

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103

U.S. EPA-REGION 3-RHC  
FILED-26SEP2019AM10:06

In the Matter of: :  
: :  
American Refining Group, Inc. : U.S. EPA Docket No. CAA-03-2019-0057  
77 North Kendall Avenue : :  
Bradford, Pennsylvania 16701-1726 : Proceeding under SECTIONS 113(a) and (d) of  
: the Clean Air Act, as amended, 42 U.S.C.  
Respondent. : §7413(a) and (d)

CONSENT AGREEMENT

PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III (“Complainant”) and American Refining Group, Inc. (“Respondent”) (collectively the “Parties”), pursuant to Section 113(a) and (d) of the Clean Air Act (CAA or the Act), 42 U.S.C. §7413(a) and (d), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. Part 22. Section 113(a) and (d) of the CAA, 42 U.S.C. §7413(a) and (d), authorizes the Administrator of the U.S. Environmental Protection Agency to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated it to the Complainant. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the “CAFO”) resolve Complainant’s civil penalty claims against Respondent under the CAA for the violations alleged herein. In accordance with Section 113(d)(1) of the CAA, 42 U.S.C. §7413(d)(1), the Administrator and the Attorney General, each through their respective delegates, have jointly determined that an administrative penalty action is appropriate for the longer period of violations and penalty amount involved in this Consent Agreement.
2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

### **JURISDICTION**

3. The U.S. Environmental Protection Agency has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.
4. Section 113(a) and (d) of the Act, 42 U.S.C. § 7413(a) and (d), authorizes the Administrator of EPA to issue an administrative order assessing a civil administrative penalty whenever, on the basis of any information available to the Administrator, the Administrator finds that any person has violated, or is in violation of, any requirement, rule, plan, order, waiver, or permit promulgated, issued, or approved under Subchapters I, IV, V and VI [also referred to as Titles I, IV, V and VI] of the Act. The authority to issue the accompanying Final Order has been duly delegated to the Regional Judicial Officer, EPA Region III. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(2).

### **GENERAL PROVISIONS**

5. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
6. Except as provided in Paragraph 5, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.
7. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this CAFO.
8. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this CAFO and waives its right to appeal the accompanying Final Order.
9. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
10. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.
11. Pursuant to Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), the Administrator and the Attorney General, each through their respective delegates, have jointly determined that this administrative penalty action is appropriate.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

12. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below:
13. Respondent is a corporation, organized under the laws of Pennsylvania.
14. Respondent is a “person” as that term is defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e) and is subject to the assessment of civil penalties for the violations alleged herein.
15. Respondent is and, at all times relevant to the violations alleged herein, was the owner and operator of a facility located at 77 North Kendall Avenue, Bradford, Pa 16701-1726 (hereinafter the “Facility”) that meets the definition of a “petroleum refinery” under 40 C.F.R. Part Ja – Standards of Performance for Petroleum Refineries for which Construction, Reconstruction, or Modification Commenced After May 14, 2007 (Subpart Ja), because it is engaged in producing gasoline and other products through distillation of petroleum.
16. Respondent purchased the Facility in 1997. According to Respondent’s refinery personnel, the Facility has a maximum capacity to process 11,000 barrels per day of crude oil. Crude is stored in a storage tank farm located one half (1/2) mile from the main refinery called the Crude Tank Farm. The Crude Tank Farm serves as a loading and unloading site of crude oil, as well as finished products. ARG uses a flare gas recovery system to collect process unit off-gases from throughout the Facility for combustion as fuel, referred to as refinery fuel gas or “RFG”.
17. The Facility is subject to Subpart Ja because it is a petroleum refinery with affected facilities for which construction, reconstruction, or modification commenced after May 14, 2007. Upon information and belief, Respondent owns and/or operates a flare, a refinery fuel gas recovery system, fuel gas combustion devices, and other refinery equipment subject to Subpart Ja at the Facility.
18. The Facility is a petroleum refinery with sources subject to 40 C.F.R. Part 63, Subpart CC, National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries, and sources subject to 40 C.F.R. Part 60, Subpart GGG, Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries for which Construction, Reconstruction, or Modification Commenced After January 4, 1983, and on or Before November 7, 2006, both of which incorporate equipment leak standards in 40 C.F.R. Part 60, Subpart VV.
19. Respondent is subject to the requirements of 40 C.F.R. Part 60, Subpart VV, Standards of Performance for Equipment Leaks of Volatile Organic Chemicals (VOC) in the Synthetic Organic Chemical Manufacturing Industry (SOCMI) for which Construction, Reconstruction, or Modification Commenced after January 5, 1981, and on or Before November 7, 2006 (Subpart VV), which are cross-referenced

at 40 C.F.R. Part 63, Subpart CC and 40 C.F.R. Part 60, Subpart GGG and which were voluntarily adopted for certain additional sources that were only regulated under Pennsylvania regulations. Respondent is subject to Subpart VV at the following process units because each is subject to Subpart VV: Crude Unit, Crude Tank Farm Unit, Foster Brook Bulk Plant, MEK unit, Platformer/Unifiner unit, Isomerization (ISOM) unit, Hydrotreater/Lo-Cat Unit, and at the ROSE/Extract Unit and Boiler House, because ARG has included these Pennsylvania regulation-only units in its Subpart VV LDAR program.

20. On October 5, 2011, Respondent was issued a Title V Operating Permit [Permit No.42-00004] for the Facility by the Pennsylvania Department of Environmental Protection (“PADEP”) (the “Permit”). ARG’s current Permit was issued on January 4, 2018 and expires on December 31, 2022.
21. Pursuant to Condition #024 of the General Title V Requirements found in Section B of the Permit, and 25 Pa. Code §127.513 (Compliance Certification), “one year after the date of issuance of the Title V permit, and each year thereafter”, Respondent is required to submit to PADEP and EPA an annual certificate of compliance with the terms and conditions of the Permit (hereafter, the “Annual Compliance Certification”), certified by a responsible official of Respondent and identifying, among other things, the compliance status of the Facility and whether compliance was continuous or intermittent. The Permit further requires that the Annual Compliance Certification include the reporting of all deviations from compliance.
22. On May 4, 2017, following receipt of Respondent’s semi-annual deviation reports and Annual Compliance Certification reports which identified deviations from compliance during the 2015 and 2016 reporting periods (January 1, 2015 through December 31, 2016) for the Facility, EPA issued Respondent a Notice of Noncompliance and Finding of Violation (NON/FOV) related to Respondent’s noncompliance with the Condition #007 of its Permit, which provides that, “[n]oncompliance with this permit constitutes a violation of the Clean Air Act...”.
23. The May 4, 2017 NON/FOV also cited Respondent for numerous LDAR violations of noncompliance during the 2015 and 2016 reporting periods, as well as Respondent’s failure to install in a timely manner a flare gas recovery unit at its Main Refinery Flare after the addition of equipment made the Facility subject to Subpart Ja for new sources.
24. Upon information and belief, EPA has determined that Respondent failed to comply with certain regulations related to Standards of Performance for Petroleum Refineries for which Construction, Reconstruction or Modification Commenced After May 14, 2007 found at 40 C.F.R. Part 60, Subpart Ja, because of the company’s failure to install the selected control device (a flare gas recovery system) on the Main Refinery Flare within the one (1) year of the compliance extension date granted by EPA (i.e., by November 11, 2016).

**Count I**

**Failure to Comply with Title V Permit Nitrogen Oxide (NOx) Limits**

25. The allegations of Paragraphs 1 through 24 of this Consent Agreement are incorporated herein by reference as if fully set forth at length.
26. During the months of January, February, March and April 2015, and the months of January, February, March, May and December 2016, based upon portable analyzer stack test results at Boiler 5 (Source ID #037), EPA determined that Respondent exceeded the TV Permit nitrogen oxide (NOx) limit of 0.5 pounds per million British Thermal Unit (lb/mmBTU) based on a 30-day rolling average, as required by Section D, Source ID #037, Condition #003 in the TV Permit (25 Pa. Code §127.12b -- related to Plan Approval terms and conditions which incorporate by reference the emission and performance standards and other requirements under the Act.).
27. In failing to comply with Section D, Source ID #037, Condition #003 of the TV Permit, Respondent is subject to the assessment of penalties under the Act, Section 113(e) of the Act, 42 U.S.C. §7413(e).

**Count II**

**Failure to Collect Weekly Samples**

28. The allegations of Paragraphs 1 through 27 of this Consent Agreement are incorporated herein by reference as if fully set forth at length.
29. Section D, Source ID #037, Condition #007 of the TV Permit (monitoring and related recordkeeping and reporting requirements, 25 Pa. Code §127.511) requires ARG to collect weekly composite solid fuel samples and submit them for sulfur analysis on a monthly basis. Respondent failed to collect and analyze samples for the months of January, February and November 2015 and April 2016.
30. Section D, Source ID #037, Condition #007 of the TV Permit requires Respondent to collect weekly fuel oil sample for sulfur analysis. Respondent failed to collect a fuel oil sample for the following weeks during 2015: November 13; December 1; May 30; and June 12.
31. In failing to comply with Section D, Source ID #037, Condition #007 of the TV Permit, Respondent is subject to the assessment of penalties under the Act, Section 113(e) of the Act, 42 U.S.C. §7413(e).

**Count III**

**Exceedance of Sulfur Oxide Emission Limits**

32. The allegations of Paragraphs 1 through 31 of this Consent Agreement are incorporated herein by reference as if fully set forth at length.

33. Section D, Source ID 037, Condition #002 of the TV Permit (25 Pa. Code §123.22) requires that coal sulfur values must correlate with a calculated sulfur oxide (SO<sub>x</sub>) emission limit of 4.0 lb SO<sub>x</sub>/mmBTU. Respondent's April 2015 coal sample sulfur value exceeded the SO<sub>x</sub> value of 4.0 lb/mmBTU, with a calculated value of 4.008 lb SO<sub>x</sub>/mmBTU.
34. In failing to comply with Section D, Source ID #037, Condition #002 of the TV Permit, Respondent is subject to the assessment of penalties under the Act, Section 113(e) of the Act, 42 U.S.C. §7413(e).

**Count IV**  
**Opacity Exceedances**

35. The allegations of Paragraphs 1 through 34 of this Consent Agreement are incorporated herein by reference as if fully set forth at length.
36. Section D, Source ID #037, Condition #009 (b)(3) and Section C Condition #004 (25 Pa. Code §127.441 and §123.41) of the TV Permit requires opacity monitoring of the Boiler 5 baghouse such that opacity does not equal or exceed 20% for any 3-minute aggregate period in any one hour rolling timeframe, and/or 60% at any time. Respondent failed to meet opacity requirements numerous times in 2015 and 2016, as summarized below:

**2015**

*\*Opacity percentages were not reported on a minute by minute basis by Respondent in its 2015 TV annual certifications for the following exceedances (a through e).*

- a. Opacity exceedances occurred at the Facility on: January 14, 18, 19, 22, 23.
- b. Opacity exceedances occurred at the Facility on March 2, 6, 7.
- c. Opacity exceedances occurred at the Facility on April 14, 18.
- d. Opacity exceedances occurred at the Facility on June 6.
- e. Opacity exceedances occurred at the Facility on November 13, 14, 17.
- f. Opacity exceedances occurred at the Facility on December 5, 7, 14, 29, 30.

**2016**

*\* Opacity percentages were not reported on a minute by minute basis by Respondent in its 2016 TV annual certifications for exceedances g through k below*

- g. From January 10 to March 10, 2016, opacity exceedances at the Facility totaled 27.53 hours at 20%, and 2.90 hours at 60%.
- h. Opacity exceedances occurred at the Facility on March 23.
- i. Opacity exceedances occurred at the Facility on April 5, 7.
- j. Opacity exceedances occurred at the Facility on May 5, 31.
- k. From December 12 to December 20, 2016, opacity exceedances at the Facility totaled 13.2 hours at 20% and 8.59 hours at 60%.

37. In failing to comply with Section D, Source ID #037, Condition #009 and Section C Condition #004 of the TV Permit, Respondent is subject to the assessment of penalties under the Act, Section 113(e) of the Act, 42 U.S.C. §7413(e).

**Count V**  
**Fugitive Emissions**

38. The allegations of Paragraphs 1 through 37 of this Consent Agreement are incorporated herein by reference as if fully set forth at length.
39. Section C Condition #001 (25 Pa. Code §123.1) of the TV Permit prohibits fugitive emissions from the Facility as a whole. In its TV Annual Certification for 2015, Respondent reported fugitive emissions from the Facility resulting from a rupture in the Boiler 5 ash collection line that occurred on November 19, 2015.
40. In failing to comply with Section C Condition #001 of the TV Permit, Respondent is subject to the assessment of penalties under the Act, Section 113(e) of the Act, 42 U.S.C. §7413(e).

**Count VI**  
**Reporting Requirements**

41. The allegations of Paragraphs 1 through 40 of this Consent Agreement are incorporated herein by reference as if fully set forth at length.
42. Section B Condition #023 (25 Pa. Code §127.411(d), §127.442, §127.463(e) and §127.511(c)) of the TV Permit requires Respondent to annually report deviations of the TV Permit in accordance with the requirement that all reports regarding Respondent's compliance with the TV Permit be certified as to its truth, accuracy and completeness. Respondent failed to accurately report deviations of the TV Permit, as listed below.
43. For 2015, Respondent failed to accurately report deviations of a SO<sub>x</sub> emission rate prohibiting the emission of sulfur oxides from a combustion unit in excess of the rate of 4 pounds per million BTU of heat input over any 1-hour period, as required by Section D, Source ID #037, Condition #002 of the TV Permit; and failed to report the failure to take two (2) missed oil samples on the semi-annual TV Permit deviation report during the first half of 2015, as required by Section D, Source ID #037, Condition #007 of the TV Permit. For 2016, Respondent failed to report an internal floating roof (IFR) deficiency for Tank 154 in May 2016 on the semi-annual TV Operating Permit deviation report for the corresponding time frame.
44. In failing to comply with the reporting requirements found in Subsection B Condition #023 of the TV Permit, Respondent is subject to the assessment of penalties under the Act, Section 113(e) of the Act, 42 U.S.C. §7413(e).

**Count VII**  
**Visible Emissions**

45. The allegations of Paragraphs 1 through 44 of this Consent Agreement are incorporated herein by reference as if fully set forth at length.
46. The General Provisions of Part 63 at 40 C.F.R. §63.11(b)(4) apply to the Respondent as an owner and operator of an existing stationary source (petroleum refinery) that uses flares to comply with this part, and which emit or has the potential to emit any hazardous air pollutant (HAP) listed in or pursuant to Section 112(b) of the Act. Pursuant to 40 C.F.R. §63.11(b)(4), Respondent is subject to any standard, limitation, prohibition or other federally enforceable requirement. 40 C.F.R §63.11(b)(4) also sets forth control device and work practice requirements for owners or operators of petroleum refineries using flares to comply with this Part and prohibits the presence of visible emissions (VE) from any flare in excess of a five-minute period in any 2-hour period of permitted sources at the refinery. Respondent, owner or operator of a petroleum refinery, submitted self-reported certifications that indicate that it failed to meet the VE requirements for a control device (flares) located at the Facility, which have the potential to emit a HAP listed in Section 112(b) of the Act, on the following dates during 2015: June 25; and July 14, and the following dates during 2016: March 26; July 8; and December 15. Respondent also reported visible/fugitive emissions from the Crude Unit and the Platformer Unit on March 17, 2015 and June 25, 2015 respectively.
47. In failing to comply with 40 C.F.R §63.11(b)(4)), Respondent is subject to the assessment of penalties under the Act, Section 113(e) of the Act, 42 U.S.C. §7413(e).

**Count VIII**  
**Flare Violations**

48. The allegations of Paragraphs 1 through 47 of this Consent Agreement are incorporated herein by reference as if fully set forth at length.
49. Section C Condition #067 (b)(5) and Section C Condition #70(e)(1) of the TV Permit (40 C.F.R Part 63 Subparts A (General Provisions) §63.11(b)(5) and G (HON), 40 C.F.R §63.119(e)(1), 40 C.F.R §63.120(e)(4)) require ARG to maintain a pilot light at all flares at all times. Respondent failed to operate the flare with a pilot light on the following dates during 2015: February 9 and 20; June 3 and 25; September 6, 16 and 22; October 4, 10, and 24; and December 14 and on the following dates in 2016: April 28 to May 9; January 21 and 22; February 10 and 23; March 22; April 22; June 6 and 14; July 8 and 22; and October 12 and 28.
50. Section C Condition #001(1) and Section D, Source ID #FL301, Condition #012 (b)(3) of the TV Permit (25 Pa. Code §123.1(1), and 40 C.F.R. Part 63 Subpart A at §63.11(b)(3)) requires that the flare maintain a pilot light at all times when gas is vented to the flare and prohibits any VE. On May 5 and 6, 2016, Respondent was



unable to maintain a pilot light for a total of 29 hours and gas was vented to the flare on those dates.

51. In failing to comply with Section C Condition #067(b)(5), Section C Condition #70(e)(1), Section C Condition #001(1) and Section D, Source ID #FL301, Condition #012 (b)(3) of the TV Permit, (40 C.F.R Part 63 Subparts A §63.11(b)(3), §63.11(b)(5), and G at §63.119(e)(1), and §63.120(e)(4), Respondent is subject to the assessment of penalties under the Act, Section 113(e) of the Act, 42 U.S.C. §7413(e).

### **Count IX LDAR Violations**

52. The allegations of Paragraphs 1 through 51 of this Consent Agreement are incorporated herein by reference as if fully set forth at length.
53. Respondent owns and operates petroleum refining process units that are located at a major source, and which have the potential to emit one or more hazardous air pollutants. As such, Respondent is subject to the equipment leak standards of Subpart CC at 40 C.F.R. §63.648. 40 C.F.R. §63.648 also references that subject facilities must utilize Subpart VV equipment leak standards for some types of equipment. Respondent owns and operates numerous process units that contain piping components (valves, connectors, pumps, etc.) that are subject to the LDAR provisions in the TV Permit at Section C Conditions #038, #039, #057, #080 and/or Section D, Source ID #206, Conditions #001, #003 (40 C.F.R. Part 60 Subpart VV at §60.482-1(a), 60.482-2(a)(2) and/or 40 C.F.R. Part 63 Subpart CC at 40 C.F.R §63.648(a), 40 C.F.R §60.592). Respondent failed to meet the following LDAR requirements:
- a. Subparts CC and VV at 40 C.F.R. §63.648 and §60.482-7, which require that leaking components be repaired within 15 days of identification of a leak, unless leaks are added to the Delay of Repair list. Respondent failed to repair a leaking valve identified on January 20, 2015, located in the ROSE (residuum oil supercritical extraction) unit until twenty-two days later, on February 11, 2015.
  - b. Failure to re-monitor all previously leaking equipment in light liquid service in June 2015, and April, October and November 2016, in violation of the provisions of 40 C.F.R. §60.482-2 and §60.482-7(c).
  - c. Failure to perform weekly visual monitoring for pump seals at the Foster Brook Bulk Plant for the weeks of October 1, December 10, and December 17, 2015 in violation of the provisions of 40 C.F.R. §60.482-2(a)(2).
  - d. Subpart VV at 40 C.F.R. §60.482-6 requires each open-ended line (OEL) to be equipped with a cap, flange, plug or second closed valve. Respondent failed to meet these requirements and identified OELs during quarterly monitoring events for 2015 and 2016.
  - e. Subpart CC at 40 C.F.R. § 63.648(h) requires subject facilities to maintain LDAR records for at least 5 years. Respondent failed to maintain records for 5 years due to a data loss incident that occurred in the fourth quarter of 2016.

54. In failing to comply with the provisions of Subparts VV and CC in the TV Permit Section C Conditions #038, #039, #057, #080 and/or Section D, Source ID #206, Conditions #001, #003 of the TV Permit, Respondent is subject to the assessment of penalties under the Act, Section 113(e) of the Act, 42 U.S.C. §7413(e).

**Count X**  
**Notification Violations**

55. The allegations of Paragraphs 1 through 54 of this Consent Agreement are incorporated herein by reference as if fully set forth at length.
56. Section C Conditions #071, #077, #078(a) and Section D, Source ID #212, Conditions #001, #002 and #005 of the TV Permit (40 C.F.R. Part 63 Subpart CC at §63.642, §63.646, §63.120, and §63.655(h)(2)(i)(A)) required Respondent to provide a notification within 30 days of return to service for storage tanks, prior to placing the tank back into service. Respondent failed to complete the notification before placing Tank 246 back into service in July 2015.
57. Section C Conditions #071(a)(5), #078(a), and #082(g)(2), and Section D, Source ID #213B, Conditions #002, #003, and #005 (40 C.F.R. Part 63 Subpart CC at §63.646 and §63.655(h)(2)(i)(A), and Subpart G at §63.120) require the submission of a 30-day notification for a tank to be put back in service. Respondent failed to submit the 30-day notification for the in-service status of Tank 619 in April 2016.
58. Section C Conditions #071(a)(5), #078(a), and #082(g)(2) and Section D, Source ID #213B, Conditions #002, #003, and #005 (40 C.F.R. Part 63 Subpart CC at §63.646 and §63.655(h)(2)(i)(A), and Subpart G at §63.120) require Respondent to provide a notification within 30 days of return to service for storage tanks. In June 2015, Respondent failed to complete the notification requirements prior to placing Tanks 708 and 619 back into service.
59. Section B Condition #03(a) (25 Pa. Code §127.12b) related to the Plan Approval (No. 42-0041) requires Respondent to submit a 5-day notification for the startup of the Boiler House Emergency Generator. Respondent failed to submit this notification in August 2015.
60. In failing to comply with the notification requirements referred to above, Respondent is subject to the assessment of penalties under the Act, Section 113(e) of the Act, 42 U.S.C. §7413(e).

**Count XI**  
**Emergency Engine Violations**

61. The allegations of Paragraphs 1 through 60 of this Consent Agreement are incorporated herein by reference as if fully set forth at length.

62. Respondent owns and operates several emergency engines which were installed in the late 1960s and are therefore subject to the maintenance provisions of 40 C.F.R. Part 63, Subpart ZZZZ at §63.6602, §63.6640 and Table 2c; and Section D, Source ID #401, Conditions #003, #007 and #010(a) of the TV Permit. Table 2c requires owners of subject units to complete certain maintenance activities either annually or every 500 operating hours, whichever comes first, including oil and oil filter changes and inspection and replacement of hoses and belts. Air filters are required to be inspected and replaced where necessary either annually or every 1000 operating hours, whichever comes first. Respondent failed to complete required annual maintenance (change/replacement) related to its oil and air filters within one (1) year on the Kendall Avenue and Mill Street #2 Emergency Fire Pump Engines for 2015, and the Kendall Avenue and Mill Street #1 and #2 Emergency Fire Pump Engines in 2016.
63. In failing to comply with the maintenance provisions of 40 C.F.R. Part 63, Subpart ZZZZ at §63.6602, §63.6640 and Table 2c; and Section D, Source ID #401, Conditions #003, #007 and #010(a) of the TV Permit, Respondent is subject to the assessment of penalties under the Act, Section 113(e) of the Act, 42 U.S.C. §7413(e).

**Count XII**  
**Tanks Violations**

64. The allegations of Paragraphs 1 through 63 of this Consent Agreement are incorporated herein by reference as if fully set forth at length.
65. Section C of TV Permit Conditions #070, #077, and #078, and Section D of TV Permit, Source ID #213B, Conditions #001, #004, and #005 (40 C.F.R. Part 60, Subpart Kb at §60.112b(C)(iv), 40 C.F.R. Part 63, Subpart CC at §63.642, §63.646 and Subpart G at §63.119) requires Respondent to operate all tanks without IFR deficiencies, which include ensuring that all hatches are closed. Respondent operated Tank 708 at the Facility with an open access hatch, which was noted after the tank was filled between June 26 and July 22, 2015.
66. In failing to comply with Section C Conditions #070, #077, and #078, and Section D, Source ID #213B, Conditions #001, #004, and #005 (40 C.F.R. Part 60, Subpart Kb at §60.112b(C)(iv), 40 C.F.R. Part 63, Subpart CC at §63.642, §63.646 and Subpart G at §63.119), Respondent is subject to the assessment of penalties under the Act, Section 113(e) of the Act, 42 U.S.C. §7413(e).

**Count XIII**  
**Loading Rack Violations**

67. The allegations of Paragraphs 1 through 66 of this Consent Agreement are incorporated herein by reference as if fully set forth at length.

68. Section D, Source ID #216, Condition #009 (25 Pa. Code §127.12b) of the TV Permit Plan Approval limits the throughput at the gasoline loading rack to 220,000 gallons per day. On November 1, 2015, Respondent exceeded the daily throughput limit at the loading rack.
69. In failing to comply with Section D, Source ID #216, Condition #009 of the TV Permit, Respondent is subject to the assessment of penalties under the Act, Section 113(e) of the Act, 42 U.S.C. §7413(e).

**Count XIV**  
**Failure to Comply with Subpart Ja**

70. The allegations of Paragraphs 1 through 69 of this Consent Agreement are incorporated herein by reference as if fully set forth at length.
71. In September 2014, Respondent reported that it had triggered compliance with Subpart Ja because of modifications it made to pumps and control valves at the Facility that resulted in piping changes, thereby triggering the provisions of 40 C.F.R. §60.100a(c)(1) and (c)(2). In order to comply with Subpart Ja, Respondent opted to install the flare gas recovery system at its Main Refinery Flare, but also needed to install a new boiler (Boiler #6) in order to burn excess flare gas when other combustion sources were unavailable, or when the amounts of gas exceeded the available capacity. Boiler #6 is subject to the hydrogen sulfide (H<sub>2</sub>S) limits in Subpart Ja of 162 parts per million (ppm). 40 C.F.R. §60.103a(f) provides that the compliance date for a modified flare was November 11, 2015.
72. Respondent failed to comply with the requirements found at 40 C.F.R. §60.100a(c)(1) and (c)(2) above because ARG failed to complete construction of the flare gas recovery system and associated combustion Boiler #6 by the EPA-granted compliance extension of one (1) year after the original compliance date until November 11, 2016. ARG opted to construct a fuel gas recovery system under 40 C.F.R. §60.103a(a)(2)(iii) for facilities that: (1) are fuel gas rich; (2) have a flare gas recovery system; and (3) have a co-generation unit or combined heat and power unit by the extension of November 11, 2016, in order to comply with the provisions of Subpart Ja.
73. In failing to comply with 40 C.F.R. §60.100(c)(1) and (c)(2) and 40 C.F.R. §60.103a(a)(2)(iii), Respondent is subject to the assessment of penalties under the Act, Section 113(e) of the Act, 42 U.S.C. §7413(e).

**COUNT XV**  
**Failure to conduct a portable analyzer test**

74. The allegations of Paragraphs 1 through 73 of this Consent Agreement are incorporated herein by reference as if fully set forth at length.
75. Section D, Source ID #037, Condition #006 (25 Pa. Code §127.12b) of the TV Permit

requires Respondent to conduct a monthly emissions test utilizing a portable analyzer on Boiler 5. Respondent's portable analyzer malfunctioned in April 2016, and so the portable analyzer test was not completed for 3 days of operation of Boiler 5 in April 2016.

76. In failing to comply with Section D, Source ID #037, Condition #006 of the Title V Permit, Respondent is subject to the assessment of penalties under the Act, Section 113(e) of the Act, 42 U.S.C. §7413(e).

#### **COUNT XVI**

##### **Baghouse bypass allowable time exceedance**

77. The allegations of Paragraphs 1 through 76 of this Consent Agreement are incorporated herein by reference as if fully set forth at length.
78. Section D, Source ID #037, Condition #020 (25 Pa. Code §127.511) of the TV Permit allows for bypass of the Boiler 5 baghouse during certain startup or shutdown instances where temperature falls below 273°F for more than 10 minutes. Baghouse bypass is not allowed to exceed 4 hours in duration for any startup or shutdown event. On March 23, 2016, Respondent bypassed the baghouse for 55 minutes longer than the allowable 4-hour bypass period.
79. In failing to comply with Section D Condition #020 of the TV Permit, Respondent is subject to the assessment of penalties under the Act, Section 113(e) of the Act, 42 U.S.C. §7413(e).

#### **COUNT XVII**

##### **Failure to monitor heat exchangers**

80. The allegations of Paragraphs 1 through 79 of this Consent Agreement are incorporated herein by reference as if fully set forth at length.
81. Section C Condition #082 of the TV Permit requires Respondent to monitor heat exchangers at the facility on a monthly basis, in accordance with the provisions of 40 C.F.R. Part 63, Subpart CC at §63.654(c)(4)(i). Respondent failed to complete the monthly monitoring for heat exchangers in February and June 2015.
82. In failing to comply with Section C Condition #082 of the TV Permit, Respondent is subject to the assessment of penalties under the Act, Section 113(e) of the Act, 42 U.S.C. §7413(e).

#### **COUNT XVIII**

##### **Failure to complete tune-up on Isomerization (ISOM) Heater**

83. The allegations of Paragraphs 1 through 82 of this Consent Agreement are incorporated herein by reference as if fully set forth at length.

84. Section D, Source ID #049, Condition #013 (40 C.F.R. Part 63 Subpart DDDDD at 63.7510 (e)) of the TV Permit requires Respondent to complete an initial tune-up of subject boilers and heaters. Respondent failed to complete the tune-up for the ISOM by the due date of January 31, 2016.
85. In failing to comply with Section D, Source ID #049, Condition #013 of the TV Permit, Respondent is subject to the assessment of penalties under the Act, Section 113(e) of the Act, 42 U.S.C. §7413(e).

#### **COUNT XIX**

##### **Failure to complete IFR inspections**

86. The allegations of Paragraphs 1 through 85 of this Consent Agreement are incorporated herein by reference as if fully set forth at length.
87. Section D, Source ID #212A, Condition #004 (40 C.F.R. Part 63 Subpart G at §63.120 and 40 CFR Part 63 Subpart CC at §63.646) of the TV Permit requires Respondent to complete IFR inspections once every 10 years, and each time the subject tank(s) are emptied and degassed. Upon information and belief, Tank 613 had a 10-year inspection completed in April of 2006, making compliance with Section D Condition #004 of the TV Permit for Tank 613 due in April 2016. Tank 246 was emptied and degassed in the February of 2015, requiring Respondent to complete an IFR inspection by September 2, 2015 or prior to placing the tank back in service. On July 2, 2015, Tank 246 was placed back into service prior to the required IFR inspection. Based upon Respondent's self-certification compliance reports for April 2016 and July 2015, Respondent reported that it had failed to complete the required IFR 10-year inspection for Tank 613 and the emptying inspection for Tank 246, respectively.
88. In failing to comply with Condition #004 of the TV Permit, Respondent is subject to the assessment of penalties under the Act, Section 113(e) of the Act, 42 U.S.C. §7413(e).

#### **COUNT XX**

##### **Failure to Collect Monthly Samples**

89. The allegations of Paragraphs 1 through 88 of this Consent Agreement are incorporated herein by reference as if fully set forth at length.
90. Section D, Source IDs #043, 044, 046 and 047, Condition #003 (25 Pa. Code §127.511) of the TV permit requires ARG to limit the sulfur content of fuel burned in the Platformer Heater, NMP Extract Heater, Unifiner Heater and Rose Unit Heater to 2%.
91. Section D, Source IDs #043, 044, 046 and 047, Condition #004 (25 Pa. Code §127.511) of the TV permit requires Respondent to collect a monthly refinery fuel gas sample for sulfur analysis. Respondent failed to collect a refinery fuel gas sample

for the month of February 2015, (thus making it impossible to demonstrate it met the sulfur limit)

92. In failing to comply with Section D, Condition #004 of the Title V Permit, Respondent is subject to the assessment of penalties under the Clean Air Act, Section 113(e) of the Act, 42 U.S.C. §7413(e).

**CIVIL PENALTY**

93. In settlement of EPA's claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of THREE HUNDRED AND FIFTY-THOUSAND DOLLARS (\$350,000), which Respondent shall be liable to pay in accordance with the terms set forth below.
94. The civil penalty is based upon EPA's consideration of a number of factors, including the penalty criteria ("statutory factors") set forth in the Clean Air Act, Section 113(e) of the Act, 42 U.S.C. §7413(e), which include the size of the business, economic impact of the penalty, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence, the economic benefit of noncompliance, the payment of penalties previously assessed for same violation, the seriousness of violation and such other matters as justice may require. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's Clean Air Act Stationary Source Civil Penalty Policy (dated October 25, 1991) which reflects the statutory penalty criteria and factors set forth at Section 113(e) of the Act, 42 U.S.C. §7413(e), the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA's civil penalty policies to account for inflation.
95. Payment of the civil penalty amount, and any associated interest, administrative fees, and late payment penalties owed, shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:
- a. All payments by Respondent shall include reference to Respondent's name and address, and the Docket Number of this action, *i.e.*, Docket No. CAA-03-2019-0057;

All checks shall be made payable to the "United States Treasury"

- b. All payments made by check and sent by regular mail shall be addressed and mailed to:

U.S. Environmental Protection Agency  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

- c. For additional information concerning other acceptable methods of payment of the civil penalty amount see:

<https://www.epa.gov/financial/makepayment>

- d. A copy of Respondent's check or other documentation of payment of the penalty using the method selected by Respondent for payment shall be sent simultaneously to:

Dennis M. Abraham  
Senior Assistant Regional Counsel  
U.S. EPA, Region III (MAILCODE 3RC10)  
1650 Arch Street  
Philadelphia, PA 19103-2029  
abraham.dennis@epa.gov

96. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment of the penalty as specified herein shall result in the assessment of late payment charges including interest, penalties and/or administrative costs of handling delinquent debts.
97. Payment of the civil penalty is due and payable immediately upon receipt by Respondent of a true and correct copy of the fully executed and filed CAFO. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed CAFO, with a date stamp indicating the date on which the CAFO was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed EPA by Respondent in accordance with 40 C.F.R. § 13.9(a).
98. INTEREST: In accordance with 40 C.F.R § 13.11(a)(1), interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a copy of the fully executed and filed CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalties that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R § 13.11(a).
99. ADMINISTRATIVE COSTS: The costs of the EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives – Case Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
100. LATE PAYMENT PENALTY: A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the



penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

101. If Respondent fails to make a full and complete payment of the civil penalty in accordance with this CAFO, the entire unpaid balance of the penalty shall become immediately due and owing. Failure by Respondent to pay the CAA civil penalty assessed by the Final Order in full in accordance with this CAFO may subject Respondent to a civil action to collect the assessed penalty, plus interest, pursuant to Section 113 of the CAA, 42 U.S.C. § 7413. In any such collection action, the validity, amount and appropriateness of the penalty shall not be subject to review.
102. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this CAFO.

### **GENERAL SETTLEMENT CONDITIONS**

103. By signing this Consent Agreement, Respondent acknowledges that this CAFO will be available to the public and represents that, to the best of Respondent's knowledge and belief, this CAFO does not contain any confidential business information or personally identifiable information from Respondent.
104. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this CAFO, including information about respondent's ability to pay a penalty, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

### **CERTIFICATION OF COMPLIANCE**

105. Respondent certifies to EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is in compliance with regard to the violations alleged in this Consent Agreement.

### **OTHER APPLICABLE LAWS**

106. Nothing in this CAFO shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This CAFO does not constitute a waiver, suspension or modification of the requirements

of the Clean Air Act, or any regulations promulgated thereunder.

**RESERVATION OF RIGHTS**

107. This CAFO resolves only EPA's claims for civil penalties for the specific violation[s] alleged against Respondent in this CAFO. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. This settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice, 40 C.F.R. § 22.18(c). EPA reserves any rights and remedies available to it under the Clean Air Act, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this CAFO after its effective date.

**EXECUTION /PARTIES BOUND**

108. This CAFO shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this CAFO.

**EFFECTIVE DATE**

109. The effective date of this CAFO is the date on which the Final Order, signed by the Regional Administrator of EPA, Region III, or his/her designee, the Regional Judicial Officer, is filed along with the Consent Agreement with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.


**ENTIRE AGREEMENT**

110. This CAFO constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this CAFO.

In Re: American Refining Group, Inc.  
EPA Docket No. CAA-03-2019-0057

For the Respondent: AMERICAN REFINING GROUP, INC.

Date: 7/12/2019


By:   
Jon Giberson  
President and COO

In Re: American Refining Group, Inc.  
EPA Docket No. CAA-03-2019-0057

**For Complainant:**


After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement and Compliance Assurance Division of the United States Environmental Protection Agency, Region III, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

Date: SEP 24 2019

By:   
Karen Melvin  
Director, Enforcement and Compliance  
Assurance Division  
U.S. EPA – Region III  
Complainant

Attorney for Complainant:

Date: 9-17-19

By:   
Dennis M. Abraham  
Senior Assistant Regional Counsel  
U.S. EPA – Region III

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103

In the Matter of:	:	U.S. EPA-REGION 3-RHC FILED-26SEP2019AM10:08
American Refining Group, Inc. 77 North Kendall Avenue Bradford, Pennsylvania 16701-1726	:	U.S. EPA Docket No. CAA-03-2019-0057
Respondent.	:	Proceeding under SECTIONS 113(a) and (d) of the Clean Air Act, as amended, 42 U.S.C. §7413(a) and (d)

**FINAL ORDER**

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III, and Respondent, American Refining Group, Inc., have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22, Sections 22.13(b) and 22.18(b)(2) and (3). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA's Clean Air Act Stationary Source Civil Penalty Policy as amended in February 2019 to account for inflation adjustments, and the statutory factors set forth in Section 113(e) of the Clean Air Act, 42 U.S.C. §7413(e).

**NOW, THEREFORE, PURSUANT TO** Sections 113(a) and (d) of the Clean Air Act, 42 U.S.C. Section 7413(a) and (d), and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of THREE HUNDRED AND FIFTY-THOUSAND DOLLARS (\$350,000), in accordance with the payment provisions set forth in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Consent Agreement and does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of the Clean Air Act and the regulations promulgated thereunder.

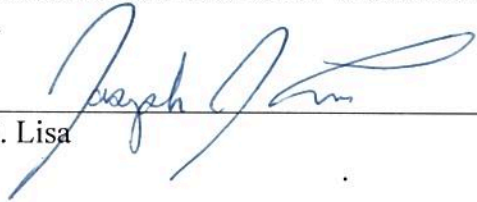
In Re: American Refining Group, Inc.  
EPA Docket No. CAA-03-2019-0057

The effective date of the attached Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

Sept. 26, 2019

Date

Regional Judicial and Presiding Officer  
U.S. EPA Region III

  
\_\_\_\_\_  
Joseph J. Lisa

<b>In the Matter of:</b>	:
	:
<b>American Refining Group, Inc.</b>	: <b>U.S. EPA Docket No. CAA-03-2019-0057</b>
<b>77 North Kendall Avenue</b>	:
<b>Bradford, Pennsylvania 16701-1726</b>	: <b>Proceeding under SECTIONS 113(a) and (d) of</b>
	: <b>the Clean Air Act, as amended, 42 U.S.C.</b>
<b>Respondent.</b>	: <b>§7413(a) and (d)</b>

### CERTIFICATE OF SERVICE

I certify that on SEP 26 2019, the original and one (1) copy of the foregoing *Consent Agreement and Final Order*, were filed with the EPA Region III Regional Hearing Clerk. I further certify that on the date set forth below, I caused to be served a true and correct copy of the foregoing to each of the following persons, in the manner specified below, at the following addresses:

Copy served via Certified Mail, Return Receipt Requested, to:

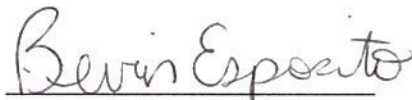
Robert E. Gandley  
MacDonald, Illig, Jones & Britton LLP  
100 State Street, Suite 700  
Erie, PA 16507-1459  
Office: (814) 870-7661  
Fax: (814) 454-4647  
Email: rgandley@mijb.com

Copies served via Hand Delivery or Inter-Office Mail to:

Dennis M. Abraham  
Senior Assistant Regional Counsel  
ORC – (MAIL CODE 3RC30)  
U.S. EPA, Region III  
1650 Arch Street  
Philadelphia, PA 1910

In Re: American Refining Group, Inc.  
EPA Docket No. CAA-03-2019-0057

Dated: SEP 26 2019



Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region III

TRACKING NUMBERS: 7017 2620 0000 9143 3061