

2. The Plaintiff has enacted in Wis. Stat. ch. 285 statutes governing sources of air contaminant emissions to prevent and reduce air pollution. DNR administers regulations and issues permits authorized by these statutes.

3. Wisconsin Admin. Code NR ch. 406 was adopted pursuant to Wis. Stat. ch. 285 “to exempt types of stationary sources from the requirement to obtain a construction permit and to establish permit and permit review requirements and permit duration for construction permits.” *See* Wis. Admin. Code NR § 406.01(2).

4. Wisconsin Admin. Code NR ch. 407 was adopted pursuant to Wis. Stat. ch. 285 with the following purpose:

to establish a schedule of dates for the submission of operation permit applications and a schedule of dates for requiring operation permits for various categories of direct stationary sources and to specify the content of operation permit applications and operation permits. This chapter also sets forth procedures for revising, suspending and revoking operation permits.

See Wis. Admin. Code NR § 407.01(2).

5. Wisconsin Admin. Code NR ch. 439 was adopted pursuant to Wis. Stat. ch. 285 “to establish general reporting, recordkeeping, testing, inspection and determination of compliance requirements for all air contaminant sources.” *See* Wis. Admin. Code NR § 439.01(2).

6. Wisconsin Admin. Code NR ch. 465 was also adopted pursuant to Wis. Stat. ch. 285 “to establish emission standards for hazardous air pollutants for plastic parts and products surface coating facilities and miscellaneous metal parts and products surface coating facilities” *See* Wis. Admin. Code NR §§ 465.31(1) and NR 465.41(1).

7. Apogee, which specializes in coating of architectural products, is a domestic business corporation with its principal office at 7800 International Drive, Wausau, Wisconsin 54401-9623. Apogee's registered agent is National Registered Agents, Inc., 301 South Bedford Street, Suite 1, Madison, Wisconsin 53703.

8. Apogee's Linetec Division owns and operates manufacturing facilities located at 710 South 75th Street (Linetec Anodize), 725 South 75th Street (Linetec Paint), and 7200 West Stewart Street (Linetec Plastic), which are all located in Wausau, Marathon County, Wisconsin (collectively referred to as the "Facility").

9. The Facility began operating in 1983 and has had air pollution control permit(s) since 1990.

10. The Facility consists of several processes including: Process P09, Main Spray Area; Process P11, Parts Wiping Area; Process P15, Flatline Coating; Processes P18 and P19, Anodizing Lines; Process P20, Anodizing Line #3; Process P25, Cefla Flatline Coating; Process P27, Custom Color Line; Process P35, Container Cleaning Process within the Paint Vault P13; Process P39, Small Parts Painting Area Touch-Up Booth; Process P40, Two Batch Paint Booths; Process 45, Two Small Spray Booths (Paint Lab); and Process 50, Three-Stage Flexline Coating Line.

11. DNR issued Apogee the following air pollution control permits: Operation Permit No. 737052690-P22 on September 2, 2014 (2014 Operation Permit); Construction Permit No. 14-POY-146 on July 24, 2015 (2015 Construction Permit), which authorized Apogee to construct and initially operate an aluminum anodizing line (Process P20); Construction Permit No. 14-EVH-176 on February 27, 2019 (2019

Construction Permit); Operation Permit No. 737052690-P30 on April 17, 2019 (2019 Operation Permit); and Operation Permit No. 73705269A-P35 on April 9, 2021 (2021 Operation Permit); and Operation Permit No. 73705269A-P36 on October 11, 2022 (2022 Operation Permit).

12. The 2014 Operation Permit expired on September 22, 2016.

13. Pursuant to Wis. Stat. § 285.62(8)(b), the terms and conditions of the 2014 Operation Permit were effective until DNR issued the 2019 Operation Permit.

14. Pursuant to Wis. Stat. § 285.62(8)(b), the terms and conditions of the 2019 Operation Permit were effective until DNR issued the 2021 Operation Permit.

15. The 2019 Operation Permit was effective until April 9, 2021, when DNR issued the 2021 Operation Permit.

16. The 2021 Operation Permit was effective until October 11, 2022, when DNR issued the 2022 Operation Permit.

17. Wisconsin Stat. § 285.66(1) states in part that “all conditions in a construction permit are permanent unless the conditions are revised through a revision of the construction permit or through the issuance of a new construction permit.”

18. Pursuant to Wis. Stat. § 285.60(7), at all times relevant to the allegations in this Complaint, Apogee was and is currently required to comply with all the terms and conditions of its air pollution control permits.

19. On August 29, 2018, DNR Air Management Engineer Ashley Gray (Gray) performed a Full Compliance Evaluation inspection (FCE) at the Facility.

20. On September 19, 2018, Gray sent Apogee a Compliance Monitoring Report (2018 CMR), detailing the DNR's findings from the August 29, 2018 inspection.

21. Based on the August 29, 2018 FCE and reports from Apogee, DNR issued Apogee Notices of Violation (NOVs) on October 18, 2018, and September 23, 2019.

22. Apogee attended a DNR enforcement conference on November 20, 2018.

23. Gray performed another FCE on August 24, 2020.

24. Based on the August 24, 2020 FCE, DNR issued Apogee an NOV on October 19, 2020.

25. Apogee attended a DNR enforcement conference on January 28, 2021.

26. Grey performed another FCE on June 1, 2022.

27. Based on the June 1, 2022 FCE, DNR issued an NOV on July 18, 2022.

28. DNR issued an NOV to Apogee on May 1, 2023, based on certain emissions calculations that Apogee submitted to DNR on March 15, 2023.

29. Gray performed another FCE on May 15, 2024.

30. Based on the May 15, 2024 FCE, DNR issued Apogee an NOV on July 5, 2024.

VIOLATION 1: FAILURE TO PERFORM PERIODIC VOLATILE ORGANIC COMPOUND COMPLIANCE EMISSION TESTING

31. Wisconsin Admin. Code NR § 439.075(3)(b) states that:

Unless otherwise required by statute, rule or permit condition, the owner or operator of a direct stationary source which has received an operation permit shall perform the compliance emission tests required under sub. (2) every 24 months as long as the permit remains valid. Each biennial test shall be

performed within 90 days of the anniversary date of the issuance of the permit or within 90 days of an alternate date specified by [DNR].

32. Pursuant to Wis. Stat. § 285.01(41), the Facility is a stationary source.

33. Condition I.C.3.c.(10) of the 2014 Operation Permit states that “[p]eriodic compliance emission testing of P09, P40, the 100% capture areas, and the thermal incineration system for organic emissions shall be performed every 24 months. Each biennial test shall be performed within 90 days of the anniversary of the previous test.”

34. Condition I.C.3.c.(11) of the 2014 Operation Permit allows DNR, pursuant to authority in Wis. Admin. Code NR § 439.075(4), to grant a 24-month waiver of the volatile organic compound (VOC) testing requirement in Condition I.C.3.c.(10) of the 2014 Operation Permit.

35. Condition I.K.3.c.(11) of the 2014 Operation Permit states that “[p]eriodic compliance emission testing of P25, the 100% capture areas, and the thermal incineration system for organic emissions shall be performed every 24 months. Each biennial test shall be performed within 90 days of the anniversary of the previous test.”

36. Condition I.K.3.c.(12) of the 2014 Operation Permit allows DNR, pursuant to authority in Wis. Admin. Code NR § 439.075(4), to grant a 24-month waiver of the VOC testing requirement in Condition I.K.3.c.(11) of the 2014 Operation Permit.

37. On April 14, 2015, Apogee requested a waiver of required biennial VOC testing for processes P09, P40, P25, and the associated 100% capture areas and thermal incineration systems.

38. On May 15, 2015, DNR granted the biennial VOC testing waiver and notified Apogee that the next test needed to occur within 90 days of May 14, 2018.

39. Apogee did not conduct VOC emission testing on or before August 12, 2018, which is 90 days from May 14, 2018.

40. On August 22, 2018, Apogee submitted to DNR a test protocol for biennial VOC testing of processes P09, P40, P25, and the associated 100% capture areas and thermal incineration systems.

41. Apogee conducted the required VOC testing on September 25, 2018, and September 27, 2018.

42. Apogee violated Wis. Admin. Code NR § 439.075(3)(b) and Conditions I.C.3.c.(10) and I.K.3.c.(11) of the 2014 Operation Permit continuously between August 13, 2018, and September 24, 2018, by failing to complete required compliance emission testing.

VIOLATION 2: FAILURE TO PERFORM PERIODIC PARTICULATE MATTER COMPLIANCE EMISSION TESTING

43. Wisconsin Admin. Code NR § 407.09(4)(a) states in pertinent part that:

All operation permits shall contain the following provisions with respect to compliance . . . 1. Compliance testing, monitoring, reporting and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit. Any document required under an operation permit and submitted to [DNR], including reports, shall contain a certification by a responsible official that meets the requirements of s. NR 407.05 (4)(j).

44. Condition I.C.1.b.(5) of the 2019 Operation Permit states that:

To demonstrate compliance with I.C.1.a.(2) [particulate matter emissions limits for stack S16], the permittee shall conduct a compliance emission test on stack S16 within 180 days after the issuance of the [2019 Construction Permit], using USEPA Methods 5 or 201A, and 202, or another method approved by [DNR] in writing, while operating at 100% capacity. During the test, Process P09, Process P50A and Process P25 shall be operating at capacity or as close to capacity as practicable and in accordance with approved procedures. If operation at 100% capacity is not feasible, the source shall operate at a capacity level which is approved by [DNR] in writing.

45. Condition I.C.1.b.(5) of the 2019 Operation Permit requires Apogee to conduct a compliance emission test on stack S16 on or before August 26, 2019, which is 180 days after issuance of the 2019 Construction Permit.

46. Condition 1.CA.1.b.(5) of the 2019 Operation Permit states: “To demonstrate compliance with I.CA.1.a.(2) [particulate matter emissions limits for stack S16], the permittee shall comply with condition 1.C.1.b.(5).”

47. Gray notified Apogee on September 12, 2019, that the stack S16 emission test was past due.

48. On September 12, 2019, Apogee submitted to DNR an Air Permit Next Business Day Deviation report, notifying DNR that the next stack S16 emission test would be conducted on September 24, 2019.

49. Apogee conducted particulate matter compliance emission testing on stack S16 on September 24, 2019.

50. Between August 27, 2019, and September 23, 2019, Apogee continuously violated Wis. Admin. Code NR § 407.09(4)(a)1. as well as Conditions I.C.1.b.(5) and 1.CA.1.b.(5) of the 2019 Operation Permit, by failing to timely perform particulate matter compliance emission testing on stack S16.

**VIOLATION 3: FAILURE TO FOLLOW MALFUNCTION PREVENTION
AND ABATEMENT PLAN**

51. Wisconsin Admin. Code NR § 439.11(1) states in pertinent part that:

The owner or operator of any direct or portable source which may emit hazardous substances or emits more than 15 pounds in any day or 3 pounds in any hour of any air contaminant for which emission limits have been adopted shall prepare a malfunction prevention and abatement plan to prevent, detect and correct malfunctions or equipment failures which may cause any applicable emission limitation to be violated or which may cause air pollution.

52. Wisconsin Admin. Code NR § 439.11(3) states that “no owner or operator may fail to carry out a [malfunction prevention and abatement plan]”

53. The malfunction prevention and abatement plan (MPAP) applicable to the 2014 Operation Permit was last revised February 7, 2018 (2018 MPAP).

54. Condition I.ZZZ.1.a.(1) of the 2014 Operation Permit requires that Apogee follow a MPAP.

55. The 2018 MPAP states that “manometers on P09 and P40 will be calibrated monthly using the manufacturers recommended method.”

56. Apogee did not calibrate the manometers on Processes P09 or P40 during the months of February through June of 2018.

57. Between February and June of 2018, Apogee violated Wis. Admin. Code NR § 439.11(3), the 2018 MPAP, and Condition I.ZZZ.1.a.(1) of the 2014 Operation Permit by failing to monthly calibrate manometers used in Processes P09 and P40 at the Facility.

**VIOLATION 4: FAILURE TO TIMELY REPORT
REQUIRED DATA**

58. Wisconsin Stat. § 285.65 states in pertinent part that:

[DNR] may prescribe conditions for an air pollution control permit to ensure compliance with this chapter and s. 299.15 and rules promulgated under this chapter and s. 299.15 and to ensure compliance with the federal clean air act if each condition is one of the following and if each condition is applicable to the source: . . . (13) Other conditions applicable to the source under the federal clean air act.

59. Condition I.ZZZ.8.c.(1) of the 2014 Operation Permit states that “[t]he permittee shall report the following items in the semiannual monitoring report required by Condition I.ZZZ.4.b.(1). (a) the number of excursions, duration of excursions, cause of excursions, and the corrective actions taken for each excursion; (b) the number, duration, and cause for monitor downtime incidents.”

60. Apogee submitted the required excursion and downtime data on September 20, 2018, for the months of July through December of 2017. This data was due on January 31, 2018.

61. Apogee submitted the required excursion and downtime data on September 4, 2018, for the months of January through June of 2018. This data was due on July 31, 2018.

62. With exceptions not applicable to this action, Wis. Admin. Code NR § 465.35(2)(a)1. requires that Apogee do the following:

[P]repare and submit each semiannual compliance report according to the dates specified in subd. 1. a. to d. The information reported for each of the months in the reporting period shall be based on the last 12 months of data prior to the date of each monthly calculation

b. Each subsequent semiannual compliance report shall cover the subsequent semiannual reporting period from January 1 to June 30 or the semiannual reporting period from July 1 to December 31.

c. Each semiannual compliance report shall be postmarked or delivered no later than July 31 or January 31, whichever date is the first date following the end of the semiannual reporting period.

See Wis. Admin. Code NR § 465.35(2)(a)1.b.–c. This requirement applies to the processes used by Apogee to surface coat plastic parts and products, specifically Processes P15 and P25.

63. Condition I.ZZZ.7.a.(4) of the 2014 Operation Permit requires Apogee to submit semiannual compliance reports pursuant to Wis. Admin. Code NR § 465.35(2)(a)1.b.–c.

64. Wisconsin Admin. Code NR § 465.45(2)(a)1.b.–c. contains identical semiannual reporting requirements for processes used by Apogee to surface coat metal parts and products, specifically Processes P09, P11, P39 and P40.

65. Condition I.ZZZ.6.a.(4) of the 2014 Operation Permit requires Apogee to submit semiannual reports pursuant to Wis. Admin. Code NR § 465.45(2)(a)1.b.–c.

66. Apogee submitted a semiannual compliance report on September 20, 2018, for the months of July through December of 2017. This report was due on January 31, 2018.

67. Apogee submitted a semiannual compliance report on September 4, 2018, for the months of January through June of 2018. This report was due on July 31, 2018.

68. Condition I.IV of the 2014 Operation Permit incorporates by reference Wis. Admin Code NR ch. 465, Subchapter V, which applies to surface coating of miscellaneous metal parts and products. Among other requirements, Subchapter V requires Apogee to have a “written startup, shutdown and malfunction plan” Wis. Admin. Code NR § 465.44(1)(c). Apogee is also required to include startup,

shutdown, malfunction report information in semiannual compliance reports. Wis. Admin. Code NR § 465.45(2)(c)1.

69. Pursuant to Wis. Admin. Code NR § 465.35(2)(a)1.c., startup shutdown malfunction reports are due on January 31 and July 31 of each year with semiannual compliance reports.

70. Apogee submitted submit startup, shutdown malfunction reports on September 20, 2018, for the months of July through December of 2017. This report was due on January 31, 2018.

71. Apogee submitted submit startup, shutdown malfunction reports on September 4, 2018, for the months of January through June of 2018. This report was due on July 31, 2018.

72. Between February 1, 2018, and September 19, 2018, Apogee continuously violated Conditions I.ZZZ.8.c.(1), I.ZZZ.7.a.(4), I.ZZZ.6.a.(4), and I.IV of the 2014 Operation Permit, as well as Wis. Admin. Code NR §§ 465.35(2)(a)1., 465.45(2)(a)1., and 465.45(2)(c), by failing to timely report data required by the 2014 Operation Permit.

VIOLATION 5: FAILURE TO SAMPLE AND ANALYZE pH OF SCRUBBER LIQUID

73. Wisconsin Admin. Code NR § 439.055(1) states in pertinent part that:

[DNR] may require the owner or operator of a source to install and operate instrumentation to monitor the operation of the source or of air pollution control equipment. Unless otherwise specified by [DNR], for the following types of air pollution control equipment, the indicated operational variables shall, at a minimum, be monitored

(f) Absorption equipment for control of gases — pressure drop across the absorber and demister in inches of water, and pH of the absorbing fluid, if appropriate.

74. Condition I.I.2.b(3) of the 2014 Operation Permit states that “[e]ach day Process P18 is operated, the scrubber liquid *from each scrubber* shall be sampled and analyzed for pH.” (emphasis added).

75. Process P18 uses a total of five scrubbers.

76. Condition I.J.2.b.(3) of the 2014 Operation Permit states that “[e]ach day Process P19 is operated, the scrubber liquid *from each scrubber* shall be sampled and analyzed for pH.” (emphasis added).

77. Process P19 uses a total of three scrubbers.

78. Analysis and maintenance of pH is necessary for Apogee to establish compliance with hazardous air pollutants emissions limitations in the 2014 Operation Permit.

79. At the August 29, 2018 FCE, Gray reviewed Apogee’s records and determined that Apogee was only taking one pH reading in a mixing tank for Processes P18 and P19 rather than taking a pH reading of each scrubber used in those processes.

80. On March 7, 2019, Apogee submitted a summary of deviations from the 2014 Operation Permit for the period of January 1, 2018, to December 31, 2018.

81. On March 7, 2019, Apogee indicated that monitoring only a single scrubber each at Processes P18 and P19 had “always been the pH monitoring method.” Apogee also indicated that “[w]e have since [the August 29, 2018 FCE] installed new pH sensors on each scrubber with automatic pH control.”

82. In an email to DNR on March 5, 2020, Apogee informed DNR that they installed pH sensors on each scrubber in Process P18 on December 30, 2018, and on each scrubber in Process P19 on April 30, 2019.

83. From at least August 29, 2018, until April 30, 2019, Apogee continually violated Conditions I.I.2.b(3) and I.J.2.b.(3) of the 2014 Operation Permit and Wis. Admin. Code NR § 439.055(1)(f) by failing to sample the pH of each scrubber used in Processes P18 and P19.

**VIOLATION 6: FAILURE TO MAINTAIN pH OF
SCRUBBER LIQUID**

84. Condition I.J.2.b.(4) of the 2014 Operation Permit states that “[t]he scrubber liquid pH for each scrubber [process P19] shall be maintained between 5 – 9.”

85. At the August 29, 2018 FCE, DNR requested that Apogee test the pH the scrubber liquid used in Process P19.

86. On August 29, 2018, Apogee took four samples of the scrubber liquid from Process P19. The pH results were 10.4, 10.4, 10.3, and 10.2.

87. On at least August 29, 2018, the pH of the P19 scrubber liquid exceeded the 2014 Operation Permit limit of nine.

88. On at least August 29, 2018, Apogee violated Condition I.J.2.b.(4) of the 2014 Operation Permit by failing to maintain the required pH for scrubbers used in Process P19.

VIOLATION 7: FAILURE TO MAINTAIN DAILY AND MONTHLY VOC RECORDS

89. Conditions I.C.3.b.(10), I.CA.3.b.(10), I.K.3.b.(9), I.D.1.b.(2) of the 2019 and 2021 Operation Permits, applicable to Processes P09, P50A, P25, and P11, respectively, require certain VOC calculations to be based on current SDS [safety data sheets] or equivalent manufacturer's technical data sheets.

90. Conditions I.C.3.c.(2)(d), I.CA.3.c.(2)(d), and I.K.3.c.(2)(d) of the 2019 and 2021 Operation Permits require Apogee to keep daily records of VOC usage for Processes P09, P50A, and P25, respectively. These conditions require Apogee to maintain records of VOC content in each coating material used in these processes.

91. Conditions I.C.3.c.(2) and I.C.3.c.(3) of the 2022 Operation Permit require Apogee to keep daily records to demonstrate compliance with VOC emission requirements and compile actual monthly VOC emissions from the daily records for Process P09.

92. Condition I.K.3.c.(2) and I.K.3.c.(3) of the 2022 Operation Permit require Apogee to keep daily and monthly records of VOC usage for Process P25.

93. Conditions I.CA.3.c.(2) and I.CA.3.c.(3) of the 2022 Operation Permit require Apogee to keep daily and monthly records that demonstrate compliance with VOC requirements for Process P50.

94. Gray reviewed daily VOC usage records at the August 24, 2020 FCE, and then requested that Apogee provide SDS and Environmental Data Sheets for Processes P09, P50A, and P25.

95. On September 2, 2020, Apogee provided SDS and Environmental Data Sheets for the coating materials used in Processes P09, P50A, and P25.

96. The VOC emission calculation records provided at the August 24, 2020 FCE were not based on the SDS and Environmental Data sheets provided by Apogee.

97. On September 10, 2020, Apogee provided a spreadsheet of data with VOC content in pounds per gallon of each coating material used in Processes P09, P25, and P50A. With the exception of two coatings, this data was not based on the VOC emission calculation records provided at the August 24, 2020 FCE.

98. At the June 1, 2022 FCE, Apogee provided documentation for VOC emission records that were not based on the SDS or equivalent manufacturer's technical data sheet for Processes P09, P50A, P25 or P11.

99. During the May 15, 2024 FCE, Apogee provided documentation for daily and monthly VOC emissions.

100. The records provided on May 15, 2024, showed negative usages of VOCs, which is technically impossible, and the records did not match other emissions reports provided to DNR.

101. Apogee violated Conditions I.C.3.b.(10), I.CA.3.b.(10), I.K.3.b.(9), I.C.3.c.(2)(d), I.CA.3.c.(2)(d), and I.K.3.c.(2)(d) of the 2019 Operation Permit on at least August 24, 2020, by failing to maintain accurate records of daily VOC usage for Processes P09, P25, and P50A.

102. Apogee violated Conditions I.C.3.b.(10), I.CA.3.b.(10), I.K.3.b.(9), I.D.1.b.(2), I.C.3.c.(2)(d), I.CA.3.c.(2)(d), and I.K.3.c.(2)(d) of the 2021 Operation

Permit on at least June 1, 2022, by failing to maintain accurate records of daily VOC usage for Processes P09, P25, P50A, and P11.

103. Apogee violated Conditions I.C.3.c.(2), I.C.3.c.(3), I.K.3.c.(2), I.K.3.c.(3), I.CA.3.c.(2) and I.CA.3.c.(3) of the 2022 Operation Permit on at least May 15, 2024, by failing to maintain accurate records of daily and monthly VOC usage for Processes P09, P25, and P50.

VIOLATION 8: FAILURE TO MAINTAIN DAILY COBALT RECORDS

104. Condition I.C.4.c.(2) of the 2022 Operation Permit requires Apogee to keep daily records to show compliance with cobalt emission requirements for Process P09.

105. During the May 15, 2024 FCE, Apogee provided records for Process P09 for February and August of 2023.

106. Records provided on May 15, 2024, showed negative daily cobalt usages for Process P09, which is not technically possible.

107. Neither Apogee nor DNR can accurately determine cobalt emissions for Process P09 based on the records provided at the May 15, 2024 FCE.

108. Apogee violated Condition 1.C.4.c.(2) of the 2022 Operation Permit on at least May 15, 2024, by failing to maintain daily records that show compliance with cobalt emission requirements for Process P09.

VIOLATION 9: FAILURE TO MAINTAIN MONTHLY CHROMIUM RECORDS

109. Condition I.4.c.(3) of the 2022 Operation Permit requires Apogee to keep 12-month summation records of chromium use for Process P09.

110. Records provided on May 15, 2024, showed negative monthly usages of chromium for Process P09, which is not technically possible.

111. Neither Apogee nor DNR can accurately determine the chromium use for Process P09 based on the records provided at the May 15, 2024 FCE.

112. Apogee violated Condition 1.4.c.(3) of the 2022 Operation Permit on at least May 15, 2024, by failing to maintain accurate monthly records of chromium usage for Process P09.

**VIOLATION 10: FAILURE TO MAINTAIN MINIMUM OPERATING
TEMPERATURE UNDER THE 2014 OPERATION PERMIT**

113. Wisconsin Admin. Code NR § 465.38(8)(a) establishes the requisite process for setting operating limits for thermal oxidizer add-on control devices used during surface coating of plastic parts and products.

114. Wisconsin Admin. Code NR § 465.48(8)(a) establishes the requisite process for setting operating limits for thermal oxidizer add-on control devices used during surface coating of miscellaneous metal parts and products.

115. Wisconsin Admin. Code NR §§ 465.38(8)(a)2. and 465.48(8)(a)2. both state the following: “Use the data collected during the performance test to calculate and record the average combustion temperature maintained during the performance test. This average combustion temperature shall be the minimum operating limit for your thermal oxidizer.”

116. Wisconsin Admin. Code NR §§ 465.38, Table 1, and NR 465.48, Table 1, require that average combustion temperatures in any three-hour period not fall below the combustion temperature limit established by Wis. Admin. Code NR

§§ 465.38(8)(a) and 465.48(8)(a). Continuous compliance is demonstrated by maintaining the three-hour average combustion temperature at or above that established temperature limit.

117. Parts IV and V of the 2014 Operation Permit incorporate the requirements of Wis. Admin. Code NR §§ 465.38(8)(a) and 465.48(8)(a).

118. Control Device C16, is a thermal oxidizer add-on control device at the Facility that is subject to the requirements of Wis. Admin. Code NR §§ 465.38(8)(a) and 465.48(8)(a).

119. A stack test conducted by Apogee on September 27, 2018, established a minimum operating temperature for Control Device C16 of 1500 degrees Fahrenheit.

120. At the August 24, 2020 FCE, Apogee provided temperature records for the C16 thermal oxidizer to DNR, including the time between September 27, 2018 and February 28, 2019.

121. The three-hour average combustion temperature for the C16 thermal oxidizer was below 1500 degrees Fahrenheit on at least 141 days between September 27, 2018, and February 28, 2019.

122. Apogee violated Wis. Admin. Code NR §§ 465.38(8)(a)2. and 465.48(8)(a)2., Wis. Admin. Code NR ch. 465 Table 1, and Parts IV and V of the 2014 Operation Permit at least 141 times between September 27, 2018, and February 28, 2019, by failing to maintain the minimum operating temperature of the C16 thermal oxidizer.

**VIOLATION 11: FAILURE TO MAINTAIN MINIMUM OPERATING
TEMPERATURE UNDER THE 2021 OPERATION PERMIT**

123. Conditions I.C.3.b.(4)(b), I.CA.3.b.(4)(b), and I.K.3.b.(3)(b) of the 2021 Operation Permit, applicable to Processes P09, P50, and P25, respectively, contain the following identical language:

During any 3-hour period, the average temperature of the primary chamber shall be no less than the average temperature of the primary chamber during the most recent compliance emission testing that demonstrated compliance with the 95% destruction efficiency requirement or an alternative temperature approved by [DNR] in writing.

124. Condition III.9-7.(a)(2) 40 CFR Part 63 Subpart MMMM and Condition III.9-7(a)(2) 40 CFR Part Subpart PPPP of the 2021 Operation Permit, which both apply to thermal oxidizer add-on control devices, require in part that Apogee “[u]se the data collected during the performance test [for 95% destruction efficiency] to calculate and record the average combustion temperature maintained during the performance test. This average combustion temperature is the minimum operating limit for your thermal oxidizer.”

125. Processes P09, P50, and P25 all route to Control Device C16, a thermal oxidizer add-on control device at the Facility that is subject to the requirements of Conditions I.C.3.b.(4)(b), I.CA.3.b.(4)(b), I.K.3.b.(3)(b), III.9-7.(a)(2) 40 CFR Part 63 Subpart MMMM, and III.9-7(a)(2) 40 CFR Part Subpart PPPP of the 2021 Operation Permit.

126. A performance test demonstrating 95 percent destruction efficiency was conducted by Apogee on May 10, 2022, and established a minimum operating temperature for Control Device C16 of 1584 degrees Fahrenheit.

127. Records provided by Apogee to DNR demonstrated that the three-hour average combustion temperature for the C16 thermal oxidizer was below 1584 degrees Fahrenheit on at least July 11, July 12, and July 13 of 2022.

128. Apogee violated Conditions I.C.3.b.(4)(b), I.CA.3.b.(4)(b), I.K.3.b.(3)(b), III.9-7.(a)(2) 40 CFR Part 63 Subpart MMMM, and III.9-7(a)(2) 40 CFR Subpart PPPP of the 2021 Operation Permit on at least July 11, July 12, and July 13 of 2022, by failing to maintain the minimum operating temperature of the C16 thermal oxidizer.

**VIOLATION 12: FAILURE TO DEMONSTRATE CONTINUOUS
COMPLIANCE WITH HAZARDOUS AIR POLLUTANT
EMISSION LIMITATIONS**

129. Condition IV.2-1.63.3891(c) of the 2019 Operation Permit required Apogee to comply with national emission standards for HAPs for surface coating of miscellaneous metal parts and products.

130. Condition IV.9-3.63.3963(a) of the 2019 Operation Permit required Apogee to demonstrate compliance with the national emission standards for HAPs by demonstrating that the Facility's HAPs emission rate, determined by procedures in 40 C.F.R. § 63.3961, is less than limitations established by 40 C.F.R. § 63.3890.

131. 40 C.F.R. § 63.3961 requires in part that the Facility determine the "volume of *each* coating, thinner and/or other additive . . . used during each month." See 40 C.F.R. § 63.3961(e) (emphasis added).

132. Conditions IV.2-1.63.3891(c) and IV.9-3.63.3963(a) of the 2019 Operation Permit applied to Processes P11, P35, P39, and P45 at the Facility. HAPs

emissions are impacted by the type of coatings, thinners, and/or other additives used in these processes.

133. Effective April 9, 2021, Condition I.AAA.1.b.(1)(c) of the 2021 Operation Permit required Apogee to demonstrate compliance with the national emission standards for HAPs by demonstrating that the Facility's HAPs emission rate, determined by procedures in 40 C.F.R. § 63.3961, is less than limitations established by 40 C.F.R. § 63.3890.

134. Condition I.AAA.1.b.(1)(c) of the 2021 Operation Permit applied to Processes P09, P11, P39, and P50A at the Facility.

135. Effective October 11, 2022, Condition I.AAA.1.a.(63.3891)(c) of the 2022 Operation Permit requires Apogee to demonstrate compliance with the national emission standards for HAPs by demonstrating that the Facility's HAPs emission rate, determined by procedures in 40 C.F.R. § 63.3961, is less than limitations established by 40 C.F.R. § 63.3890, calculated as a rolling 12-month emission rate and determined on a monthly basis.

136. Condition I.AAA.1.a.(63.3891)(c) of the 2022 Operation Permit applies to Processes P09, P11, P39, P45, and P50A at the Facility.

137. During the August 24, 2020 FCE, DNR asked Apogee to provide documentation to establish compliance with national emission standards for HAPs.

138. Instead of calculating HAPs emissions and emission limitations using 40 C.F.R. § 63.3961 and 40 C.F.R. § 63.3890, Apogee told DNR that the Facility was

operating under an assumption that it used 95 percent “extreme” coatings and 5 percent “general” coatings.

139. Apogee’s assumption that it used 95 percent “extreme” coatings and 5 percent “general” coatings is not a valid method for determining the Facility’s HAP emission rate and limitations because a ratio assumption does not accurately reflect the Facility’s actual use of each specific coating.

140. During the June 1, 2022 FCE, Apogee was again unable to provide documentation to establish compliance with national emission standards for HAPs.

141. As of November 11, 2022, Apogee discontinued the practice of using a ratio assumption of extreme versus general coatings.

142. During the May 15, 2024 FCE, Apogee provided spreadsheets to DNR that purported to show compliance with national emission standards for HAPs.

143. The spreadsheets provided by Apogee lacked data, including a rolling 12-month emission rate, that is necessary to demonstrate compliance with national emission standards for HAPs.

144. From at least August 24, 2020, to April 8, 2021, Apogee continuously violated Conditions IV.2-1.63.3891(c) and IV.9-3.63.3963(a) of the 2019 Operation Permit by failing to demonstrate continuous compliance with HAP emissions limitations.

145. From at least April 9, 2021, to October 10, 2022, Apogee continuously violated Condition I.AAA.1.b.(1)(c) of the 2021 Operation Permit by failing to demonstrate continuous compliance with HAP emissions limitations.

146. From at least October 11, 2022, to present, Apogee continuously violated Condition I.AAA.1.a.(63.3891)(c) of the 2022 Operation Permit by failing to demonstrate continuous compliance with HAP emissions limitations.

**VIOLATION 13: FAILURE TO CALCULATE AND COMPLY WITH HAP
EMISSION LIMITATIONS**

147. Condition III.MMMM.2.(63.3890)(c)(2) of the 2021 Operation Permit required in pertinent part that:

You may calculate and comply with a facility-specific emission limit . . . If you elect to comply using the facility-specific emission limit alternative, then compliance with the facility-specific emission limit and the emission limitations in this subpart for all surface coating operations constitutes compliance with this and other applicable surface coating [National Emission Standards for Hazardous Air Pollutants]. In calculating a facility-specific emission limit, you must include coating activities that meet the applicability criteria of the other subcategories and constitute more than 1 percent of total coating activities.

148. Condition I.AAA.1.a.(63.3890)(c)(2) of the 2022 Operation Permit requires in pertinent part that:

You may calculate and comply with a facility-specific emission limit . . . If you elect to comply using the facility-specific emission limit alternative, then compliance with the facility-specific emission limit and the emission limitations in 40 CFR part 63, subpart MMMM for all surface coating operations constitutes compliance [National Emission Standards for Hazardous Air Pollutants] . . . In calculating a facility-specific emission limit, you must include coating activities that meet the applicability criteria of the other subcategories and constitute more than 1 percent of total coating activities.

149. Apogee elected to comply with HAP emissions limitations using an alternative facility-specific emission limit as outlined in Condition III.MMMM.2.(63.3890)(C)(2) of the 2021 Operation Permit and Condition I.AAA.1.a.(63.3890)(c)(2) of the 2022 Operation Permit.

150. The plastics coating process that occurs at Process P25 at the Facility constitutes more than one percent of total coating activities at the Facility and meets all applicability criteria referenced in Condition III.MMMM.2.(63.3890)(c)(2) of the 2021 Operation Permit and Condition I.AAA.1.a.(63.3890)(c)(2) of the 2022 Operation Permit.

151. Apogee must include the plastics coating process that occurs at Process P25 at the Facility in calculating a facility-specific emission limit under Condition III.MMMM.2.(63.3890)(c)(2) of the 2021 Operation Permit and Condition I.AAA.1.a.(63.3890)(c)(2) of the 2022 Operation Permit.

152. Apogee failed to provide any records to DNR for the time frame between the June 1, 2022 FCE and the May 15, 2024 FCE that included coating activities from Process P25 in the facility-specific HAP emission limit calculation.

153. From at least June 1, 2022, to October 10, 2022, Apogee violated Condition III.MMMM.2.(63.3890)(c)(2) of the 2021 Operation Permit by failing to include coating activities from Process P25 in the facility-specific HAP emission limit calculations.

154. From at least October 11, 2022 to May 15, 2024, Apogee violated Condition I.AAA.1.a.(63.3890)(c)(2) of the 2022 Operation Permit by failing to include

coating activities from Process P25 in the facility-specific HAP emission limit calculation.

**VIOLATION 14: EXCEEDANCE OF PARTICULATE MATTER
EMISSIONS LIMITATIONS**

155. PM₁₀ is particulate matter (PM) that is 10 microns or diameter or less in size.

156. Condition I.JA.1.a.(1) of the 2019 Operation Permit states that: “emissions from each scrubber Stack S20A, B, C and D may not exceed the following:

(a) 0.12 pound of PM per hour. and (b) 0.12 pound of PM₁₀ per hour.”

157. Apogee’s consultant, American Engineering Testing, Inc., conducted a stack test of Stack S20B on March 31, 2021.

158. The level of PM and PM₁₀ from the stack test conducted on March 31, 2021, was 0.14 pounds per hour.

159. On at least March 31, 2021, Apogee violated Condition I.JA.1.a.(1) of the 2019 Operation Permit by exceeding the PM and PM₁₀ emissions limitations for Stack S20B.

**VIOLATION 15: FAILURE TO RECORD DAILY USE OF
CLEANING SOLVENTS**

160. Condition I.D.1.b.(1) of the 2021 Operation Permit requires Apogee to record the amount of cleaning solvents used on Process P11 on a daily basis.

161. Condition I.K.3.b.(8) of the 2021 Operation Permit requires Apogee to record the amount of coatings, thinning solvents, and clean-up solvents used on a daily basis in gallons for Process P25.

162. At the June 1, 2022 FCE, DNR requested daily records for solvents used on Processes P11 and P25.

163. On June 1, 2022, Apogee provided cleaning solvent purchase records but failed to provide any daily records for solvents used on Processes P11 and P25.

164. On at least June 1, 2022, Apogee violated Conditions I.D.1.b.(1) and I.K.3.b.(8) of the 2021 Operation Permit by failing to record the amount of cleaning solvents used on Processes P11 and P25 on a daily basis.

**VIOLATION 16: FAILURE TO RECORD OPERATING TIMES FOR
VARIOUS PROCESSES**

165. Condition I.C.3.c.(8) of the 2021 Operation Permit requires Apogee to “maintain a log of operating time for the capture system, incinerator, monitoring equipment and the coating line” for Process P09.

166. Condition I.CA.3.c.(8) of the 2021 Operation Permit requires Apogee to “maintain a log of operating time for the capture system, incinerator, monitoring equipment and the coating line” for Process P50A.

167. Condition I.K.3.c.(8) of the 2021 Operation Permit requires Apogee to “maintain a log of operating time for the capture system, incinerator, monitoring equipment and the coating line. . . .” for Process P25.

168. Neither Apogee nor DNR can accurately determine the operating time for Processes P09, P50A, or P25, without maintaining a log of start and stop times for those processes.

169. Conditions I.C.3.c.(2)(c), I.CA.3.c.(2)(c), and I.K.3.c.(2)(c) of the 2022 Operation Permit require Apogee to keep records that show operating time for Processes P09, P50, and P25, respectively.

170. At the June 1, 2022 FCE, DNR requested logs of operating time for the coating line for Processes P09, P50A, and P25.

171. On June 1, 2022, Apogee was unable to provide start or stop time or other operating information for the capture system, incinerator, and coating line for Process P09, P50A, or P25.

172. At the May 15, 2024 FCE, Apogee provided records to show the operating time for Processes P09, P50, and P25.

173. The records provided by Apogee contained numerous inconsistencies that are technically improbable; for example, showing high operating temperature while a process was listed as not operating, and showing significant negative operating velocities.

174. Neither Apogee nor DNR can accurately determine the operating time for Processes P09, P50, or P25, based on the records provided by Apogee for these processes at the May 15, 2024 FCE.

175. On at least June 1, 2022, Apogee violated Conditions I.C.3.c.(8), I.CA.3.c.(8), and I.K.3.c.(8) of the 2021 Operation Permit by failing to maintain a log of operating time for the coating line for Processes P09, P50A, and P25.

176. On at least May 15, 2024, Apogee violated Conditions I.C.3.c.(2)(c), I.CA.3.c.(2)(c), and I.K.3.c.(2)(c) of the 2022 Operation Permit by failing to provide

records that allow an understanding of operating time for processes P09, P50, and P25.

VIOLATION 17: FAILURE TO ANNUALLY CALIBRATE CERTAIN DEVICES AT FACILITY

177. With exceptions not applicable to this action, Condition II.C.2.q. of the 2021 Operation Permit requires Apogee to annually calibrate all instruments used for measuring source or air pollution control equipment operational variables.

178. The Process P09 filter booth manometer and the Process P13 paint vault flow meter at the Facility are instruments used for measuring source or air pollution control equipment operational variables.

179. Records provided by Apogee at the June 1, 2022 FCE demonstrated that Apogee failed to conduct annual calibration in 2021 for at least two instruments, the Process P09 filter booth manometer and the Process P13 paint vault flow meter.

180. Apogee violated Condition II.C.2.q. of the 2021 Operation Permit at least twice in 2021 by failing to annually calibrate the Process P09 filter booth manometer and the Process P13 paint vault flow meter.

VIOLATION 18: EQUIPPING STACKS WITH DEVICES THAT IMPEDE FLOW OF EXHAUST GASES

181. Conditions I.M.1.b.(3)(b) and I.M.4.b.(7)(b) of the 2021 Operation Permit in part prohibit Apogee from equipping Stacks S45A and S45B at the Facility with rainhats or other devices which impede the upward flow of exhaust gases.

182. Unpermitted rainhats or other devices which impede the flow of gases may prevent air pollution sources from complying with applicable air quality standards.

183. At the June 1, 2022 FCE, Apogee provided technical drawings indicating that butterfly dampers, also known as rainhats, were present on both Stack S45A and Stack S45B.

184. On June 22, 2022, Apogee provided DNR a picture confirming that rainhats were still present on both Stack S45A and Stack S45B.

185. On August 1, 2022, Apogee provided a technical letter to DNR indicating that the Facility had removed the rainhats from Stack S45A and Stack S45B at some point after the June 1, 2022 FCE.

186. From at least June 1, 2022, to June 22, 2022, Apogee violated Conditions I.M.1.b.(3)(b) and I.M.4.b.(7)(b) of the 2021 Operation Permit by equipping Stacks S45A and S45B with a rainhat.

**VIOLATION 19: FAILURE TO MAINTAIN MINIMUM VELOCITY
THROUGH ALL NATURAL DRAFT OPENINGS**

187. Condition I.CA.3.b.(5)(d) of the 2019 Operation Permit requires in part that Apogee maintain a minimum average inward face velocity of 200 feet per minute for all natural draft openings in the enclosure for Process P50.

188. Condition I.CA.3.b.(7) of the Operation Permit requires the minimum average inward face velocity in the enclosure for Process P50 to be measured as a 3-hour block average exhaust flow rate.

189. Condition I.K.3.b.(5)(d) of the 2019 Operation Permit requires in part that Apogee maintain a minimum average inward face velocity of 200 feet per minute for all natural draft openings in the enclosure for Process P25.

190. Condition I.K.3.b.(7) of the Operation Permit requires the minimum average inward face velocity in the enclosure for Process P25 to be measured as a 3-hour block average exhaust flow rate.

191. Sufficient inward face velocity is necessary to ensure that control devices at the Facility are capturing and routing pollutants as required by Apogee's air pollution control permits.

192. At the June 1, 2022 FCE, Apogee provided records indicating that the Facility failed to maintain a minimum of 200 feet per minute average inward face velocity for all natural draft openings for Process P50 during at least one 3-hour block on September 16, 2020.

193. At the June 1, 2022 FCE, Apogee provided records indicating that the Facility failed to maintain a minimum of 200 feet per minute average inward face velocity for all natural draft openings for Process P25 during at least one 3-hour block on December 4, 2020.

194. On at least September 16, 2020, Apogee violated Condition I.CA.3.b.(5)(d) of the 2019 Operation Permit by failing to maintain a minimum average inward face velocity of 200 feet per minute for all natural draft openings in the enclosure for Process P50.

195. On at least December 4, 2020, Apogee violated Condition I.K.3.b.(5)(d) of the 2019 Operation Permit requires in part that Apogee maintain a minimum average inward face velocity of 200 feet per minute for all natural draft openings in the enclosure for Process P25.

VIOLATION 20: FAILURE TO MAINTAIN ACCURATE FLOW METER

196. Condition II.C.2.p. of the 2019 and 2021 Operation Permits state that “[t]he current voltage, flow or pH monitoring device shall be accurate to within [five percent] of the specific variable being measured.”

197. At the June 1, 2022 FCE, Apogee provided records indicating that the flow meter utilized on Processes P50A was not accurate to within five percent of the specific variable being measured (here, flow rate), on October 6, 2020; February 3, April 13, August 10, and October 6 of 2021; January 20, 2022; and April 5, 2022.

198. At the June 1, 2022 FCE, Apogee provided records indicating that the flow meter utilized on Process P25 was not accurate to within five percent of the specific variable being measured (flow rate) on October 6, 2020; February 3, April 13, and August 10 of 2021; and April 5, 2022.

199. Apogee violated Condition II.C.2.p. of the 2019 Operation Permit on at least October 6, 2020, and February 3, 2021, by failing to maintain the flow meters utilized on Process 50A and Process 25 within five percent accuracy.

200. Apogee violated Condition II.C.2.p. of the 2021 Operation Permit on at least April 13, August 10, and October 6 of 2021; and January 20 and April 5, 2022;

by failing to maintain the flow meters utilized on Process 50A and Process 25 within five percent accuracy.

**VIOLATION 21: FAILURE TO SUBMIT ANNUAL, ACTUAL EMISSIONS
TO DNR**

201. With exceptions not applicable to this action, Wis. Admin. Code NR § 438.03(1)(a) states that “any person owning or operating a facility that emits an air contaminant in quantities above applicable reporting levels . . . shall annually submit to [DNR] an emissions inventory of annual, actual emissions . . . The reportable air contaminants and applicable reporting levels are listed in Table 1 in this chapter.”

202. The reportable air contaminants in Wis. Admin. Code NR ch. 438, Table 1, include Toluene (Toluol), at a reporting level of 6,000 pounds per year (lbs/yr).

203. The reportable air contaminants in Wis. Admin. Code NR ch. 438, Table 1, include Xylene (mixtures and isomers) (Xylol; Dimethyl Benzene) at a reporting level of 6,000 lbs/yr.

204. Correspondence from Apogee to DNR on March 15, 2023, indicated that the Facility had been using an inaccurate formula to calculate emissions from Process P35 at the Facility.

205. Using a corrected formula from Apogee, the Facility emitted Toluene in the amount of 23,596 lbs/yr in 2019; 24,524 lbs/yr in 2020; and 20,115 lbs/yr in 2021.

206. The corrected Toluene emissions from Apogee were all above the reporting level in Wis. Admin. Code NR ch. 438, Table 1, and above the certified emissions that Apogee had previously reported to DNR of less than 6,000 lbs/yr.

207. Using a corrected formula from Apogee, the Facility emitted Xylene in the amount of 12,707 lbs/yr in 2019; 11,989 lbs/yr in 2020; and 7,661 lbs/yr in 2021.

208. The corrected Xylene emissions from Apogee were all above the reporting level in Wis. Admin. Code NR ch. 438, Table 1, and above the certified emissions that Apogee had previously reported to DNR of less than 6,000 lbs/yr.

209. Apogee violated Wis. Admin. Code NR § 438.03(1)(a) annually at least in 2019, 2020, and 2021 by failing to submit to DNR annual, actual emissions of Toluene and Xylene from Process P35 at the Facility.

VIOLATION 22: OPERATION WITHOUT A PERMIT

210. With exceptions not applicable to this matter, Wis. Stat. § 285.60(1)(b)1. states that “no person may operate a new source or a modified source unless the person has an operation permit under [Wis. Stat. § 285.62] from [DNR].”

211. With exceptions not applicable to this matter, Wis. Admin. Code NR § 407.04 states in pertinent part that:

The owner or operator of an air contaminant source which is not exempt under [Wis. Stat. § 285.60(5)] or [Wis. Admin. Code NR § 407.03] shall submit an operation permit application or renewal application, in accordance with [Wis. Admin. Code § NR 407.05], by the dates specified in this section:

(1) Initial filing dates. Except as provided under [Wis. Admin. Code NR § 407.04(3) to (7)], the initial operation permit application shall be submitted by one of the following dates:

(b) New and modified sources.

3. For new or modified sources for which no construction permit is required, a date before the source commences construction or modification. For purposes of determining the date of commencement of construction or modification, the exclusions provided in [Wis. Admin. Code NR § 406.03 (1e)] shall apply.

212. Wisconsin Admin. Code NR § 400.02(99) defines “modification” as “any physical change in, or change in the method of operation of, a stationary source that

increases the amount of emissions of an air contaminant or that results in the emission of an air contaminant not previously emitted.”

213. On or before January 1, 2019, Apogee commenced modification of Process P35 when the Facility changed the method of operating of that process in a manner that increased VOC emissions.

214. Apogee did not apply to DNR for an air pollution control operation permit prior to commencing modification of Process P35.

215. Apogee commenced modification of Process P35 without first obtaining an air pollution control operation permit from DNR for the modification.

216. Apogee violated Wis. Stat. § 285.60(1)(b)1. and Wis. Admin. Code NR § 407.04 at least once by commencing modification of Process P35 at the Facility without obtaining an air pollution control operation permit from DNR prior to commencing modification.

PENALTY PROVISIONS

217. Wisconsin Stat. § 299.95 authorizes the Attorney General to enforce Wis. Stat. ch. 285 and all rules promulgated and permits issued under that chapter, subject to exceptions not applicable to this case. Under Wis. Stat. § 299.95, the circuit court for Dane County or the county where the violation occurred has jurisdiction to enforce Wis. Stat. ch. 285 and all rules promulgated and permits issued under that chapter “by injunctive and other relief appropriate for enforcement.”

218. Wisconsin Stat. § 285.87(1) states that any person who violates this chapter or any rule promulgated under this chapter or any permit issued under this

chapter shall forfeit not less than \$10 nor more than \$25,000 for each violation. Each day of continued violation is a separate offense.

RELIEF REQUESTED

WHEREFORE, Plaintiff asks the Court to enter judgment as follows:

1. Forfeitures as provided in Wis. Stat. § 285.87(1);
2. The 26 percent penalty surcharge pursuant to Wis. Stat. § 814.75(18), the 20 percent environmental surcharge pursuant to Wis. Stat. § 814.75(12), the 1 percent jail surcharge pursuant to Wis. Stat. § 814.75(14), \$25.00 in court costs pursuant to Wis. Stat. § 814.63(1), the \$13.00 crime laboratories and drug law enforcement surcharge pursuant to Wis. Stat. § 814.75(3), the \$68.00 court support services surcharge under Wis. Stat. § 814.75(2), and the \$21.50 justice information system surcharge under Wis. Stat. § 814.75(15);
3. An injunction requiring Apogee to operate the Facility in compliance with all issued air pollution control permits and with Wisconsin laws regulating air pollution; and
4. Any other relief the Court deems just and appropriate.

Dated this 2nd day of March 2026.

JOSHUA L. KAUL
Attorney General of Wisconsin

Electronically signed by Bradley J. Motl

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