Reg. 24715 (May 16, 1996).

73. In accordance with Section 502(d)(1) of the Act, 42 U.S.C. § 7661a(d)(1), EPA granted final approval of the New Jersey Title V Operating Permit Program, with an effective date of November 30, 2001. 66 Fed. Reg. 63168 (December 5, 2001).

74. NJDEP issued Chevron Title V Operating Permit #BOP990001 (the "Permit") for the Facility on February 4, 2005. The Permit underwent a series of revisions over the years.

75. The Permit requires compliance with specific requirements, standards and procedures for, among other things:

- a. identification of leaking valves as set forth in 40 C.F.R. §§ 63.162(f)(1) and 63.648;
- b. calculation of the percent of leaking pumps in light liquid service on a six-month rolling average, as set forth in 40 C.F.R. §§ 63.163(d) and 63.648;

- c. installation of closed-purge, closed-loop, or closed-vent systems on various sampling connections systems on numerous occasions, as set forth in 40 C.F.R. §§ 63.166 and 63.648;
- d. installation of caps, blind flanges, plugs or second valves on various open-ended valve lines, as set forth in 40 C.F.R. §§ 63.167 and 63.648;
- e. calculation of the percent of leaking valves in gas/vapor or light liquid service, pursuant to the correct mathematical formula, as set forth in 40 C.F.R. §§ 63.168(e)(1) and 63.648;
- f. remonitor of numerous leaking valves which had been repaired within the prescribed time, as set forth in 40 C.F.R. §§ 63.168(f)(3);
- g. reanalysis or replacement of expired calibration gas prior to reaching the end of its shelf in compliance with the test methods and procedures required by Method 21, as set forth in 40 C.F.R. §§ 63.180(a), 63.180(b) and 63.648;
- h. completion of quarterly calibration tests in compliance with the test methods and procedures required by Method 21, as set forth in 40 C.F.R. §§ 63.180(a), 63.180(b) and 63.648, and the Facility's Permit;
- i. performance of response time tests on monitoring equipment in compliance with the test methods and procedures required by Method 21, as set forth in 40 C.F.R. §§ 63.180(a), 63.180(b) and 63.648;
- j. attachment of proper identification tags to leaking components, as set forth in 40 C.F.R. §§ 63.181(b)(10), 63.648, and 63.654(d);
- k. maintenance of copies of records for a period of no less than five years, as set forth in N.J.A.C. 7:27-16.22(a) and the Facility's Permit; and,
- l. requirements and procedures concerning the control and prohibition of air pollution by volatile organic compounds as set forth in N.J.A.C. 7:27-16.1 et seq.

76. In accordance with N.J.A.C. 7:27-22.19(c), 7:27-22.19(d) and 7:27.19(e), as required by Section 504(a) of the Act, 42 U.S.C. § 7661c(a), the Permit requires the owner/operator of the Facility to submit semi-annual reports identifying and describing, inter alia, all deviations from Permit requirements.

77. In accordance with N.J.A.C. 7:27-22.19(f), as required by Section 503(b)(2) of the Act, 42 U.S.C. § 7661b(2), the Permit requires the owner/operator of the Facility to submit an annual compliance certification for each applicable requirement in the Permit within 60 days after the end of each calendar year.

GENERAL ALLEGATIONS

78. The Facility's annual HAP emissions at all times relevant to this action exceeded 25 tpy for combined HAPs, including benzene, hexane, toluene and xylene.

79. At all times relevant to this action, the processing of crude oil into asphalt at the Facility involved the separation of petroleum.

80. At all times relevant to this action, the Facility had a SIC code of 2911.

81. At all times relevant to this action, the Facility was an "existing source," a "stationary source," and a "major source" of pollutants, including "hazardous air pollutants," within the meaning of Section 112(a) of the Act, 42 U.S.C. § 7412(a).

82. At all times relevant to this action, Chevron was an "owner" and an "operator" of the Facility within the meaning of Section 112(a) of the Act, 42 U.S.C. § 7412(a).

83. At all times relevant to this action, the Facility was an "affected source" that engaged in petroleum refining operations within the meaning of 40 C.F.R. §§ 63.641.

84. At all times relevant this action, the Facility and Chevron were subject to, among other things, the Permit, the General MACT, the Petroleum Refinery MACT and the Equipment Leak MACT.

85. In January 1999, Chevron elected to implement monitoring at the Facility in accordance with the reduced frequency provisions of the Modified HON.

86. At all times relevant to this action, Chevron was required to utilize Method 21 at the Facility.

87. EPA undertook an inspection of the Facility on April 23 and 24, 2007 (the “EPA Inspection”). That inspection involved the observation of operations and equipment at the Facility, as well as the request for and review of Facility documents relevant to this action.

88. Pursuant to the Act, on September 16, 2008, EPA issued a compliance order to the Facility in In the Matter of Chevron Products Company, Compliance Order CAA-02-2008-1006.

FIRST CLAIM FOR RELIEF

Failure to Clearly Identify Leaking Equipment

89. Paragraphs 1 through 88 are realleged and incorporated herein by reference.

90. Based on the EPA Inspection and/or the documents and information obtained from or submitted by Chevron, the Defendants on numerous occasions from at least April 2004 through May 2006 failed to clearly identify leaking valves, in violation of 40 C.F.R. §§ 63.162(f)(1) and 63.648, and the Facility’s Permit.

91. Pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), the Debt Collection Procedure Act of 1996, 31 U.S.C. § 3701, and 40 C.F.R. Part 19, Chevron is liable for injunctive relief and for civil penalties not to exceed \$27,5000 per day for each violation occurring prior to and including March 15, 2004, \$32,500 per day for each violation occurring after March 15, 2004 but prior to and including January 12, 2009, and \$37,500 per day for each violation occurring after January 12, 2009.

SECOND CLAIM FOR RELIEF

Failure to Calculate Percentage of Leaking Pumps in Light Liquid Service on a Six-Month Rolling Average

92. Paragraphs 1 through 91 are realleged and incorporated herein by reference.

93. Based on the EPA Inspection and/or the documents and information obtained from or submitted by Chevron, the Defendants from at least April 2004 through January 2008 failed to calculate the percent of leaking pumps in light liquid service on a six-month rolling average, in violation of 40 C.F.R. §§ 63.163(d) and 63.648, and the Facility's Permit.

94. Pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), the Debt Collection Procedure Act of 1996, 31 U.S.C. § 3701, and 40 C.F.R. Part 19, Chevron is liable for injunctive relief and for civil penalties not to exceed \$27,5000 per day for each violation occurring prior to and including March 15, 2004, \$32,500 per day for each violation occurring after March 15, 2004 but prior to and including January 12, 2009, and \$37,500 per day for each violation occurring after January 12, 2009.

THIRD CLAIM FOR RELIEF

Failure to Install Closed-Purge, Closed-Loop, or Closed-Vent Systems

95. Paragraphs 1 through 94 are realleged and incorporated herein by reference.

96. Based on the EPA Inspection and/or the documents and information obtained from or submitted by Chevron, the Defendants from at least April 2004 through January 2008 failed to install closed-purge, closed-loop, or closed-vent systems on various sampling connections systems on numerous occasions, in violation of 40 C.F.R. §§ 63.166 and 63.648, and the Facility's Permit.

97. Pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), the Debt Collection Procedure Act of 1996, 31 U.S.C. § 3701, and 40 C.F.R. Part 19, Chevron is liable for injunctive relief and for civil penalties not to exceed \$27,5000 per day for each violation occurring prior to and including March 15, 2004, \$32,500 per day for each violation occurring after March 15,

2004 but prior to and including January 12, 2009, and \$37,500 per day for each violation occurring after January 12, 2009.

FOURTH CLAIM FOR RELIEF

Failure to Install Caps, Blind Flanges, Plugs or Second Valves

98. Paragraphs 1 through 97 are realleged and incorporated herein by reference.

99. Based on the EPA Inspection and/or the documents and information obtained from or submitted by Chevron, the Defendants from at least April 2004 through January 2008 failed to install caps, blind flanges, plugs or second valves on various open-ended valve lines on numerous occasions, in violation of 40 C.F.R. §§ 63.167 and 63.648, and the Facility's Permit.

100. Pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), the Debt Collection Procedure Act of 1996, 31 U.S.C. § 3701, and 40 C.F.R. Part 19, Chevron is liable for injunctive relief and for civil penalties not to exceed \$27,5000 per day for each violation occurring prior to and including March 15, 2004, \$32,500 per day for each violation occurring after March 15, 2004 but prior to and including January 12, 2009, and \$37,500 per day for each violation occurring after January 12, 2009.

FIFTH CLAIM FOR RELIEF

Failure to Calculate Percentage of Leaking of Valves in Gas/Vapor and Light Liquid Service Pursuant to Correct Mathematical Formula

101. Paragraphs 1 through 100 are realleged and incorporated herein by reference.

102. Based on the EPA Inspection and/or the documents and information obtained from or submitted by Chevron, the Defendants from at least July 2004 through January 2008 failed to calculate the percent of leaking valves in gas/vapor or light liquid service pursuant to the correct mathematical formula, in violation of 40 C.F.R. §§ 63.168(e)(1) and 63.648, and the Facility's Permit.

103. Pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), the Debt Collection Procedure Act of 1996, 31 U.S.C. § 3701, and 40 C.F.R. Part 19, Chevron is liable for injunctive relief and for civil penalties not to exceed \$27,5000 per day for each violation occurring prior to and including March 15, 2004, \$32,500 per day for each violation occurring after March 15, 2004 but prior to and including January 12, 2009, and \$37,500 per day for each violation occurring after January 12, 2009.

SIXTH CLAIM FOR RELIEF

Failure to Remonitor Leaking Valves within Prescribed Time

104. Paragraphs 1 through 103 are realleged and incorporated herein by reference.

105. Based on the EPA Inspection and/or the documents and information obtained from or submitted by Chevron, the Defendants from at least April 2005 through December 2005 failed to remonitor numerous leaking valves which had been repaired within the prescribed time, in violation of 40 C.F.R. §§ 63.168(f)(3) and 63.648, and the Facility's Permit.

106. Pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), the Debt Collection Procedure Act of 1996, 31 U.S.C. § 3701, and 40 C.F.R. Part 19, Chevron is liable for injunctive relief and for civil penalties not to exceed \$27,5000 per day for each violation occurring prior to and including March 15, 2004, \$32,500 per day for each violation occurring after March 15, 2004 but prior to and including January 12, 2009, and \$37,500 per day for each violation occurring after January 12, 2009.

SEVENTH CLAIM FOR RELIEF

Failure to Reanalyze or Replace Expired Calibration Gas

107. Paragraphs 1 through 106 are realleged and incorporated herein by reference.

108. Based on the EPA Inspection and/or the documents and information obtained from or submitted by Chevron, the Defendants from at least February 2006 through April 2007 failed to reanalyze or replace expired calibration gas prior to reaching the end of its shelf in compliance with the test methods and procedures required by Method 21, in violation of 40 C.F.R. §§ 63.180(a), 63.180(b) and 63.648, and the Facility's Permit.

109. Pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), the Debt Collection Procedure Act of 1996, 31 U.S.C. § 3701, and 40 C.F.R. Part 19, Chevron is liable for injunctive relief and for civil penalties not to exceed \$27,5000 per day for each violation occurring prior to and including March 15, 2004, \$32,500 per day for each violation occurring after March 15, 2004 but prior to and including January 12, 2009, and \$37,500 per day for each violation occurring after January 12, 2009.

EIGHTH CLAIM FOR RELIEF

Failure to Complete Quarterly Calibration Precision Tests

110. Paragraphs 1 through 109 are realleged and incorporated herein by reference.

111. Based on the EPA Inspection and/or the documents and information obtained from or submitted by Chevron, the Defendants from at least April 2004 through July 2008 failed to complete quarterly calibration tests in compliance with the test methods and procedures required by Method 21, in violation of 40 C.F.R. §§ 63.180(a), 63.180(b) and 63.648, and the Facility's Permit.

112. Pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), the Debt Collection Procedure Act of 1996, 31 U.S.C. § 3701, and 40 C.F.R. Part 19, Chevron is liable for injunctive relief and for civil penalties not to exceed \$27,5000 per day for each violation occurring prior to and including March 15, 2004, \$32,500 per day for each violation occurring after March 15,

2004 but prior to and including January 12, 2009, and \$37,500 per day for each violation occurring after January 12, 2009.

NINTH CLAIM FOR RELIEF

Failure to Conduct Response Time Tests on Monitoring Equipment

113. Paragraphs 1 through 112 are realleged and incorporated herein by reference.

114. Based on the EPA Inspection and/or the documents and information obtained from or submitted by Chevron, the Defendants from at least March 2004 through July 2008 failed to conduct response time tests on monitoring equipment in compliance with the test methods and procedures required by Method 21, in violation of 40 C.F.R. §§ 63.180(a), 63.180(b) and 63.648, and the Facility's Permit.

115. Pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), the Debt Collection Procedure Act of 1996, 31 U.S.C. § 3701, and 40 C.F.R. Part 19, Chevron is liable for injunctive relief and for civil penalties not to exceed \$27,5000 per day for each violation occurring prior to and including March 15, 2004, \$32,500 per day for each violation occurring after March 15, 2004 but prior to and including January 12, 2009, and \$37,500 per day for each violation occurring after January 12, 2009.

TENTH CLAIM FOR RELIEF

Failure to Attach Required Identification to Leaking Components

116. Paragraphs 1 through 115 are realleged and incorporated herein by reference.

117. Based on the EPA Inspection and/or the documents and information obtained from or submitted by Chevron, the Defendants on numerous occasions from at least April 2004 through May 2006 failed to attach proper identification tags to leaking components, in violation of 40 C.F.R. §§ 63.181(b)(10), 63.648, and 63.654(d), and the Facility's Permit.

118. Pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), the Debt Collection Procedure Act of 1996, 31 U.S.C. § 3701, and 40 C.F.R. Part 19, Chevron is liable for injunctive relief and for civil penalties not to exceed \$27,5000 per day for each violation occurring prior to and including March 15, 2004, \$32,500 per day for each violation occurring after March 15, 2004 but prior to and including January 12, 2009, and \$37,500 per day for each violation occurring after January 12, 2009.

ELEVENTH CLAIM FOR RELIEF

Submission of Erroneous Annual Compliance Certifications

119. Paragraphs 1 through 118 are realleged and incorporated herein by reference.

120. Upon information and belief based on the EPA Inspection and/or the documents and information obtained from or submitted by Chevron, the Defendants submitted erroneous annual compliance certifications by failing to report non-compliance with the Petroleum Refinery MACT and Equipment Leak Monitoring MACT described in the First through the Tenth Counts of this Complaint, in its 2005, 2006, 2007 and 2008 annual compliance certifications, in violation of N.J.A.C. 7:27-22.19(f) and the Facility's Permit.

121. Pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), the Debt Collection Procedure Act of 1996, 31 U.S.C. § 3701, and 40 C.F.R. Part 19, Chevron is liable for injunctive relief and for civil penalties not to exceed \$27,5000 per day for each violation occurring prior to and including March 15, 2004, \$32,500 per day for each violation occurring after March 15, 2004 but prior to and including January 12, 2009, and \$37,500 per day for each violation occurring after January 12, 2009.

TWELFTH CLAIM FOR RELIEF

Failure to Report Non-Compliance in Semi-Annual Deviation Reports

122. Paragraphs 1 through 121 are realleged and incorporated herein by reference.

123. Upon information and belief based on the EPA Inspection and/or the documents and information obtained from or submitted by Chevron, the Defendants failed to report deviations from the Petroleum Refinery MACT and Equipment Leak Monitoring MACT, described in the First through Tenth Counts in this Complaint, in its 2005, 2006, 2007 and 2008 semi-annual Petroleum Refinery MACT and Equipment Leak Monitoring MACT deviation reports, in violation of N.J.A.C. 7:27-22.19(c), 7:27-22.19(d) and 7:27.19(e) and the Facility's Permit.

124. Pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), the Debt Collection Procedure Act of 1996, 31 U.S.C. § 3701, and 40 C.F.R. Part 19, Chevron is liable for injunctive relief and for civil penalties not to exceed \$27,5000 per day for each violation occurring prior to and including March 15, 2004, \$32,500 per day for each violation occurring after March 15, 2004 but prior to and including January 12, 2009, and \$37,500 per day for each violation occurring after January 12, 2009.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, the United States of America and New Jersey pray that this Court:

A. Order Chevron to pay a civil penalty not to exceed \$27,5000 per day per violation occurring prior to and including March 15, 2004, \$32,500 per day per violation occurring after March 15, 2004 but prior to and including January 12, 2009, and \$37,500 per day per violation occurring after January 12, 2009;

- B. Permanently enjoin Chevron, pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), from any and all future violations of the Act;
- C. Award the United States its costs in this action; and,
- D. Grant such other relief as the Court deems just and proper.

Respectfully submitted,

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