

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

February 13, 2023 @ 1:46 pm
USEPA – Region II
Regional Hearing Clerk

In the matter of:

Commonwealth Oil Refining Company, Inc.,
Respondent.

In a proceeding under Section 113(d)
of the Clean Air Act, 42 U.S.C. § 7413(d)

**CONSENT AGREEMENT
AND
FINAL ORDER**

CAA-02-2023-1208

A. PRELIMINARY STATEMENT

1. This is an administrative penalty assessment proceeding brought under Section 113(d) of the Clean Air Act (the “CAA” or “Act”), 42 U.S.C. § 7413(d), and Sections 22.13 and 22.18 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules”), as codified at 40 C.F.R. Part 22.

2. Complainant is the United States Environmental Protection Agency, Region 2 (the “EPA”). On EPA’s behalf, the Director of the Enforcement and Compliance Assurance Division (“ECAD”) for EPA Region 2 is delegated the authority to settle civil administrative penalty proceedings under Section 113(d) of the Act. Specifically, pursuant to the EPA Delegation of Authority 7-6-A and the EPA Region 2 Delegation of Authority 7-6-A, the Administrator has delegated to the Director of the ECAD, through the Regional Administrator of EPA Region 2, the authority to (a) make findings of violations, (b) issue CAA Section 113(d) administrative penalty complaints, and (c) agree to settlements and sign consent agreements memorializing

those settlements, for CAA violations that occur in the Commonwealth of Puerto Rico, among other jurisdictions in EPA Region 2.

3. Section 113(d) of the CAA authorizes the EPA Administrator to issue an order assessing civil administrative penalties against any person that has violated or is violating any requirement or prohibition of subchapters I, III, IV-A, V or VI of the Act, or any requirement or prohibition of any rule, order, waiver, permit or plan promulgated pursuant to any of those subchapters, including but not limited to any regulation promulgated pursuant to Sections 111, 112 and 114 of the Act, 42 U.S.C. §§ 7411, 7412, and 7414.

4. Pursuant to EPA Delegation of Authority 7-6-C, the Administrator has delegated to the Regional Administrator of EPA Region 2 the authority to execute CAA Section 113(d) Final Orders.

5. Respondent is CORCO, a corporation doing business in the Commonwealth of Puerto Rico. CORCO is a “person” as defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e).

6. The EPA has determined that CORCO violated the CAA, implementing regulations promulgated under the CAA, and corresponding conditions in its Title V operating permit issued under the CAA. The violations occurred at the CORCO’s bulk gasoline terminal facility (the “Facility”) located at PR-127, Km. 15.5, in Peñuelas, Puerto Rico. Specifically, the EPA has determined that CORCO violated:

a. the “National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations),” 40 C.F.R. Part 63, Subpart R, §§ 63.420 *et seq.* (“NESHAP Subpart R”);

b. the National Emission Standards for Hazardous Air Pollutants “General Provisions,” 40 C.F.R. Part 63, Subpart A, § 63.6(e) (“NESHAP General Provisions”);

and

c. Section 502(a) of the CAA, and the relevant conditions in its Title V operating permit, issued pursuant to Title V of the Act and the approved Puerto Rico Title V operating permit program, which incorporates the applicable requirements listed above.

The violations found by the EPA are set forth below in Section E of this Consent Agreement entitled “Conclusions of Law.”

7. Complainant and CORCO, having agreed that settlement of this action is in the public interest, consent to the entry of this consent agreement (“Consent Agreement” or “Agreement”) and the attached final order (“Final Order” or “Order”) without adjudication of any issues of law or fact herein, and CORCO agrees to comply with the terms of this Consent Agreement and Final Order.

B. JURISDICTION

8. This Consent Agreement is entered into under Section 113(d) of the Act, as amended, 42 U.S.C. § 7413(d), and the Consolidated Rules, 40 C.F.R. Part 22.

9. Pursuant to Section 113(d) of the Act, the EPA Administrator and the Attorney General, through their respective delegates, have jointly determined that this matter, although it involves alleged violations that occurred more than 12 months prior to the initiation of this action, is appropriate for an administrative penalty assessment. 42 U.S.C. § 7413(d).

10. The Regional Administrator is authorized to ratify this Consent Agreement which memorializes a settlement between the EPA and CORCO. 40 C.F.R. § 22.18(b).

11. The issuance of this Consent Agreement and attached Final Order simultaneously commences and concludes this proceeding. 40 C.F.R. §§ 22.13(b) and 22.18(b).

C. GOVERNING LAW

CAA Sections 112, 111 and 114

12. Section 112 of the Act requires the EPA Administrator to: (i) publish a list of hazardous air pollutants (“HAPs”), (ii) publish a list of categories and subcategories of major and area sources of those HAPs, and (iii) promulgate regulations establishing emission standards for each such category and subcategory.

13. Emissions standards promulgated pursuant to Section 112 are commonly known as National Emission Standards for Hazardous Air Pollutants (“NESHAP”).

14. Section 112(a)(3) of the Act defines “stationary source” as any building, structure, facility or installation which emits or may emit any air pollutant.

15. Section 112(a)(9) of the Act defines “owner or operator” as any person who owns, leases, operates, controls or supervises a stationary source.

16. Section 112(i)(3)(A) prohibits the operation of a source in violation of any emissions standard, limitation or regulation issued pursuant to Section 112, and directs the Administrator to set a compliance deadline for existing sources that is no more than 3 years after the effective date of the standard.

17. Section 111 of the Act provides for “standards of performance” for new and existing stationary sources of air pollution. Under Section 111(b) of the Act, the EPA is required to promulgate standards of performance for new stationary sources, commonly known as the New Source Performance Standards (“NSPS”).

18. Section 111(a)(1) of the Act defines “standard of performance” as a standard for emissions of air pollutants which reflects the degree of emission limitation achievable through the application of the best system of emission reduction which, taking into account the cost of

achieving such reduction and other specified factors the Administrator determines has been adequately demonstrated.

19. Section 114 of the CAA authorizes the EPA Administrator to require testing, monitoring, record-keeping, and reporting of information, to enable him or her to carry out any provision of the Act (except certain provisions in subchapter II) and to assess compliance with, among other requirements, any regulations promulgated under Sections 111 or 112 of the Act.

20. Section 302(e) of the CAA defines “person” to include an individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency, department, or instrumentality of the United States and any officer, agent, or employee thereof.

NESHAP Subpart R

21. Pursuant to Sections 112 and 114 of the Act, the EPA promulgated the NESHAP Subpart R regulation, at 40 C.F.R. §§ 63.420 *et seq.*, 59 Fed. Reg. 64318 (Dec. 14, 1994) (as amended).

22. 40 C.F.R. § 63.420 provides that the affected source to which the NESHAP Subpart R applies is each bulk gasoline terminal, except as otherwise provided.

23. 40 C.F.R. § 63.421 defines “bulk gasoline terminal” as any gasoline facility which receives gasoline by pipeline, ship or barge, and has a gasoline throughput greater than 75,700 liters per day. Gasoline throughput shall be the maximum calculated design throughput as may be limited by compliance with an enforceable condition under Federal, State or local law and discoverable by the EPA Administrator and any other person.

24. 40 C.F.R. § 63.421 defines “thermal oxidation system” as a combustion device used to mix and ignite fuel, air pollutants, and air to provide a flame to heat and oxidize hazardous air pollutants. Auxiliary fuel may be used to heat air pollutants to combustion temperatures.

25. 40 C.F.R. § 63.421 defines “gasoline cargo tank” as a delivery tank truck or railcar which is loading gasoline or which has loaded gasoline on the immediately previous load.

26. 40 C.F.R. § 63.421 defines “operating parameter value” as a value for an operating or emission parameter of the vapor processing system (e.g., temperature) which, if maintained continuously by itself or in combination with one or more other operating parameter values, determines that an owner or operator has complied with the applicable emission standard. The operating parameter value is determined using the procedures outlined in 40 C.F.R. § 63.425(b).

Gasoline Storage Vessels

27. 40 C.F.R. § 63.423 provides that each owner or operator of a bulk gasoline terminal subject to the requirements of the NESHAP Subpart R shall equip each gasoline storage vessel with a design capacity greater than or equal to 75 m³ according to the requirements in 40 C.F.R. § 60.112b(a)(1) through (4) (see Paragraph 30, below), except as otherwise provided.

28. 40 C.F.R. § 63.425(d) provides that the owner or operator of each gasoline storage vessel subject to the provisions of 40 C.F.R. § 63.423 shall comply with the testing and monitoring procedures of 40 C.F.R. § 60.113b, among other things. (See Paragraphs 31 through 33, below).

29. Pursuant to Sections 111 and 114 of the Act, EPA promulgated the “Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984,” 40 C.F.R. Part 60, Subpart Kb, §§ 60.110b *et seq.* 52 Fed. Reg. 11429 (April 8, 1987) (as amended) (“NSPS Subpart Kb”).

30. 40 C.F.R. § 60.112b(a)(2) provides that for each storage vessel equipped with an external floating roof, each external floating roof shall be equipped with a closure device between the wall of the storage vessel and the roof edge. The closure device is to consist of two seals, one above the other. The lower seal is referred to as the primary seal, and the upper seal is referred to

as the secondary seal. The secondary seal shall completely cover the annular space between the external floating roof and the wall of the storage vessel in a continuous fashion except as otherwise provided. *Id.* 40 C.F.R. § 60.112b(a)(2) further provides, in relevant part, that the automatic bleeder vents are to be closed at all times when the roof is floating except when the roof is being floated off or is being landed on the roof leg supports. The automatic bleeder vents and the rim space vents are to be gasketed. *Id.*

31. 40 C.F.R. § 60.113b(b)(4) provides that, after installing the control equipment required to meet 40 C.F.R. § 60.112b(a)(2) (external floating roof), the owner or operator shall make necessary repairs or empty the storage vessel within 45 days of identification in any inspection for seals not meeting the specified requirements, except as otherwise provided.

32. 40 C.F.R. § 60.113b(b)(4)(i)(B) provides that primary seals must meet the requirement that there are to be no holes, tears, or other openings in the shoe, seal fabric, or seal envelope.

33. 40 C.F.R. § 60.113b(b)(4)(ii)(C) provides that secondary seals must meet the requirement that there are to be no holes, tears, or other openings in the seal or seal fabric.

Gasoline Truck Loading Rack Thermal Oxidation System Performance Test

34. Pursuant to the loading rack standards at 40 C.F.R. § 63.422(a), each owner or operator of loading racks at a bulk gasoline terminal subject to the provisions of the NESHAP Subpart R shall comply with the requirements in 40 C.F.R. § 60.502 except for paragraphs (b), (c), and (j) of § 60.502. For purposes of the NESHAP Subpart R loading rack standards, the term “affected facility” used in 40 C.F.R. § 60.502 means the loading racks that load gasoline cargo tanks at the bulk gasoline terminals subject to the provisions of the NESHAP Subpart R.

35. Pursuant to Section 111 of the Act, EPA promulgated the “Standards of Performance for Bulk Gasoline Terminals,” 40 C.F.R. Part 60, Subpart XX, §§ 60.500 *et seq.*, 48 Fed. Reg. 37590 (Aug. 18, 1983) (as amended).

36. Pursuant to the loading rack standards at 40 C.F.R. § 60.502(a), each affected facility shall be equipped with a vapor collection system designed to collect the total organic compounds vapors displaced from tank trucks during product loading.

37. Pursuant to the definitions at 40 C.F.R. § 60.501, “vapor collection system” means any equipment used for containing total organic compounds vapors displaced during the loading of gasoline tank trucks.

38. Pursuant to the definitions at 40 C.F.R. § 60.501, “vapor processing system” means all equipment used for recovering or oxidizing total organic compounds vapors displaced from the affected facility.

39. Pursuant to the loading rack standards at 40 C.F.R. § 63.422(b), emissions to the atmosphere from the vapor collection and processing systems due to the loading of gasoline cargo tanks shall not exceed 10 milligrams of total organic compounds per liter of gasoline loaded.

40. Pursuant to the loading rack standards at 40 C.F.R. § 63.422(c), for the purposes of 40 C.F.R. § 63.422, the term “tank truck” as used in 40 C.F.R. § 60.502(e) means “cargo tank.”

41. Pursuant to the loading rack standards at 40 C.F.R. § 63.422(d), each owner or operator shall meet the requirements in 40 C.F.R. § 63.422 as expeditiously as practicable, but no later than December 15, 1997, at existing facilities and upon startup for new facilities.

42. Pursuant to the test methods and procedures at 40 C.F.R. § 63.425(a)(1), each owner or operator subject to the emission standard in 40 C.F.R. § 63.422(b) shall conduct a performance test on the vapor processing and collection systems using the test methods and procedures in 40 C.F.R. § 60.503, except a reading of 500 ppm shall be used to determine the level of leaks to be repaired under 40 C.F.R. § 60.503(b), or using alternative test methods and procedures in accordance with the alternative test method requirements in 40 C.F.R. § 63.7(f).

43. Pursuant to the test methods and procedures at 40 C.F.R. § 60.503(a), in conducting a performance test required in 40 C.F.R. § 60.8, the owner or operator shall use as reference methods and procedures the test methods in appendix A of 40 C.F.R. Part 60 or other methods and procedures as specified in 40 C.F.R. § 60.503, except as provided in 40 C.F.R. § 60.8(b). However, the three-run requirement of 40 C.F.R. § 60.8(f) does not apply. 40 C.F.R. § 60.503(a).

44. Pursuant to the test methods and procedures at 40 C.F.R. § 60.503(b), immediately before the performance test required to determine compliance with 40 C.F.R. §§ 60.502(b), (c), and (h), the owner or operator shall use Method 21 to monitor for leakage of vapor all potential sources in the terminal's vapor collection system equipment while a gasoline tank truck is being loaded. In accordance with 40 C.F.R. § 63.425(a)(1), which refers to these requirements in 40 C.F.R. § 60.503(b), the owner or operator shall repair all leaks with readings of 500 ppm (as methane) or greater before conducting the performance test.

45. The test methods and procedures at 40 C.F.R. § 60.503(c) specify, for performance tests, the loading rack operational requirements for gasoline throughput and duration, total organic compound emission calculation methodology, applicable test methods, and gasoline volume determination method for determining compliance.

46. Pursuant to the test methods and procedures at 40 C.F.R. § 63.425(b) of the NESHAP Subpart R, for each performance test conducted under 40 C.F.R. § 63.425(a), the owner or operator shall determine a monitored operating parameter value for the vapor processing system by: 1) continuously recording the operating parameter during the performance test, 2) determining an operating parameter value based on the parameter data monitored during the performance test, supplemented by engineering assessments and the manufacturer's recommendations, and 3) providing for the Administrator's approval the rationale for the

selected operating parameter value, and monitoring frequency and averaging time, including data and calculations used to develop the value and a description of why the value, monitoring frequency, and averaging time demonstrate continuous compliance with the emission standard in 40 C.F.R. §§ 63.422(b) or 60.112b(a)(3)(ii).

47. Pursuant to the continuous monitoring requirements at 40 C.F.R. § 63.427(a), each owner or operator of a bulk gasoline terminal subject to the provisions of the NESHAP Subpart R shall install, calibrate, certify, operate, and maintain, according to the manufacturer's specifications, a continuous monitoring system ("CMS") as specified in 40 C.F.R. § 63.427(a)(1), (a)(2), (a)(3), or (a)(4), except as allowed in 40 C.F.R. § 63.427(a)(5).

48. Pursuant to the continuous monitoring requirements at 40 C.F.R. § 63.427(a)(3), where a thermal oxidation system other than a flare is used, a continuous parameter monitoring system ("CPMS") capable of measuring temperature must be installed in the firebox or in the ductwork immediately downstream from the firebox in a position before any substantial heat exchange occurs.

49. Pursuant to the continuous monitoring requirements at 40 C.F.R. § 63.427(b), each owner or operator of a bulk gasoline terminal subject to the provisions of the NESHAP Subpart R shall operate the vapor processing system in a manner not to go below the operating parameter value for the parameter described in 40 C.F.R. § 63.427(a)(3) and established using the procedures in 40 C.F.R. § 63.425(b). Operation of the vapor processing system in a manner going below the operating parameter value constitutes a violation of the emission standard in 40 C.F.R. § 63.422(b).

50. Pursuant to the recordkeeping and reporting requirements at 40 C.F.R. § 63.428(c)(1), each owner or operator of a bulk gasoline terminal subject to the provisions of the NESHAP Subpart R shall keep an up-to-date, readily accessible record of the continuous monitoring data

required under 40 C.F.R. § 63.427(a). This record shall indicate the time intervals during which loadings of gasoline cargo tanks have occurred or, alternatively, shall record the operating parameter data only during such loadings. The date and time of day shall also be indicated at reasonable intervals on this record.

51. Pursuant to the recordkeeping and reporting requirements at 40 C.F.R. § 63.428(c)(2)(i), each owner or operator of a bulk gasoline terminal subject to the provisions of the NESHAP Subpart R shall record and report simultaneously with the notification of compliance status required under 40 C.F.R. § 63.9(h), all data and calculations, engineering assessments, and manufacturer's recommendations used in determining the operating parameter value under 40 C.F.R. § 63.425(b).

NESHAP General Provisions

52. 40 C.F.R. § 63.1(a)(4)(i) provides that each relevant standard in 40 C.F.R. Part 63 must identify explicitly whether each provision in 40 C.F.R. Part 63, Subpart A of the NESHAP General Provisions is or is not included in such relevant standard.

53. 40 C.F.R. § 63.420(h) provides that each owner or operator of an affected source bulk gasoline terminal is subject to the provisions of 40 C.F.R. Part 63, Subpart A—General Provisions, as indicated in Table 1 to the NESHAP Subpart R.

54. Table 1 to the NESHAP Subpart R, entitled “General Provisions Applicability to Subpart R,” explicitly identifies the provisions in 40 C.F.R. § 63.6(e) as being included in the NESHAP Subpart R regulation.

55. 40 C.F.R. § 63.6(e) provides that at all times, including periods of startup, shutdown, and malfunction, the owner or operator must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. During a period of

startup, shutdown, or malfunction, this general duty to minimize emissions requires that the owner or operator reduce emissions from the affected source to the greatest extent which is consistent with safety and good air pollution control practices. The general duty to minimize emissions during a period of startup, shutdown, or malfunction does not require the owner or operator to achieve emission levels that would be required by the applicable standard at other times if this is not consistent with safety and good air pollution control practices, nor does it require the owner or operator to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether such operation and maintenance procedures are being used will be based on information available to the Administrator which may include, but is not limited to, monitoring results, review of operation and maintenance procedures (including the startup, shutdown, and malfunction plan required in 40 C.F.R. § 63.6(e)(3), review of operation and maintenance records, and inspection of the source. *Id.*

Puerto Rico Title V Operating Permit Program

56. Section 502(a) of the Act provides that after the effective date of any permit program approved or promulgated under Title V of the Act, it is unlawful for any person to violate any requirement of a permit issued under Title V of the Act, or to operate a source subject to standards or regulations under Section 112 of the Act, except in compliance with a permit issued by a permitting authority under Title V of the Act.

57. Section 502(d) of the Act requires each state to develop, and submit to the EPA for approval, a permit program meeting the requirements of Title V of the Act, including the requirements of the 40 C.F.R. Part 70 “State Operating Permit Programs” regulation promulgated under Section 502(b) of the Act.

58. Under Section 503(b) of the Act, the regulations promulgated under Section 502(b) of the Act must require the permittee to periodically (but no less frequently than annually) certify that the facility is in compliance with any applicable requirements of the permit, and to promptly report any deviations from permit requirements to the permitting authority.

59. Under Section 502(d)(1) of the Act, Puerto Rico developed, and submitted to the EPA, Part VI of the Regulation for the Control of Atmospheric Pollution (“RCAP”), entitled “Operating Permit Rules for Title V Sources,” RCAP Rule 601 *et seq.* (the “Puerto Rico Title V Operating Permit Program”), to meet the requirements of Title V of the Act and of 40 C.F.R. Part 70.

60. The EPA granted full approval of the Puerto Rico Title V Operating Permit Program on February 26, 1996. The approval became effective on March 27, 1996. 61 Fed. Reg. 7073 (February 26, 1996).

61. Pursuant to Section 504(a) of the Act and RCAP Rule 603(a)(1) of the Puerto Rico Title V Operating Permit Program, each Title V operating permit must include, among other things, enforceable emissions limitations and standards to assure compliance with all applicable requirements.

62. Under Section 502(e) of the Act, EPA maintains its authority to enforce permits issued by a state, including the Commonwealth of Puerto Rico.

63. Under the Puerto Rico Title V Operating Permit Program, on May 31, 2005, the permitting authority, the Puerto Rico Environmental Quality Board (“EQB”), now renamed the Department of Natural and Environmental Resources (“DNER”), issued to CORCO a Title V operating permit, Permit Number PFE-TV-5171-57-0996-0010 (the “Title V Permit”). The Title V Permit identifies an expiration date of May 31, 2010.

64. Under Rule 602(a)(1)(iv) and Rule 605(b) and (c)(4)(i) of the RCAP, if a source submits a timely and complete application for permit renewal, and the EQB/DNER has not yet issued or denied issuance of a renewed permit, the expired permit remains in effect.

65. CORCO submitted a permit renewal application to the EQB/DNER on June 5, 2009, and modified its application based on additional information requested by EQB/DNER. On January 21, 2010, the EQB/DNER determined that CORCO's permit renewal application was administratively complete and in compliance with Rule 602 of the RCAP.

66. Section IV of the Title V Permit, entitled "Permit Provisions and Conditions," contains the specific enforceable permit conditions and applicable requirements for the Facility and the methods to show compliance with such requirements.

67. Condition C of Section IV of the Title V Permit contains the requirements in NSPS Subpart Kb that are cross-referenced in the NESHAP Subpart R and are applicable to the Facility's above-ground gasoline storage tanks, including tanks 1001, 1002, 1003, 1004, and 1005.

68. Condition D of Section IV of the Title V Permit contains the requirements in the NESHAP Subpart R that are applicable to the Facility, including the gasoline truck loading rack and associated combustion device, and tanks 1001, 1002, 1003, 1004, and 1005.

D. FINDINGS OF FACT

69. CORCO is a corporation, incorporated under the laws of the Commonwealth of Puerto Rico and doing business in Puerto Rico.

70. CORCO owns and operates the Facility located at PR-127, Km. 15.5, in Peñuelas, Puerto Rico, including several above-ground gasoline storage tanks equipped with external floating roofs ("EFRs"), and a gasoline truck loading rack and associated enclosed combustion device,

used to mix and ignite fuel, air pollutants, and air to provide a flame to heat and oxidize hazardous air pollutants.

71. Tanks 1001, 1002, 1003, 1004, and 1005, each have a design capacity of 6,341,544 gallons and are equipped with EFRs. These tanks were storing gasoline during the relevant time period addressed by this Consent Agreement.

72. On June 4, 2018, the EPA conducted an inspection at the Facility (“2018 Inspection”) to evaluate compliance with the applicable regulations cited above and incorporated into CORCO’s Title V Permit.

73. During the 2018 Inspection, the EPA inspectors used a forward-looking infrared (“FLIR”) camera to observe the EFRs on the storage tanks containing gasoline and noted increased emissions from various locations on rim seals and vacuum breakers on Tanks 1001, 1002, 1003, 1004, and 1005.¹

74. On June 14, 2018, the EPA sent CORCO an email requesting follow-up documentation related to the 2018 Inspection. The requested documentation included, among other things, gasoline throughput data and emission calculations for the Facility’s gasoline storage tanks and truck loading rack; information related to the products stored in the storage tanks during the time of the 2018 Inspection; information related to the construction and design of the storage tanks and associated EFRs; documentation of recent storage tank inspections and seal gap measurements for the EFRs; the most recent volatile organic compound (“VOC”) emissions performance test report for the truck loading rack control device; temperature monitoring data for the control device; and all data and calculations, engineering assessments, and manufacturer’s

¹ On November 5, 2019, the EPA conducted a follow-up inspection at the Facility, to observe the storage tanks with a FLIR camera. During this inspection, the EPA observed increased emissions at Tank 1002 and Tank 1003. On November 18, 2019, the EPA emailed CORCO video files showing the emissions observed with the FLIR camera.

recommendations used in determining the operating parameter value under 40 C.F.R § 63.425(b).

75. On July 13, 2018, July 20, 2018, and August 30, 2018, CORCO submitted the responses to the EPA's June 14, 2018 follow-up email request.

76. On September 4, 2018, the EPA emailed CORCO video files showing the emissions observed with a FLIR camera during the 2018 Inspection from various rim seals, vacuum breakers and bleeder vents on Tank 1001, Tank 1002, Tank 1003, Tank 1004, and Tank 1005.

77. On February 25, 2019, the EPA issued a request for information pursuant to Section 114 of the CAA, reference number CAA-02-2019-1453 ("Information Request"). The Information Request required CORCO to, among other things, provide a description of any inspections and/or maintenance conducted by CORCO on any of the storage tanks' EFRs between the time of the EPA Inspection and CORCO's receipt of the Information Request. In addition, the Information Request required CORCO to conduct inspections, emissions sampling, and engineering evaluations, including EPA Method 21 ("Determination of Volatile Organic Compound Leaks") measurements, of various rim seals and vacuum breakers on the EFRs for Tank 1001, Tank 1003, Tank 1004, and Tank 1005.

78. CORCO submitted its initial response to the Information Request on March 13, 2019, and made supplemental submittals on April 15, 2019, August 6, 2019, November 15, 2019, February 5, 2020, and February 13, 2020. These submittals included information regarding the various inspection and maintenance work performed on the EFRs for gasoline storage tanks at the Facility, and the results of the various inspections and equipment evaluations required as a result of the 2018 Inspection and the Information Request.

Repairs to secondary seals at Tank 1001, Tank 1003, and Tank 1005

79. In its April 15, 2019 supplemental response to the Information Request, CORCO submitted documentation of EFR inspections conducted on March 29, 2019, at Tank 1001, Tank 1003, and Tank 1005, and on April 1, 2019 at Tank 1004. This documentation, entitled “Measurement of Seal Gap and Floating Roof Inspection,” indicates that tears and holes were observed in the secondary seals of the EFRs at Tank 1001, Tank 1003, and Tank 1005. The inspection documentation further indicates that the secondary seals at these tanks were observed to be worn and rotted. In addition, the inspection documentation indicates that the primary seal at Tank 1005 was observed to be worn and rotted.

80. In its November 15, 2019 supplemental response to the Information Request, CORCO submitted information indicating that it did not make necessary seal repairs at Tank 1001, Tank 1003, and Tank 1005, or empty these tanks, within 45 days after the March 29, 2019 inspection that identified holes, tears, or other openings in the seal or seal fabric of the secondary seal at these tanks, and in the primary seal at Tank 1005. Specifically, CORCO did not complete necessary seal repairs at Tank 1001 until October 18, 2019, at Tank 1003 until October 27, 2019, and at Tank 1005 until November 1, 2019.

Vacuum breaker gaskets and bleeder vents at Tanks 1001, 1004, and 1005

81. The EFR inspection documentation referred to in Paragraph 79, above, indicates that on March 29, 2019, at Tank 1001 and Tank 1005, and on April 1, 2019, at Tank 1004, torn and/or broken vacuum breaker gaskets and bleeder vents were observed at these tanks. The observed condition of these vacuum breaker gaskets and bleeder vents, which are part of these tanks’ air pollution control equipment, indicates they were operated and maintained in a deteriorated condition, and contributed to the increased emissions observed at these tanks.

82. The documentation submitted by CORCO in its April 15, 2019 supplemental response to the Information Request indicates that CORCO completed the replacement of the torn and/or broken vacuum breaker gaskets at Tank 1001, Tank 1004, and Tank 1005, on April 12, 2019.

83. By letter dated March 24, 2021, CORCO notified the EPA and the DNER that Tank 1001 was taken out of service for repairs that are unrelated to the EFR. Tank 1001 was returned to service and refilled on March 19, 2022.

84. By letters dated April 4, 2022, as amended by letter dated August 2, 2022, (“Tank 1003 Notice”) and August 29, 2022 (“Tank 1002 Notice”), CORCO notified the EPA and the DNER that Tanks 1003 and 1002, respectively, were taken out of service for repairs that are unrelated to the EFRs. As of the date of this Consent Agreement, Tanks 1002 and 1003 remain out of service for evaluation and will be repaired before returning to gasoline service.

Vapor Combustion Unit Performance Testing and Monitoring

85. On April 24, 2019, based on the EPA Inspection and the additional information provided by CORCO in response to the EPA’s June 14, 2018 request and follow-up correspondence, the EPA issued CORCO an Administrative Compliance Order (“ACO”), CAA-02-2019-1004 (“2019 ACO”) (Exhibit 1), pursuant to Section 113(a)(3) of the CAA. The factual findings and conclusions of law contained in the 2019 ACO are hereby incorporated by reference into this Agreement. In sum, in the 2019 ACO, the EPA determined that CORCO did not conduct the appropriate performance test methods and procedures for the Facility’s vapor combustion unit (“VCU”) to demonstrate compliance with the 10 mg/L emission limit in the NESHAP Subpart R. The 2019 ACO ordered CORCO to conduct a performance test for the VCU in accordance with the applicable requirements in the NESHAP Subpart R and in the NESHAP General Provisions.

86. Pursuant to the 2019 ACO, on August 12, 2020, CORCO completed the performance test for the VCU, and on October 9, 2020, submitted a Notification of Compliance Status (“NOCS”) Report and accompanying VCU Compliance Test Report to EPA.

87. On March 12, 2021, EPA provided CORCO with comments on the NOCS Report and VCU Compliance Test Report.

88. In response to EPA’s comments, on May 19, 2021, CORCO submitted a revised NOCS Report and VCU Compliance Test Report, and on August 8, 2022, submitted additional information regarding the reports.

89. On November 23, 2022, EPA approved the revised NOCS Report and VCU Compliance Test Report.

E. ALLEGED VIOLATIONS OF LAW

Based on the Findings of Fact set forth above, the EPA reaches the following Conclusions of Law:

90. CORCO is a “person,” within the meaning of Section 302(e) of the Act.

91. CORCO is the “owner or operator” of the Facility, as that term is defined in CAA Section 112(a)(9) and in 40 C.F.R. § 63.2.

92. The Facility is a “stationary source,” as that term is defined in Section 112(a)(3) of the Act, and 40 C.F.R. § 63.2.

93. At the time of the violations alleged in this Consent Agreement, CORCO was subject to the NESHAP Subpart R regulation, and to the conditions in its Title V Permit.

94. From May 13, 2019 through November 1, 2019,² CORCO failed to make necessary repairs at Tank 1001, Tank 1003, and Tank 1005, or empty these tanks, within 45 days of the identification in any inspection of holes, tears, or other openings in the seal or seal fabric of the secondary seals at these tanks, and, in addition, the primary seal at Tank 1005, in violation of 40 C.F.R. § 63.425(d), which cross-references 40 C.F.R. § 60.113b.

95. From at least March 29, 2019 through November 1, 2019 at Tank 1001, Tank 1003, and Tank 1005, and from at least March 29, 2019 through April 12, 2019 at Tank 1004, CORCO failed to operate and maintain these tanks and their associated air pollution control equipment, including primary and/or secondary seals, vacuum breaker gaskets and bleeder vents, in a manner consistent with good air pollution control practices for minimizing emissions, in violation of 40 C.F.R. § 63.6(e).

96. Consistent with the factual findings and conclusions of law set forth in the 2019 ACO, which are incorporated by reference into, and resolved through, this Consent Agreement and Final Order, from at least April 24, 2019, through April 23, 2020, CORCO failed to conduct a performance test for the Facility VCU using the appropriate test methods and procedures in 40 C.F.R. § 60.503, to demonstrate compliance with the applicable 10 mg/L emission limit, in violation of 40 C.F.R. § 63.425(a) and (b).

F. TERMS OF CONSENT AGREEMENT

97. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:

- a. admits that the EPA has jurisdiction over the subject matter alleged in this Consent Agreement;

² May 13, 2019 is the first day the alleged violation accrued, which is 45 days after holes and tears were identified during the March 29, 2019 external floating roof inspection that CORCO conducted pursuant to the Information Request. November 1, 2019 is the last day the alleged violation continued for this group of tanks, which is the date that seal repairs were completed at Tank 1005.

- b. neither admits nor denies the factual allegations and alleged violations of law stated above and in the 2019 ACO, incorporated herein by reference;
- c. consents to the assessment of a civil penalty as stated below;
- d. consents to the issuance of any specified compliance or corrective action order, as applicable;
- e. consents to the conditions specified in this Consent Agreement;
- f. consents to any stated “permit action” (as that term is defined in 40 C.F.R. § 22.3(a) of the Consolidated Rules), as applicable;
- g. waives any right to contest the alleged violations of law set forth in Section E of this Consent Agreement; and
- h. waives its rights to appeal the Final Order accompanying this Consent Agreement.

98. For the purpose of this proceeding, CORCO:

- a. agrees that this Consent Agreement states a claim upon which relief may be granted against CORCO;
- b. acknowledges that this Consent Agreement constitutes an enforcement action for purposes of considering CORCO’s compliance history in any subsequent enforcement actions;
- c. consents to the issuance of the attached Final Order;
- d. waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that CORCO may have with respect to any issue of fact or law set forth in this Final Order, including any right of judicial review under Section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1);

e. consents to personal jurisdiction in any action to enforce this Consent Agreement or Final Order, or both, in the United States District Court for the District of Puerto Rico; and

f. waives any rights it may possess at law or in equity to challenge the authority of the EPA to bring a civil action in a United States District Court to compel compliance with the Consent Agreement or Final Order, or both, and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action.

Civil Penalty

99. Pursuant to Section 113(d) of the Act, CORCO shall pay the civil penalty of **\$131,500** (“EPA Penalty”) within thirty (30) calendar days of the effective date specified in Section H of this Consent Agreement (“Effective Date”). CORCO shall pay the EPA Penalty using a method provided on the website <http://www2.epa.gov/financial/additional-instructions-making-payments-epa>, and identifying each and every payment with “Docket No. CAA-02-2023-1208.” Within 24 hours of payment of the EPA Penalty, CORCO shall send proof of payment to the following:

Robert Buettner, Chief, Air Compliance Branch
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency – Region 2
290 Broadway – 21st Floor
New York, New York 10007
buettner.robert@epa.gov

and

Liliana Villatora, Chief, Air Branch
Office of Regional Counsel
U.S. Environmental Protection Agency – Region 2
290 Broadway – 16th Floor
New York, New York 10007
villatora.liliana@epa.gov

“Proof of payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer in the amount due, and identified with “Docket No. CAA-02-2023-1208,” and any other information required to demonstrate that payment has been made according to the applicable payment method.

100. If CORCO fails to timely pay the full amount of the EPA Penalty assessed under this Consent Agreement, the EPA may:

- a. Request the Attorney General to bring a civil action in an appropriate district court to recover: the amount assessed; interest at rates established pursuant to 26 U.S.C. § 6621(a)(2); the United States’ enforcement expenses; and a 10 percent quarterly nonpayment penalty, 42 U.S.C. § 7413(d)(5);
- b. Refer the debt to a credit reporting agency or a collection agency, 42 U.S.C. § 7413(d)(5), 40 C.F.R. §§ 13.13, 13.14, and 13.33;
- c. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H; and
- d. Suspend or revoke CORCO’s licenses or other privileges, or suspend or disqualify CORCO from doing business with the EPA or engaging in programs the EPA sponsors or funds, 40 C.F.R. § 13.17.

Conditions of Settlement

101. Work already completed. Prior to the Effective Date of this Agreement, CORCO completed and documented maintenance and replacement work at the Facility VCU to optimize

its combustion efficiency, and at the Facility gasoline storage tanks to improve the effectiveness of the EFR emission controls. This work included the following:

- a. VCU:
 - i. The setpoint controlling the second stage burner was adjusted to reduce pressure in the stack when loading more than two trucks;
 - ii) air flow to the blower was set at the minimum level sustainable to improve the stack's combustion efficiency;
 - iii) dampers were cleaned and the motor on one of the dampers was replaced;
 - iv) inspected the dual loop controller for the stack temperature and verified that it was working properly;
 - v) inlet flame arrestors were removed and cleaned;
 - vi) loading rack pressure gauges were installed at vapor collection hoses and pipe systems of Bays 8, 9, and 10, to verify the back pressure and potential vapor pressure fluctuations at the loading rack; and
 - vii) a new local paperless temperature recorder and thermocouple was installed to allow for continuous monitoring of temperature.
- b. Gasoline storage tanks:
 - i) Tank 1001: Replacement of the entire fabric and correction of one gap on the primary rim seal, restoration of secondary rim seal fabric using an industrial coating, and replacement of gaskets on both vacuum breakers;
 - ii) Tank 1003: Replacement of the entire fabric and correction of six gaps on the primary rim seal, partial replacement of the fabric, replacement of three areas of the rubber wiper, and correction of three gaps on the secondary rim seal fabric, restoration of areas of the secondary rim seal fabric using an industrial coating,

and the replacement of the gasket of the guide pole;

iii) Tank 1004: Replacement of gaskets on both bleeder vents and correction of one primary rim seal gap; and

iv) Tank 1005: Replacement of the entire fabric and correction of gaps on the primary rim seal, replacement of the entire wiper, partial replacement of steel plates (ten plates) and correction of gaps on the secondary rim seal, restoration of secondary rim seal fabric using an industrial coating, and replacement of the gasket on the southern bleeder vent.

102. Conditions. As a condition of settlement, CORCO agrees to each of the terms in Paragraphs 103 through 107 of this Agreement.

103. Inspection and Maintenance Plan for External Floating Roof (EFR) Tanks (“EFR Storage Tank Inspection and Maintenance Plan”). CORCO shall conduct all required or necessary tank inspections, monitoring, repairs, or other corrective action(s), in accordance with the EFR Storage Tank Inspection and Maintenance Plan outlined in Paragraphs 103 through 106, below. Unless otherwise provided by law, the parties agree that the use of EPA Method 21 to monitor EFR tank emissions under this Consent Agreement is only applicable for the purpose of meeting the terms and conditions of this Consent Agreement. CORCO shall not be required to perform the EFR Storage Tank Inspection and Maintenance Plan outlined in Paragraphs 103 through 106 of this Agreement for any listed gasoline tank that is not in service for the duration of any quarterly monitoring event described below. For a listed gasoline tank that has received a product transfer, including refill, within two (2) calendar days before the corresponding quarterly monitoring event described below begins, CORCO may postpone the required monitoring until the third calendar day after the product transfer, including refill, is completed. If the third calendar day is a Saturday, Sunday, or a federal or Commonwealth of Puerto Rico holiday, the

deadline to perform the required monitoring on any such tank is the next calendar day that is not a Saturday, Sunday, or a federal or Commonwealth of Puerto Rico holiday.

104. Gasoline EFR Tanks 1001, 1002, 1003, 1004, and 1005: Within 90 days of the Effective Date of this Agreement, CORCO shall conduct a visual inspection of the secondary seal, measure secondary seal gaps, and measure and record the VOC concentrations along the rim seals of the EFR as described below. In addition, on a calendar quarter basis thereafter, CORCO shall conduct follow-up visual inspections and seal gap measurements for the secondary seals and will measure and record the VOC concentrations along the rim seals of the EFRs, for the next three calendar quarters, for a total of four quarterly monitoring events.

- a. Secondary seal gap measurements shall be conducted in accordance with the procedures in 40 C.F.R. § 60.113b(b)(2) through (4).
- b. The VOC concentrations along the EFR rim seals shall be measured using EPA Method 21, as adjusted using the applicable correction factor for gasoline vapor, and shall be conducted during periods when the ambient wind speed is less than 5 miles per hour.
- c. To the extent practicable, CORCO will conduct these measurements and inspections when the EFR is at a different product level compared to the previous measurements and inspections conducted under this Paragraph (e.g., a differential of at least 10 feet).
- d. CORCO shall keep complete records of the measurements and inspections conducted under this Paragraph.

105. Vacuum Breaker and Bleeder Vent Gaskets on Tanks 1001, 1002, 1003, 1004, and 1005: Within 90 days of the Effective Date of this Agreement, CORCO shall conduct a visual inspection of the Tank 1001 and 1003 EFR's vacuum breaker, and the Tank 1002, 1004 and

1005 EFRs' bleeder vents, and measure and record the VOC concentrations at the surface along the circumference of the cover-well interface of the vacuum breaker or bleeder vent, and the leg-leg guide interface of the vacuum breaker or bleeder vent, as applicable. The visual inspection of the vacuum breaker or bleeder vent, as applicable, must verify whether the vacuum breaker is in the closed position, and will assess the condition of the vacuum gasket or the bleeder vent and document any deterioration of condition of the vacuum breaker's gasket or bleeder vent seals. The VOC concentration measurements for the vacuum breakers or bleeder vents shall be conducted using EPA Method 21, as adjusted using the applicable correction factor for gasoline vapor, and shall be conducted during periods when the ambient wind speed is less than 5 miles per hour. CORCO shall keep complete records of the inspections and measurements conducted under the Consent Agreement.

106. Corrective action. As part of the EFR Storage Tank Inspection and Maintenance Plan, CORCO shall implement the corrective action measures below.

- a. For any findings of the visual inspection or deviations from the rim seal gap measurement requirements, CORCO shall follow the requirements in 40 C.F.R. § 60.113b(b)(4).
- b. For any Method 21 measurements greater than 500 ppm (after the measurements are adjusted using the applicable correction factor for gasoline vapor) at an EFR rim seal, within 10 calendar days of recording any reading greater than 500 ppm, and to the extent practicable when the tank's product level is the same as the when the greater than 500 ppm measurement(s) were made, CORCO shall perform a visual inspection of the rim seal location(s) where high readings are identified, consistent with NESHAP Subpart R, which refers to 40 C.F.R. § 60.113b, and shall make any necessary adjustments or repairs. CORCO shall conduct a follow-up Method 21 screening within 10 calendar days

of completing the initial corrective action, and shall take any additional follow-up corrective actions, if necessary, to bring the VOC concentrations to 500 ppm or less. If the VOC concentrations cannot be reduced to 500 ppm or less after the second attempt at corrective action, CORCO will promptly consult with the EPA to agree on an appropriate course of action. CORCO shall initiate this consultation within 5 calendar days of making the second unsuccessful attempt at corrective action.

c. If all Method 21 readings recorded for any EFR rim seal are below 500 ppm (adjusted using correction factor for gasoline vapor), no further action is required until the next required quarterly monitoring event under Paragraph 104 of this Agreement.

d. For any findings of a vacuum breaker in the open position, or bleeder vent or vacuum breaker gasket deterioration, or the Method 21 measurements greater than 500 ppm (after the measurements are adjusted using the applicable correction factor for gasoline vapor), CORCO shall submit a written description to the EPA of the completed or planned corrective action(s) to address the findings within 10 calendar days of the visual inspection and/or the VOC concentration measurements. Following submission of each written description, CORCO and the EPA will promptly consult with one another to determine if the completed or planned corrective action is effective.

107. Reporting. CORCO shall submit to the EPA the following information to ensure and verify that the above conditions are satisfied:

a. For all secondary rim seal visual inspections, seal gap measurements, and the Method 21 VOC concentration measurements along the rim seals of the EFR, CORCO shall provide all associated inspection reports, measurement and monitoring records, and other documentation to the EPA within 7 calendar days of completing the inspections and measurements. In the event a contractor is used for the inspections, measurements, and/or

monitoring, CORCO shall provide the relevant documentation within 7 calendar days of receipt from the contractor, but in no event later than 30 calendar days after completion of the inspections, measurements, and/or monitoring.

b. For all EFR vacuum breaker or bleeder vent visual inspections and the Method 21 VOC concentration measurements, CORCO shall provide all associated inspection reports, monitoring records, and other associated documentation to the EPA within 7 calendar days of completing the inspections and monitoring. In the event a contractor is used for the inspections and/or monitoring, CORCO shall provide the relevant documentation within 7 calendar days of receipt from the contractor, but in no event later than 30 calendar days after completion of the inspections and monitoring.

c. Unless otherwise specified above, when any corrective action requirements are triggered under Paragraph 106 of this Agreement due to findings from any inspection, measurement, or monitoring provision in this Agreement, CORCO shall submit the complete corresponding documentation for all repairs and any other correction action within 7 calendar days of completion.

d. Information which confirms that a tank is exempted under Paragraph 102 of this Agreement from compliance with the EFR Storage Tank Inspection and Maintenance Plan outlined in Paragraphs 103 through 106, above.

e. All reports and information submitted under this Agreement shall be sent by electronic mail to the following:

Alex Rivera
rivera.alex@epa.gov

and

Liliana Villatora
villatora.liliana@epa.gov

and

Robert Buettner
buettner.robert@epa.gov

108. CORCO agrees that the time period from the Effective Date of this Agreement until all of the Conditions specified in Paragraphs 103 through 107 of this Agreement are completed (the “Tolling Period”) shall not be included in computing the running of any statute of limitations potentially applicable to any action brought by Complainant on any claims (the “Tolled Claims”) set forth in Section E of this Consent Agreement. CORCO shall not assert, plead, or raise in any fashion, whether by answer, motion or otherwise, any defense of laches, estoppel, or waiver, or other similar equitable defense based on the running of any statute of limitations or the passage of time during the Tolling Period in any action brought on the Tolled Claims.

109. Force majeure. CORCO agrees to comply with and abide by the following:

a. CORCO shall carry out and perform the terms, conditions and requirements of this Consent Agreement within the time limits established in or pursuant to this Consent Agreement, unless such compliance or performance, in whole or in part, is prevented or delayed by any event(s) that constitutes a force majeure.

b. For purposes of this Consent Agreement, a force majeure is defined as any event(s) arising from a cause(s) or a circumstance(s) not reasonably foreseeable and beyond CORCO’s control, and which event(s) could not be overcome or obviated by due diligence, and which prevents or delays the performance, in whole or in part, of any term, condition or requirement of this Consent Agreement, except for the civil penalty provisions in Paragraphs 99 and 100, by a date required by this Consent Agreement.

- c. A force majeure event(s) specifically shall not include any unanticipated or increased costs or expenses of complying with or performing the terms, conditions and requirements of this Consent Agreement, or any inability to pay the civil penalty.
- d. Whenever a cause(s) or a circumstance(s) occurs that might delay or prevent the completion or performance, in whole or in part, of any term, condition or requirement of this Consent Agreement, CORCO shall notify the EPA of said cause(s) or circumstance(s) within five (5) calendar days after CORCO first became aware or should have become aware of such a cause(s) or circumstance(s). Such notice shall be sent to the EPA contacts listed in Paragraph 107.e., above, at their respective addresses and via email. Such notice shall specifically include the reasons for and the anticipated duration of the delay, any action CORCO has taken or will take to prevent and/or minimize the delay, and a timetable estimating the implementation of the aforementioned measures to prevent and/or minimize the delay.
- e. CORCO's failure to timely comply with the aforementioned notice provision shall constitute a sufficient ground for the EPA to deny CORCO an extension of time to complete performance.
- f. CORCO shall adopt and undertake all reasonable measures to prevent and/or minimize the aforementioned delay.
- g. CORCO shall have the burden, by a preponderance of the evidence, of proving force majeure as a defense to any noncompliance with, or non-performance of, in whole or in part, any term, condition or requirement of this Consent Agreement. If the EPA agrees that the given delay or non-performance is attributable to force majeure, then the time for performance of the obligations that are directly affected by the force majeure event will be extended for a period of time determined by the EPA, not to exceed the

actual duration of the delay caused by the force majeure event. An extension of time for performance of the obligation directly affected by the force majeure event shall not, of itself, extend the time for performance of any other obligations.

110. The provisions of this Consent Agreement shall apply to and be binding upon CORCO and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns. From the Effective Date of this Agreement until the end of the Tolling Period, as set out in Paragraph 108, CORCO must give written notice and a copy of this Consent Agreement to any successors in interest prior to any transfer of ownership or control of any portion of or interest in the Facility. Simultaneously with such notice, CORCO shall provide written notice of such transfer, assignment, or delegation to the EPA. In the event of any such transfer, assignment, or delegation, CORCO shall not be released from the obligations or liabilities of this Consent Agreement unless the EPA has provided written approval of the release of said obligations or liabilities.

111. This Consent Agreement shall terminate at the end of the Tolling Period provided in Paragraph 108; provided, that CORCO has paid the civil penalty in full and has completed the performance of all obligations and conditions pursuant to Paragraphs 102 through 107 of this Consent Agreement.

112. By signing this Consent Agreement, CORCO acknowledges that this Consent Agreement and Final Order will be available to the public and agrees that this Agreement does not contain any confidential business information or personally identifiable information.

113. By signing this Consent Agreement, the undersigned representative of Complainant and the undersigned representative of CORCO each certify that he or she is fully authorized to execute and enter into the terms and conditions of this Consent Agreement and has the legal capacity to bind the party he or she represents to this Consent Agreement.

114. By signing this Consent Agreement, both parties agree that each party's obligations under this Consent Agreement and attached Final Order constitute sufficient consideration for the other party's obligations.

115. By signing this Consent Agreement, CORCO certifies that the information it has supplied concerning this matter was, upon information and belief, at the time of submission true, accurate, and complete for each such submission, response, and statement. CORCO acknowledges that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.

116. Except as qualified by Paragraph 100.a, each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.

G. EFFECT OF CONSENT AGREEMENT AND ATTACHED FINAL ORDER

117. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this Consent Agreement and Final Order resolves only CORCO's liability to the United States for federal civil penalties for the violations specifically alleged above.

118. Penalties paid pursuant to this Consent Agreement shall not be deductible for purposes of federal taxes.

119. This Consent Agreement constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to the subject matter hereof.

120. The terms, conditions, and compliance requirements of this Consent Agreement may not be modified or amended except upon the written agreement of both parties, and approval of the Regional Administrator or other delegate.

121. Any violation of this Final Order may result in the EPA pursuing a civil judicial action for an injunction or civil penalties of up to \$109,024 per day per violation, or both, as provided in Section 113(b)(2) of the Act, 42 U.S.C. § 7413(b)(2) (as adjusted for inflation pursuant to 40 C.F.R. § 19.4), as well as criminal sanctions as provided in Section 113(c) of the Act, 42 U.S.C. § 7413(c). The EPA may use any information submitted under this Consent Agreement and Final Order in an administrative, civil judicial, or criminal action. CORCO reserves and may assert any available argument and defense, and may use any information submitted under this Consent Agreement and Final Order, in response to any such action pursued by the EPA.

122. Nothing in this Consent Agreement shall relieve CORCO of the duty to comply with all applicable provisions of the Act and other federal, state, or local laws or statutes, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.

123. Nothing herein shall be construed to limit the power of the EPA to undertake any action against CORCO or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

124. The EPA reserves the right to revoke this Consent Agreement and settlement penalty if and to the extent that the EPA finds, after signing this Consent Agreement, that any information provided by CORCO was materially false or inaccurate at the time such information was provided to the EPA, and the EPA reserves the right to assess and collect any and all civil penalties for any violation described herein. Under such circumstance, CORCO reserves the right to assert any available argument and defense to any such claim by the EPA. The EPA shall give

CORCO notice of its intent to revoke, which shall not be effective until received by CORCO in writing.

H. EFFECTIVE DATE

125. CORCO and Complainant agree to issuance of the attached Final Order. Upon filing, the EPA will transmit a copy of the filed Consent Agreement to CORCO. This Consent Agreement and attached Final Order shall become effective after execution of the Final Order by the Regional Administrator, on the date of filing with the Hearing Clerk.

Signatures

The foregoing Consent Agreement In the Matter of Commonwealth Oil Refining Company, Inc., Docket No. CAA-02-2023-1208, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:

_____, 2023
Roberto Gratacos
Senior Vice President
Commonwealth Oil Refining Company, Inc.
600 Road 127
Peñuelas, Puerto Rico 00624-9802

FOR COMPLAINANT:

_____, 2023
Dore F. LaPosta, Director
Enforcement and Compliance Assurance Division
United States Environmental Protection Agency, Region 2

*In the Matter of Commonwealth Oil Refining Company, Inc.
CAA-02-2023-1208*

FINAL ORDER

Pursuant to 40 C.F.R. § 22.18(b) of the EPA’s Consolidated Rules of Practice and Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d), the Regional Administrator of the EPA Region 2, concurs in the foregoing Consent Agreement, *In the Matter of Commonwealth Oil Refining Company, Inc.*, CAA-02-2023-1208. The attached Consent Agreement resolving this matter, entered into by the parties, is incorporated by reference into this Final Order and is hereby approved, ratified and issued.

The Respondent is ORDERED to comply with all terms of the Consent Agreement, effective immediately.

So ordered.

Lisa F. Garcia
Regional Administrator
United States Environmental Protection Agency
Region 2
290 Broadway, 26th Floor
New York, New York 10007-1866

DATE: _____