

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

REGIONAL  
OFFICE  
2019 NOV 19 11 7 37  
U.S. Environmental  
Protection Agency

In the matter of:

PBF Logistics Products Terminals LLC,

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-02-2020-1202**

**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 EPA Delegation of Authority 7-6-A and EPA Region 2 Delegation of Authority 7-6-A, the Administrator has delegated to the Director of 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 State of New Jersey, 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 PBF Logistics Products Terminals LLC (“PBF Logistics”), a corporation doing business in the state of New Jersey. Respondent is a “person” as defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e).

6. EPA has determined that PBF Logistics violated the CAA, implementing regulations promulgated under the CAA, and its Title V operating permit issued under the CAA. The violations occurred at the PBF Logistics facility (the “Facility”) located at 3rd Street & Billingsport Road in Paulsboro, New Jersey. Specifically, EPA has determined that PBF Logistics violated:

- a. 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 (“NSPS Subpart Kb”);

- b. the “National Emission Standards for Marine Tank Vessel Loading Operations,” 40 C.F.R., Part 63, Subpart Y (“Marine Loading MACT”);
- c. the “National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations),” 40 C.F.R. Part 63, Subpart R (“Bulk Gasoline Terminals MACT”);
- d. the “Standards of Performance for Bulk Gasoline Terminals,” 40 C.F.R. Part 60, Subpart XX (“Bulk Gasoline Terminals NSPS”);
- e. N.J.A.C. 7:27-16.2(l)(7)(vi), approved by EPA into the New Jersey State Implementation Plan (“SIP”); and
- f. 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 New Jersey Title V operating permit program at N.J.A.C. 7:27-22, which incorporate the applicable requirements listed above. In addition, EPA has determined that PBF Logistics violated the compliance certification requirements of the Title V permit, which are included in the permit pursuant to N.J.A.C. 7:27-22.19(f).

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

7. Complainant and Respondent, 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 Respondent 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), the Administrator and the Attorney General, through their respective delegates, have jointly determined that this matter is appropriate for an administrative penalty assessment. 42 U.S.C. § 7413(d); 40 C.F.R. § 19.4.

10. In satisfaction of the notice requirements of CAA Section 113(a), on June 13, 2019, the EPA issued to Respondent a notice of violation (“NOV”) and provided a copy of the NOV to the state of New Jersey, providing notice to both that the EPA found that Respondent committed the alleged violations of the New Jersey SIP that are described in Section E of this Consent Agreement, and providing Respondent an opportunity to confer with the EPA. EPA and Respondent have conferred regarding the NOV.

11. The Regional Administrator is authorized to ratify this Consent Agreement which memorializes a settlement between Complainant and Respondent. 40 C.F.R. § 22.18(b).

12. 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 111, 112 and 114

13. 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, EPA is required to promulgate standards of performance for new stationary sources, commonly known as New Source Performance Standards (“NSPS”).

14. 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.

15. Section 111(a)(2) of the Act defines “new source” as any stationary source, the construction or modification of which is commenced after the publication of regulations (or, if earlier, proposed regulations) prescribing a standard of performance under CAA Section 111 which will be applicable to the source.

16. Section 111(a)(3) of the Act defines “stationary source” as any building, structure, facility, or installation which emits or may emit any air pollutant.

17. Section 111(a)(5) of the Act defines “owner or operator” as any person who owns, leases, operates, controls, or supervises a stationary source.

18. Section 111(e) of the Act prohibits any owner or operator from operating a source in violation of a Section 111 standard of performance that is applicable to the source.

19. 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.

20. Emissions standards promulgated pursuant to Section 112 are commonly known as National Emission Standards for Hazardous Air Pollutants (“NESHAPs”). NESHAPs promulgated under the CAA as it existed prior to the 1990 CAA amendments are set forth in 40 C.F.R. Part 61. NESHAPs promulgated under the CAA after the 1990 CAA amendments are set forth in 40 C.F.R. Part 63. Part 63 regulations that include “maximum achievable control technology” (“MACT”) standards are commonly known as MACTs.

21. 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.
22. Section 112(a)(9) of the Act defines “owner or operator” as any person who owns, leases, operates, controls or supervises a stationary source.
23. 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.
24. 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.
25. 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.

*NSPS Subpart Kb*

26. Pursuant to Sections 111 and 114 of the Act, EPA promulgated NSPS Subpart Kb, 40 C.F.R. §§ 60.110b et seq. 52 Fed. Reg. 11429 (April 8, 1987) (as amended).
27. 40 C.F.R. § 60.110b(a) provides that NSPS Subpart Kb applies to each storage vessel with a capacity greater than or equal to 75 cubic meters (“m<sup>3</sup>”) that is used to store volatile organic liquids (VOL) for which construction, reconstruction, or modification is commenced after July 23, 1984.

28. 40 C.F.R. § 60.111b defines “Storage vessel” as each tank, reservoir, or container used for the storage of volatile organic liquids, except as otherwise provided.

29. 40 C.F.R. § 60.111b defines “Volatile organic liquid (VOL)” as any organic liquid which can emit volatile organic compounds (as defined in 40 C.F.R. § 51.100) into the atmosphere.

30. 40 C.F.R. § 60.112b(a) provides that the owner or operator of each storage vessel either with a design capacity greater than or equal to 151 m<sup>3</sup> containing a VOL that, as stored, has a maximum true vapor pressure equal to or greater than 5.2 kPa but less than 76.6 kPa or with a design capacity greater than or equal to 75 m<sup>3</sup> but less than 151 m<sup>3</sup> containing a VOL that, as stored, has a maximum true vapor pressure equal to or greater than 27.6 kPa but less than 76.6 kPa, shall equip each storage vessel with one of the specified pollution controls, such as a fixed roof in combination with an internal floating roof that meets the specifications in § 60.112b(a)(1)(i) through (ix).

31. 40 C.F.R. § 60.112b(a)(1)(iv) provides that for each storage vessel equipped with a fixed roof in combination with an internal floating roof in accordance with § 60.112b(a)(1), each opening in the internal floating roof except for leg sleeves, automatic bleeder vents, rim space vents, column wells, ladder wells, sample wells, and stub drains is to be equipped with a cover or lid which is to be maintained in a closed position at all times (i.e., no visible gap) except when the device is in actual use. The cover or lid shall be equipped with a gasket. Covers on each access hatch and automatic gauge float well shall be bolted except when they are in use.

#### Marine Loading MACT

32. Pursuant to Sections 112 and 114 of the Act, EPA promulgated the Marine Loading MACT, 40 C.F.R. §§ 63.560 et seq. 60 Fed. Reg. 48399 (Sept. 19, 1995) (as amended).

33. 40 C.F.R. § 63.560(a) provides that the MACT standards in 40 C.F.R. § 63.562(b) and (d) of the Marine Loading MACT (pertaining to emissions of hazardous air pollutants (HAPs))

apply to existing and new sources with emissions of 10 or 25 tons, as that term is defined in 40 C.F.R. § 63.561, except as otherwise specified.

34. 40 C.F.R. § 63.561 defines “source(s)” as any location where at least one dock or loading berth is bulk loading onto marine tank vessels, except offshore drilling platforms and lightering operations.

35. 40 C.F.R. § 63.561 defines “sources with emissions of 10 or 25 tons” as major source(s) having aggregate actual HAP emissions from marine tank vessels loading operations at all loading berths as follows: (1) Prior to the compliance date, emissions of 9.1 Mg (10 tons) or more of each individual HAP calculated on a 24-month annual average basis after September 19, 1997 or of 22.7 Mg (25 tons) or more of all HAP combined calculated on a 24-month annual average basis after September 19, 1997, as determined by emission estimation in 40 C.F.R. § 63.565(l); or (2) After the compliance date, emissions of 9.1 Mg (10 tons) or more of each individual HAP calculated annually after September 20, 1999 or of 22.7 Mg (25 tons) or more of all HAP combined calculated annually after September 20, 1999, as determined by emission estimation in 40 C.F.R. § 63.565(l).

36. 40 C.F.R. § 63.560(b) provides that the “Reasonably available control technology” (“RACT”) standards in 40 C.F.R. § 63.562(c) and (d) of the Marine Loading MACT (pertaining to emissions of volatile organic compounds (VOCs)) are applicable to sources with throughput of 10 M barrels or 200 M barrels, as that term is defined in 40 C.F.R. § 63.561, except as otherwise specified.

37. 40 C.F.R. § 63.561 defines “Source(s) with throughput of 10 M barrels or 200 M barrels” as source(s) having aggregate loading from marine tank vessel loading operations at all loading berths as follows: (1) Prior to the compliance date, of 1.6 billion liters (10 M barrels) or more of gasoline on a 24-month annual average basis or of 32 billion liters (200 M barrels) or more of



crude oil on a 24-month annual average basis after September 19, 1996; or (2) After the compliance date, of 1.6 billion liters (10 M barrels) or more of gasoline annually or of 32 billion liters (200 M barrels) or more of crude oil annually after September 21, 1998.

38. 40 C.F.R. § 63.561 defines “Loading berth” as the loading arms, pumps, meters, shutoff valves, relief valves, and other piping and valves necessary to fill marine tank vessels. The loading berth includes those items necessary for an offshore loading terminal.

39. 40 C.F.R. § 63.561 defines “Marine tank vessel loading operation” as any operation under which a commodity is bulk loaded onto a marine tank vessel from a terminal, which may include the loading of multiple marine tank vessels during one loading operation. Marine tank vessel loading operations do not include refueling of marine tank vessels.

40. 40 C.F.R. § 63.563(c) of the Marine Loading MACT provides for leak detection and repair for vapor collection systems and control devices. The following procedures are required for all sources subject to 40 C.F.R. § 63.562(b), (c), or (d):

- a. *Annual leak detection and repair for vapor collection systems and control devices.* The owner or operator of an affected source shall inspect and monitor all ductwork and piping and connections to vapor collection systems and control devices once each calendar year using Method 21;
- b. *Ongoing leak detection and repair for vapor collection systems and control devices.* If evidence of a potential leak is found by visual, audible, olfactory, or any other detection method, all ductwork and piping and connections to vapor collection systems and control devices shall be inspected to the extent necessary to positively identify the potential leak and any potential leaks shall be monitored within 5 days by Method 21. Each detection of a leak shall be recorded, and the leak shall be tagged until repaired; and

- c. When a leak is detected, a first effort to repair the vapor collection system and control device shall be made within 15 days or prior to the next marine tank vessel loading operation, whichever is later.

*Bulk Gasoline Terminals MACT and Bulk Gasoline Terminals NSPS*

41. Pursuant to Section 112 and 114 of the Act, EPA promulgated the Bulk Gasoline Terminals MACT, 40 C.F.R. §§ 63.420 et seq. 59 Fed. Reg. 64318 (Dec. 14, 1994) (as amended).
42. 40 C.F.R. § 63.420 provides that the affected source to which the Gasoline Terminals MACT applies is each bulk gasoline terminal, except as otherwise provided.
43. 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.
44. 40 C.F.R. § 63.421 defines “Equipment” as each valve, pump, pressure relief device, sampling connection system, open-ended valve or line, and flange or other connector in the gasoline liquid transfer and vapor collection systems. This definition also includes the entire vapor processing system except the exhaust port(s) or stack(s).
45. 40 C.F.R. § 63.421 defines “In gasoline service” as a piece of equipment that is used in a system that transfers gasoline or gasoline vapors.
46. 40 C.F.R. § 63.424(a) provides that each owner or operator of a bulk gasoline terminal subject to the provisions of the Bulk Gasoline Terminals MACT shall perform a monthly leak inspection of all equipment in gasoline service. For this inspection, detection methods

incorporating sight, sound, and smell are acceptable. Each piece of equipment shall be inspected during the loading of a gasoline cargo tank.

47. 40 C.F.R. § 63.424(b) provides that a log book shall be used and shall be signed by the owner or operator at the completion of each inspection. A section of the log shall contain a list, summary description, or diagram(s) showing the location of all equipment in gasoline service at the facility.

48. Pursuant to Section 111 of the Act, EPA promulgated the Bulk Gasoline Terminals NSPS, 40 C.F.R. §§ 60.500 et seq. 48 Fed. Reg. 37590 (Aug. 18, 1983) (as amended).

49. 40 C.F.R. § 60.500 provides that the affected facility to which the Bulk Gasoline Terminals NSPS applies is the total of all the loading racks at a bulk gasoline terminal, the construction or modification of which is commenced after December 17, 1980, which deliver liquid product into gasoline tank trucks.

50. 40 C.F.R. § 60.501 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 Administrator and any other person.

51. 40 C.F.R. § 60.501 defines “Gasoline” as any petroleum distillate or petroleum distillate/alcohol blend having a Reid vapor pressure of 27.6 kilopascals or greater which is used as a fuel for internal combustion engines.

52. 40 C.F.R. § 60.501 defines “Gasoline tank truck” as a delivery tank truck used at bulk gasoline terminals which is loading gasoline or which has loaded gasoline on the immediately previous load.

53. 40 C.F.R. § 60.501 defines “Loading rack” as the loading arms, pumps, meters, shutoff valves, relief valves, and other piping and valves necessary to fill delivery tank trucks.

54. 40 C.F.R. § 60.502(j) provides that each calendar month, the vapor collection system, the vapor processing system, and each loading rack handling gasoline shall be inspected during the loading of gasoline tank trucks for total organic compounds liquid or vapor leaks. For purposes of this provision, detection methods incorporating sight, sound, or smell are acceptable. Each detection of a leak shall be recorded and the source of the leak repaired within 15 calendar days after it is detected.

55. 40 C.F.R. § 60.505(c) provides that a record of each monthly leak inspection required under 40 C.F.R. § 60.502(j) shall be kept on file at the terminal for at least 2 years. Inspection records shall include, as a minimum, the following information: (1) Date of inspection, (2) Findings (may indicate no leaks discovered; or location, nature, and severity of each leak), (3) Leak determination method, (4) Corrective action (date each leak repaired; reasons for any repair interval in excess of 15 days), and (5) Inspector name and signature.

#### New Jersey SIP

56. Section 109 of the CAA directs the EPA Administrator to promulgate regulations establishing national ambient air quality standards (“NAAQS”) for each air pollutant for which air quality criteria have been issued pursuant to Section 108 of the Act.

57. Section 110(a)(1) of the CAA requires each state to adopt and submit to EPA for approval a plan that provides for the implementation, maintenance, and enforcement of each of the NAAQS. Such plans, once approved by EPA, are known as State Implementation Plans, or SIPs.

58. The federally approved SIP for the State of New Jersey includes “Control and Prohibition of Air Pollution by Volatile Organic Compounds” (“VOCs”), Title 7, Chapter 27, Subchapter 16

of the New Jersey Administrative Code (“N.J.A.C.”) (“NJ VOC Control Regulation”), effective April 20, 2009. See 75 Fed. Reg. 45483 (Aug. 3, 2010).

59. The NJ VOC Control Regulation applies to, among other things, any stationary storage tank that stores only VOC, or that stores VOC and non-VOC, except as otherwise provided.

N.J.A.C. 7:27-16.2(a).

60. The NJ VOC Control Regulation includes the following definitions at N.J.A.C. 7:27-16.1 (2010):

- a. “Degassing” means the process of removing organic vapors from a storage tank in preparation for human entry;
- b. “Facility” means the combination of all structures, buildings, equipment, storage tanks, source operations, and other operations located on one or more contiguous or adjacent properties owned or operated by the same person;
- c. “Floating roof” means an external or internal pontoon type or double-deck type roof resting on the surface of the liquid contents in a storage vessel, and equipped with a mechanism providing one or more tight seals in the space between the floating roof rim and the vessel shell throughout the entire vertical travel distance of the roof, or any other floating type mechanism approved by the Department for the purpose of preventing air contaminants from being discharged into the outdoor atmosphere;
- d. “Internal floating roof” means a floating roof located inside a vessel with a fixed roof;
- e. “Person” means any individual or entity and shall include, without limitation, corporations, companies, associations, societies, firms, partnerships, and joint stock companies, and shall also include, without limitation, all political subdivisions of any State or any agencies or instrumentalities thereof;

f. “Source operation” means any process or any identifiable part thereof that emits or can reasonably be anticipated to emit any air contaminant either directly or indirectly into the outdoor atmosphere. A source operation may include one or more pieces of equipment or control apparatus;

g. “Storage tank” means any tank, reservoir, or vessel which is a container for liquids or gases, wherein: 1. No manufacturing process, or part thereof, other than filling or emptying takes place; and 2. The only treatment carried out is that necessary to prevent change from occurring in the physical condition or the chemical properties of the liquids or gases deposited into the container. Such treatment may include recirculating, agitating, maintaining the temperature of the stored liquids or gases, or replacing air in the vapor space above the stored liquids or gases with an inert gas in order to inhibit the occurrence of chemical reaction;

h. “Vapor” means the gaseous form of substances which, under standard conditions, are in the solid or liquid state and which can be changed to these states by either increasing the pressure or decreasing the temperature; and

i. “Volatile organic compound” or “VOC” means a volatile organic compound as that term is defined by the EPA at 40 C.F.R. § 51.100(s), as supplemented or amended, which is incorporated by reference herein.

61. Pursuant to the NJ VOC Control Regulation, no person shall cause, suffer, allow, or permit the storage of any VOC in any stationary storage tank unless the provisions specified in N.J.A.C. 7:27-16.2(l) are met. Under N.J.A.C. 7:27-16.2(l)(7)(vi), for an internal floating roof installed after July 23, 1984, and on or before the date an internal floating roof tank in “Range III” (as specified in Table 2A) is refilled after being degassed for the first time after May 19,

2009, the concentration of organic vapor in the vapor space above the internal floating roof must not exceed 30 percent of its lower explosive limit (“LEL”). N.J.A.C. 7:27-16.2(l)(7)(vi).

*Title V Operating Permit Program*

62. 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.

63. Section 502(d) of the Act requires each state to develop, and submit to 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 regulations promulgated under Section 502(b) of the Act.

64. 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.

65. Under Section 502(e) of the Act, EPA maintains its authority to enforce permits issued by a state.

66. Under Section 502(d)(1) of the Act, New Jersey developed and submitted N.J.A.C. 7:27-22 (the “New Jersey Title V Operating Permit Program”) to EPA, to meet the requirements of Title V of the Act and of 40 C.F.R. Part 70, which was promulgated under Section 502(b) of the Act.

67. On May 16, 1996, EPA granted interim approval of the New Jersey Title V Operating Permit Program, which had an effective date of June 17, 1996. 61 Fed. Reg. 24715.

68. On December 5, 2001, EPA granted full approval of the New Jersey Title V Operating Permit Program, which has an effective date of November 30, 2001. 66 Fed. Reg. 63168.

69. N.J.A.C. 7:27-22.19(f) provides that each permittee shall submit to the New Jersey Department of Environmental Protection (“NJDEP”), and to EPA, at the specified addresses, a periodic compliance certification, in accordance with the schedule for compliance certifications set forth in the compliance plan in the operating permit. This periodic compliance certification shall include the following information:

a. For each applicable requirement, a statement that the facility is: (i) In compliance with the applicable requirement and, if so, whether the compliance is continuous or intermittent, as defined in the applicable Federal rules for the enhanced monitoring of stationary sources set forth at 40 C.F.R. Part 64; (ii) In compliance with a compliance schedule, included in the operating permit pursuant to N.J.A.C. 7:27-22.9(c)7ii, which includes a sequence of actions with milestones leading to compliance with the applicable requirement; (iii) In compliance with an order or consent decree not incorporated into a compliance schedule; or (iv) Not in compliance;

b. For each applicable requirement, a statement of the methods used to determine the facility’s compliance status, including a description of any monitoring, recordkeeping, and reporting requirements and test methods; and

c. Certification in accordance with the certification procedures at N.J.A.C. 7:27-1.39.

#### **D. FINDINGS OF FACT**

70. PBF Logistics owns and operates the Facility located at 3<sup>rd</sup> Street & Billingsport Road in Paulsboro, New Jersey, including aboveground storage tank #13481 (referred to as “Tank 81”), the marine loading terminal, and the gasoline loading terminal.



71. PBF Logistics is a limited liability company, incorporated in 2016, with its headquarters located in Parsippany, New Jersey.

72. Tank 81 is equipped with an internal floating roof, installed in or around October 2016. Tank 81 has a design capacity of 5,527,000 gallons, a diameter of 140 feet and a height of 48 feet from ground to roof bottom.

73. The Facility operates under a Title V operating permit issued by the NJDEP, Permit Activity No. BOP150001 (Program Interest Number 55795), with an expiration date of February 5, 2021. Except for the applicable New Jersey SIP requirement, the Title V permit includes the applicable requirements cited in Section C of this Consent Agreement with respect to Tank 81, the marine loading terminal, and the gasoline terminal.

74. On August 23, 2017, EPA Region 2 conducted an inspection at the Facility (“EPA Inspection”) to evaluate compliance with the applicable regulations cited above and PBF Logistics’ Title V operating permit.

75. On August 24, 2017, EPA sent PBF a written request for follow-up information as part of the EPA Inspection. PBF Logistics submitted additional information in response to EPA’s initial request on August 31, 2017. Follow-up correspondence between EPA and PBF Logistics culminated in a submittal by PBF Logistics on November 7, 2017.

*Method 21 monitoring of the marine loading dock’s vapor collection systems and control device*

76. Based on the EPA Inspection and the additional information provided by PBF Logistics, EPA determined that PBF Logistics did not conduct annual EPA Method 21 monitoring for calendar year 2016 for marine loading ductwork, piping, and connections to vapor collection systems and control devices at the Facility.

Monthly leak inspections of equipment in gasoline service for the gasoline loading rack incorporating sight, sound, and smell detection methods

77. Based on the EPA Inspection and the additional information provided by PBF Logistics, EPA determined that for the period May 2016 through August 2017 (16 months), the monthly leak detection documentation did not include specific information regarding all loading rack equipment transporting gasoline or gasoline vapors, such as valves, pumps, pressure relief devices, sampling connection systems, open-ended valves or lines, and flanges or other connectors in the gasoline liquid transfer and vapor collection systems. The documentation did not include: (a) a complete list, summary description, or diagram(s) showing the location of all such loading rack equipment; (b) information regarding the leak determination method used; (c) findings such as an indication that no leaks were discovered, or the location, nature, and severity of each leak; and (d) a description of corrective actions taken or the date(s) that each leak was repaired.

Tank 81 open manway

78. During the EPA Inspection, EPA used an infrared FLIR camera and identified elevated hydrocarbon emissions from perimeter roof vents on Tank 81.

79. On December 27, 2017, EPA issued PBF Logistics a request for information, Reference Number CAA-02-2018-1451 (“Information Request”), pursuant to Section 114 of the CAA. The Information Request required PBF Logistics to conduct an engineering investigation of the internal floating roof (“IFR”) at Tank 81, and to provide verification that the IFR at Tank 81 meets the applicable requirements in NSPS Subpart Kb, among other requirements.

80. After receiving the Information Request, PBF Logistics conducted an in-service visual inspection of the existing pontoon-type IFR at Tank 81 and identified an open manway. PBF Logistics communicated this finding to EPA on March 28, 2018.

81. On April 9, 2018, PBF Logistics engaged a third-party contractor to conduct an additional inspection of the IFR at Tank 81 after the tank was emptied and taken out of service.

82. On April 11, 2018, the contractor submitted its inspection report to PBF Logistics, which PBF Logistics provided to EPA. The contractor's inspection report states that, among other things, one (1) IFR manway was found to be open upon entering Tank 81.

83. PBF Logistics confirmed in an April 23, 2018 email that the IFR manway that was found to be open in Tank 81 was a manway/relief vent.

84. EPA determined that the IFR manway/relief vent had been left open since Tank 81 was last emptied in November of 2016.

85. Based on the EPA Inspection and the additional information provided by PBF Logistics, the IFR manway/relief vent was left open from approximately November 2016 through March 31, 2018, a period of approximately 16 months, during which the IFR manway/relief vent was not in use.

*Tank 81 lower explosive limit (New Jersey SIP)*

86. Pursuant to the December 27, 2017 Information Request, PBF Logistics was required to, among other things, submit a test plan for conducting LEL measurements and SUMMA canister sampling in the vapor space above the IFR of Tank 81.

87. On January 30, 2018, PBF Logistics submitted a test plan pursuant to the Information Request. EPA conditionally approved the test plan on February 21, 2018.

88. As alleged in the June 13, 2019 NOV, on August 8, 2018, Tank 81 contained a liquid petroleum product known as light reformate.

89. On August 8, 2018, PBF Logistics conducted the LEL measurements and SUMMA canister sampling in the vapor space above the IFR of Tank 81, in accordance with the conditionally approved test plan.

90. On September 7, 2018, PBF Logistics submitted a test report to EPA, which included the LEL data log and the SUMMA canister sample results. The test report indicates that during the LEL testing on August 8, 2018, the concentration of organic vapor in the vapor space above the IFR of Tank 81 was greater than 30 percent of the LEL for the monitor's calibration gas, which was methane. Since the light reformate vapors are composed of heavier molecules than methane vapor molecules, the results submitted in the test report are biased low.

Title V permit

91. EPA finds that for calendar year 2016, PBF Logistics did not include in its annual Title V permit compliance certification a statement that it was not in compliance with the applicable requirements in NSPS Subpart Kb, the Marine Loading MACT, the Bulk Gasoline Terminals MACT, and the Bulk Gasoline Terminals NSPS.

92. EPA finds that for calendar year 2017, PBF Logistics did not include in its annual Title V permit compliance certification a statement that it was not in compliance with the applicable requirements in NSPS Subpart Kb, the Bulk Gasoline Terminals MACT, and the Bulk Gasoline Terminals NSPS.

**E. ALLEGED VIOLATIONS OF LAW**

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

93. The Respondent is a "person," within the meaning of Section 302(e) of the Act and the N.J.A.C. 7:27-16.1.

94. Respondent is the "owner or operator" of the Facility (including Tank 81), as that term is used in CAA Sections 111(a)(5) and 112(a)(9), 40 C.F.R. §§ 60.2 and 63.2, and in the NJ VOC Control Regulation, N.J.A.C. §§ 7:27-16.1 et seq., approved by EPA into the New Jersey SIP.

95. The Facility is a "stationary source," as that term is used Sections 111(a)(3) and 112(a)(3) of the Act, and 40 C.F.R. §§ 60.2 and 63.2.

96. At the time of the violations alleged in this Consent Agreement, Respondent was subject to the NSPS Subpart Kb regulation, 40 C.F.R. §§ 60.110b et seq.

97. At the time of the violations alleged in this Consent Agreement, Respondent was subject to the Marine Loading MACT Subpart Y regulation, 40 C.F.R. §§ 63.560 et seq.

98. At the time of the violations alleged in this Consent Agreement, Respondent was subject to the Bulk Gasoline Terminals MACT regulation, 40 C.F.R. §§ 63.420 et seq.

99. At the time of the violations alleged in this Consent Agreement, Respondent was subject to the Bulk Gasoline Terminals NSPS regulation, 40 C.F.R. §§ 60.500 et seq.

100. At the time of the violations alleged in this Consent Agreement, Respondent was subject to the applicable requirements in its Title V operating permit, duly issued under the New Jersey Title V Operating Permit Program at N.J.A.C. 7:27 Subchapter 22, "Operating Permits."

101. For calendar year 2016, Respondent failed to inspect and monitor all ductwork and piping and connections to vapor collection systems and control devices once each calendar year using Method 21, in violation of 40 C.F.R. § 63.563(c) of the Marine Loading MACT.

102. From approximately May 2016 through at least August 2017, Respondent's monthly leak detection documentation did not include (a) a complete list, summary description, or diagram(s) showing the location of all such loading rack equipment; (b) information regarding the leak determination method used; (c) findings such as an indication that no leaks were discovered, or the location, nature, and severity of each leak; and (d) a description of corrective actions taken or the date(s) that each leak was repaired; in violation of 40 C.F.R. § 63.424(a) and (b) of the Bulk Gasoline Terminals MACT, and 40 C.F.R. §§ 60.502(j) and 60.505(c) of the Bulk Gasoline Terminal NSPS.

103. From approximately November 2016 through March 31, 2018, Respondent failed to maintain an IFR manway/relief vent within Tank 81 in a closed position at all times, equip it

with a gasket, and ensure it was bolted, while it was not in actual use, in violation of 40 C.F.R. § 60.112b(a)(1)(iv) of NSPS Subpart Kb.

104. On several occasions, including on August 8, 2018, the concentration of organic vapor in the vapor space above the IFR of Tank 81 exceeded 30 percent of its LEL (as hereinafter defined), in violation of N.J.A.C. 7:27-16.2(D)(7)(vi).

105. During all relevant dates that the concentration of organic vapor in the vapor space above the IFR of Tank 81 exceeded 30 percent of its LEL, Tank 81 at the Facility contained light reformate, a VOC.

106. For calendar years 2016 and 2017, PBF Logistics did not include in its annual Title V permit annual compliance certifications a statement that it was not in compliance with the applicable requirements in NSPS Subpart Kb, the Marine Loading MACT, the Bulk Gasoline Terminals MACT, and Bulk Gasoline Terminals NSPS, in violation of N.J.A.C. 7:27-22.19(f) and the Facility Title V operating permit.

**F. TERMS OF CONSENT AGREEMENT**

107. 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;
- b. neither admits nor denies the factual allegations and alleged violations of law stated above;
- 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.
108. For the purpose of this proceeding, Respondent:
- a. agrees that this Consent Agreement states a claim upon which relief may be granted against Respondent;
  - b. acknowledges that this Consent Agreement constitutes an enforcement action for purposes of considering Respondent’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 Respondent 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 New Jersey; 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.

109. Pursuant to Section 113(d) of the Act, Respondent shall pay the civil penalty of **\$226,235** (“EPA Penalty”) within thirty (30) calendar days of the effective date specified in Section H of this Consent Agreement (“Effective Date”). Respondent 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-02-2020-1202.” Within 24 hours of payment of the EPA Penalty, Respondent 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

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

“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-02-2020-1202,” and any other information required to demonstrate that payment has been made according to the applicable payment method.

110. If Respondent 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 Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with the EPA or engaging in programs the EPA sponsors or funds, 40 C.F.R. § 13.17.

111. Conditions. As a condition of settlement, Respondent agrees to each of the following:

- a. Tank 81 (Light Reformate Storage Tank). In accordance with the provisions of this Paragraph 111.a, Respondent shall connect Tank 81 to a closed vent system and a vapor combustion unit ("VCU") designed and operated to reduce inlet VOC emissions by at least 98 percent by weight. For purposes of this Consent Agreement, "VCU" shall mean a combustion device used to mix and ignite fuel, air pollutants, and air to provide a flame to heat and oxidize VOCs. Auxiliary fuel may be used to heat air pollutants to combustion temperatures.

- i. The closed vent system shall be designed to collect all VOC vapors and gases discharged from the storage vessel, and operated with no detectable emissions as indicated by an instrument reading of less than 500 parts per million volume ("ppmv") as methane above background, and by visual inspections.

Respondent shall demonstrate compliance with this standard by monitoring the affected components of the closed vent system in accordance with EPA Method

21 at the time of, or up to 72 hours in advance of, the performance test required under subparagraph 111.a.iv. The instrument used by Respondent to conduct the Method 21 monitoring shall be calibrated before use, by the procedures specified in EPA Method 21.

ii. Within thirty (30) days of the Effective Date of this Agreement, Respondent shall submit to the NJDEP, in accordance with the applicable NJDEP permitting regulations, an application for a preconstruction permit to install the VCU. The application shall include a request, consistent with N.J.A.C. 7:27-22.33(e), that NJDEP issue the preconstruction approval simultaneously with the proposed operating permit modification. Respondent shall timely submit all available information that NJDEP may seek to complete and process the application;

iii. Within seven (7) months of receiving the preconstruction approval from NJDEP for the VCU (subject to N.J.A.C. 7:27-22.32), or ten (10) months after submitting the application pursuant to subparagraph 111.a.ii, whichever is later, Respondent shall complete construction of the VCU;

iv. To the extent not inconsistent with the terms of the final preconstruction approval/permit issued by NJDEP, within thirty (30) days of receiving such approval, Respondent shall submit a copy of the required VCU performance test protocol to EPA for review. Respondent shall ensure that the VCU performance test protocol incorporates the appropriate EPA test methods and provides for a demonstration of a reduction of inlet VOC emissions by at least 98 percent by weight. Respondent shall conduct the performance test as approved in accordance with the terms of the preconstruction approval/permit

issued by NJDEP, consistent with this subparagraph 111.a.iv. Respondent shall give EPA at least fifteen (15) days advanced notice of the date of the VCU performance test;

v. Once per calendar quarter for a period of one (1) year following the start-up of the VCU and closed vent system for Tank 81 (for a total of four surveys), PBF Logistics shall conduct optical gas imaging surveys of Tank 81 and the associated closed vent system using an optical gas imaging infrared camera designed for and capable of detecting hydrocarbon emissions (“Optical Gas Imaging Surveys”);

vi. Respondent shall ensure that all Optical Gas Imaging Surveys conducted pursuant to this Consent Agreement are performed by individuals, whether employees of a third-party vendor or PBF Logistics personnel, who have received training from qualified persons in infrared gas imaging camera fundamentals and operation and who have proficiency with the infrared gas imaging camera;

vii. all infrared gas imaging cameras used shall be capable of imaging organic gases that absorb infrared light in approximately the 3.2 to 3.4 micron range, and have an automatic mode (for thermal contrast and brightness) for Optical Gas Imaging Surveys;

viii. all Optical Gas Imaging Surveys shall be conducted in automatic mode and in gray scale, and the polarity shall be selected in order to achieve the maximum contrast of the VOCs with the sky background condition;

ix. all Optical Gas Imaging Surveys shall be conducted at a distance of no more than 50 feet from potential leaking components of the closed vent system and Tank 81 sealed perimeter roof vents;

x. If the infrared gas imaging camera operator observes emissions from the closed vent system or Tank 81 sealed perimeter roof vents during the Optical Gas Imaging Surveys, then Respondent shall:

1. Initiate an infrared camera video recording during the inspection in which the operator observed emissions, and in accordance with the Optical Gas Imaging Survey procedures described above;
2. Attempt an initial repair as soon as practicable, but no later than 5 calendar days after emissions are observed. Repair or replacement of any equipment shall be completed within 15 calendar days after emissions are observed, except upon a demonstration to EPA that repair within 15 days is not feasible. PBF shall provide the reason(s) a delay is needed and the date by which each repair is expected to be completed; and

xi. Within five (5) calendar days after a first attempt at repairing a leak, PBF Logistics shall conduct a follow-up Optical Gas Imaging Survey of the relevant section(s) of the closed vent system and/or Tank 81 using the procedures above to verify that the repair(s) addressed the leak, or if such repairs were not successful, conduct additional repairs to successfully address the leak within a timeframe to be agreed upon with EPA.

b. Inventory of Equipment in Gasoline Service. Consistent with 40 C.F.R. § 63.424, PBF Logistics shall update its existing inventory of equipment in gasoline service. The new equipment inventory shall be submitted to EPA within 60 days of the Effective Date of this Agreement and shall include an itemized list of all equipment in gasoline service, including equipment description, location, and assigned component number. Equipment to be covered includes each valve, pump, pressure relief device, sampling connection system, open-ended valve or line, and flange or other connector in the gasoline liquid transfer and vapor collection systems. This includes the entire vapor processing system except the exhaust port(s) or stack(s).

c. Inspection and Maintenance Program for Internal Floating Roof Tanks. Beginning no later than 90 days after the Effective Date of this Agreement, and continuing thereafter on a calendar quarter basis until a total of four quarterly monitoring events are completed as provided in this subparagraph, the LEL in the vapor space above the IFR shall be measured for all IFR storage tanks, other than tanks controlled by a VCU, that both have a storage capacity of greater than 30,000 barrels and are storing liquid material with a maximum true vapor pressure greater than 0.5 psia. For purposes of this Consent Agreement, “LEL” means the lowest concentration of a combustible substance in an oxidizing medium that will propagate a flame, and “maximum true vapor pressure” has the same meaning as defined in 40 C.F.R. § 60.111b. The LEL measurements shall be made, and any necessary or required tank inspections, repairs or other corrective actions shall be taken, in accordance with the “IFR Storage Tank Inspection and Maintenance Plan” that is attached to this Consent Agreement as Appendix A, which shall be in effect and enforceable under this Agreement for the four quarterly monitoring event period provided in this subparagraph. For the period when the IFR Storage Tank Inspection and

Maintenance Plan is in effect, any deviations from or changes to such plan must be approved by EPA in writing.

d. Resubmittal of Title V permit compliance certifications. Within thirty (30) days of the Effective Date of this Consent Agreement, in accordance with N.J.A.C. 7:27-22.19(f), Respondent shall resubmit its Title V permit compliance certification for the years 2016 and 2017, to include the specific noncompliance alleged in Section E of this Consent Agreement.

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

i. the performance test results required by Paragraph 111.a. of this Consent Agreement shall be submitted within 90 days of completion of the test;

ii. the results of the Optical Gas Imaging Surveys of Tank 81 and the closed vent system shall be submitted within 30 days of completion;

iii. documentation of repairs made as a result of the Optical Gas Imaging Surveys observations shall be submitted within 15 days of completion of the repairs;

iv. notification to the EPA of planned LEL measurements pursuant to Paragraph 111.c. of this Consent Agreement and the IFR Storage Tank Inspection and Maintenance Plan shall be submitted in writing at least 7 days prior to conducting the measurements;

v. the results of the quarterly LEL measurements required under Paragraph 111.c. of this Consent Agreement and the IFR Storage Tank Inspection and Maintenance Plan shall be submitted within 15 days of completion; and

vi. documentation of any Necessary Repairs, and any Required Inspection Procedures and Required Repairs under the IFR Storage Tank Inspection and

Maintenance Plan, referred to in Paragraph 111.c. of this Consent Agreement, shall be submitted within 15 days of completion.

f. Permitting. Within sixty (60) days of issuance by NJDEP of the preconstruction approval/permit for the VCU pursuant to Paragraph 111.a, Respondent shall submit an application to NJDEP to modify Respondent's Title V permit to reflect the applicability to relevant tanks at the Facility of the LEL standard applicable to the concentration of organic vapors in the vapor space above the floating roof for each such tank, pursuant to N.J.A.C. 7:27-16.2(l)(7)(v) and (vi). To the extent not inconsistent with the permitting obligations set forth in Paragraph 111.a, above, no other requirements of this Consent Agreement are required to be incorporated into continuing permit obligations governing Respondent's operations.

112. Respondent agrees that the time period from the Effective Date of this Agreement until all of the Conditions specified in Paragraph 111 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. Respondent 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.

113. The provisions of this Consent Agreement shall apply to and be binding upon Respondent 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 112, Respondent 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, Respondent shall provide written notice of such transfer, assignment, or delegation to the EPA. In the event of any such transfer, assignment, or delegation, Respondent 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.

114. By signing this Consent Agreement, Respondent 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.

115. By signing this Consent Agreement, the undersigned representative of Complainant and the undersigned representative of Respondent 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.

116. 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.

117. By signing this Consent Agreement, Respondent 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. Respondent 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.

118. Except as qualified by Paragraph 110.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**

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

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

121. 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.

122. 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.

123. Any violation of this Final Order may result in EPA pursuing a civil judicial action for an injunction or civil penalties of up to \$99,681 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. Respondent 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 EPA.

124. Nothing in this Consent Agreement shall relieve Respondent 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.


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

126. 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 Respondent 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, Respondent reserves the right to assert any available argument and defense to any such claim by EPA. The EPA shall give Respondent notice of its intent to revoke, which shall not be effective until received by Respondent in writing.

#### **H. EFFECTIVE DATE**

127. Respondent and Complainant agree to issuance of the attached Final Order. Upon filing, the EPA will transmit a copy of the filed Consent Agreement to the Respondent. 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.

APPROVED  
LEGAL

  
11/4/19

Signatures

The foregoing Consent Agreement In the Matter of PBF Logistics Products Terminals LLC, Docket No. CAA-02-2020-1202, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:



James Fedena  
Senior Vice President  
PBF Logistics Products Terminals LLC  
1 Sylvan Way, Second Floor  
Parsippany, NJ 07054

November 4, 2019

FOR COMPLAINANT:



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

11/8/19, 2019

*In the Matter of PBF Logistics Products Terminals LLC  
CAA-02-2020-1202*



**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 EPA Region 2, concurs in the foregoing Consent Agreement, *In the Matter of PBF Logistics Products Terminals, LLC*, CAA-02-2020-1202. 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.**



\_\_\_\_\_  
Peter Lopez  
Regional Administrator  
United States Environmental Protection Agency, Region 2

Date: 11/13/19



**APPENDIX A**  
**In the Matter of PBF Logistics Products Terminals LLC –**  
**EPA Index No. CAA-02-2020-1202**

**IFR Storage Tank Inspection and Maintenance Plan**

This Appendix A contains the procedures for measuring the concentrations of organic vapor in the vapor space above the internal floating roof (“IFR”) at the storage tanks specified in Paragraph 111.c. of the above-referenced Consent Agreement (“Subject IFR Tanks”), to determine the percentage of the lower explosive limit (“LEL”) of such vapors within the tanks. This Appendix A also contains the requirements for taking any appropriate corrective actions based on the measured percentage of the vapors’ LEL.

**Procedure for measuring LEL percentage**

1. The LEL measurements shall be conducted by sampling the vapor space within three (3) feet of the top of the IFR using an LEL meter with data logging capability;
2. The LEL meter shall be calibrated prior to each use, and the date and time shall be set to local time. If extended sample collection tubing for the LEL meter will be used, PBF shall demonstrate that the LEL meter is capable of being successfully calibrated with the length of sample tubing to be used;
3. LEL measurements shall be conducted when the wind speed is less than 5 miles per hour;
4. Data logging of the LEL measurements shall be in 15-second intervals and measurements shall be done for 35 minutes, with the first 5 minutes of data to be disregarded;
5. The IFR shall not be in motion during sampling; and
6. LEL measurements shall be adjusted using LEL correction factor(s) specific to the LEL meter to be used, and based on the liquid being stored in the tank (e.g., a gasoline correction

factor is to be used for light reformat, gasoline, and naphtha, and an ethanol correction factor is to be used for ethanol).

7. For any Subject IFR Tanks, if the 30-minute average of valid LEL measurements, i.e., the average of the valid data for minute 6 through minute 35, as adjusted using the appropriate correction factor(s) (the “30-Minute Average Measurement”), is equal to or less than 25 percent of the LEL, no further action is required until the next scheduled quarterly LEL measurement.

**Corrective actions**

8. For any Subject IFR Tanks, if the 30-Minute Average Measurement is greater than 25 percent, PBF Logistics shall conduct additional LEL measurements, using the procedures described in paragraphs 1 through 6, above, for the first three days with wind speeds of less than 5 miles per hour following the initial LEL measurement of greater than 25 percent (“Follow-up LEL Measurements”). For any Subject IFR Tanks, if the 30-Minute Average Measurement is less than or equal to 25 percent for all three of the Follow-up LEL Measurements, then the tank(s) shall resume quarterly LEL measurements.

9. For any Subject IFR Tanks, if the 30-Minute Average Measurement is greater than 25 percent for any one of the three Follow-up LEL Measurements, then PBF Logistics shall take corrective action to achieve equal to or less than 25 percent of the LEL within the tank, as described in paragraphs 10 through 12, below.

10. Within 45 calendar days of the initial LEL measurement, PBF Logistics shall take corrective action to address the elevated LEL level, or remove the tank from service (“Required Repairs”). If more time is needed to make such Required Repairs, PBF Logistics may, with written notice to the U.S. Environmental Protection Agency, use no more than two extensions of



no more than 30 calendar days each, provided that alternate suitable storage capacity is unavailable.

11. After completion of Required Repairs on any Subject IFR Tanks, the percentage of the LEL of the vapors in the vapor space above the IFR shall be re-measured within 5 days of completing such repairs and/or putting the tank back in service, using the procedures described in paragraphs 1 through 6, above, to confirm that the tank is in good working order. If the 30-Minute Average Measurement of the re-measured tank is less than or equal to 25 percent of the LEL, that tank shall resume quarterly LEL measurements.

12. If the 30-Minute Average Measurement of the re-measured tank is greater than 25 percent of the LEL, PBF Logistics shall conduct additional LEL measurements, using the procedures described in paragraphs 1 through 6, above, for the first three days with wind speeds of less than 5 miles per hour following the LEL re-measurement of greater than 25 percent. If the 30-Minute Average Measurement for all three days is less than or equal to 25 percent of the LEL, then that tank shall resume quarterly LEL measurements.

13. If the 30-Minute Average Measurement for any of the three follow-up re-measurement days is greater than 25 percent of the LEL, then PBF Logistics shall take additional corrective action as described in paragraphs 10 through 11, above. Such additional corrective action shall be effective in achieving equal to or less than 25 percent of the LEL within the tank.

Alternatively, PBF Logistics may elect to place the tank in low-VOC service, or remove the tank from service until PBF Logistics and EPA agree on a proper course of action. For purposes of this paragraph, "low-VOC service" means the storage, handling or processing of liquid material with true vapor pressures of less than 0.5 psia.

14. Nothing in the Consent Agreement or in this Appendix A shall relieve PBF Logistics of its obligations under local, state, or federal law, to ensure the safety of the public or its workforce.

*In the Matter of PBF Logistics Products Terminals LLC,*  
Docket Number CAA-02-2020-1202

CERTIFICATE OF SERVICE

I certify that I have this day caused to be sent the foregoing fully executed CONSENT AGREEMENT and FINAL ORDER, bearing the above-referenced docket number, in the following manner to the respective addressees below:

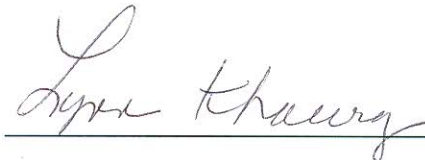
Original and One Copy,  
By Hand:

Karen M. Maples  
Regional Hearing Clerk  
U.S. Environmental Protection Agency- Region 2  
290 Broadway, 16<sup>th</sup> Floor  
New York, New York 10007-1866

Copy by Certified Mail,  
Return Receipt Requested:

Arthur G. Warden III, Esq.  
Deputy General Counsel  
PBF Logistics Products Terminals LLC  
1 Sylvan Way, 2<sup>nd</sup> Floor  
Parsippany, New Jersey 07054-3887

Dated: 11/18/2019

  
\_\_\_\_\_

