

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX**



IN THE MATTER OF:)
)
)
)
)
Par Hawaii Refining, LLC)
91-325 Komohana Street)
Kapolei, HI 96707-1713)
)
)
Respondent.)

Docket No.
CAA(112r)-09-2022-0008

**CONSENT AGREEMENT
AND FINAL ORDER
40 C.F.R. §§ 22.13 and 22.18**

CONSENT AGREEMENT

A. PRELIMINARY STATEMENT

1. This is a civil administrative enforcement action instituted pursuant to Section 113(a)(3)(A) and (d) of the Clean Air Act (“CAA”), as amended, 42 U.S.C. §§ 7413(a)(3)(A) and (d), Section 325 of the Emergency Planning and Community Right-to-Know Act of 1986 (“EPCRA”), 42 U.S.C. § 11045, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (“Consolidated Rules”), 40 C.F.R. Part 22.
2. Complainant is the United States Environmental Protection Agency, Region IX (“EPA”).
3. Respondent is Par Hawaii Refining, LLC.
4. The Administrator of EPA has delegated to the Regional Administrators the authority to sign consent agreements memorializing settlements of enforcement actions under the CAA and EPCRA. Delegation 7-6-A, dated August 4, 1994 (CAA); and Delegation 22-3-A, dated July 20, 2016 (EPCRA). The Regional Administrator, EPA Region IX, in turn, has re-delegated this authority to the Director of the Enforcement and Compliance Assurance Division. Regional Delegation R9-7-6-A, dated February 11, 2013 (CAA); and Regional Delegation R9-22-3A, dated

February 11, 2013 (EPCRA). On EPA's behalf, the Director of the Enforcement and Compliance Assurance Division is therefore delegated the authority to settle civil administrative penalty proceedings under Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and Section 325(b) of EPCRA, 42 U.S.C. § 11045(b).

5. This Consent Agreement and Final Order ("CA/FO"), pursuant to 40 C.F.R. §§ 22.13 and 22.18, simultaneously commences and concludes this proceeding, wherein EPA alleges that Respondent violated Section 112(r) of the CAA, 42 U.S.C. § 7412(r), Section 304 of EPCRA, 42 U.S.C. § 11004, and its implementing regulations.

6. EPA and Respondent, having agreed that settlement of this action is in the public interest, consent to the entry of this CA/FO. Respondent agrees to comply with the terms of this CA/FO.

B. GENERAL ALLEGATIONS

7. Respondent owns and operates the Par East Refinery located at 91-325 Komohana Street in Kapolei, Hawaii ("Facility"). Respondent performs oil refining operations and produces various products from the crude unit, including gasoline, jet fuel, diesel, and fuel oil for the Hawaiian Islands, and also produces small quantities of kerosene and liquified petroleum gas. The Facility has the capacity to process up to 95,000 barrels of crude oil per day.

8. On March 7-11, 2016, EPA performed an inspection of the Facility pursuant to Section 112(r) of the CAA, 42 U.S.C. § 7412(r), Sections 304-312 of the EPCRA, 42 U.S.C. §§ 11004-12, and Section 103 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9603(a). Based upon the information gathered during this inspection and subsequent investigation, EPA asserts that Respondent violated certain provisions of the CAA and EPCRA.

9. EPA and the United States Department of Justice jointly determined that this matter, although it involves alleged violations that occurred more than one year before the initiation of

this proceeding, is appropriate for an administrative penalty assessment. *See* 42 U.S.C. § 7413(d); 40 C.F.R. § 19.4.

10. At all times relevant to this CA/FO, Respondent has been a “person,” as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e), and Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

11. At all times relevant to this CA/FO, the Facility has been a “stationary source,” as defined by Sections 111(a)(3) and 112(a)(3) of the CAA, 42 U.S.C. §§ 7411(a)(3) and 7412(a)(3). The Facility is also a “facility,” as defined by Section 329(4) of EPCRA, 42 U.S.C. § 11049(4).

12. Respondent is subject to the powers vested in the EPA Administrator by Section 113 of the CAA, 42 U.S.C. § 7413, and Section 302 of EPCRA, 42 U.S.C. § 11002.

CAA Section 112(r)

13. At all times relevant to this CA/FO, Respondent has been the “owner or operator” of the Facility, as defined by Sections 111(a)(5) and 112(a)(9) of the CAA, 42 U.S.C. §§ 7411(a)(5) and 7412(a)(9).

14. Pursuant to Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r), and its implementing regulations, owners and operators of stationary sources at which a regulated substance is present in more than a threshold quantity (“TQ”) must prepare and implement a risk management plan (“RMP”) to detect and prevent or minimize accidental releases of such substances from the stationary sources in order to protect human health and the environment.

15. A stationary source that has a regulated substance in an amount equal to or in excess of the applicable threshold quantity in a “process,” as defined by 40 C.F.R. § 68.3, is subject to the Program 3 RMP requirements. Program 3 requires owners or operators to develop a management system to oversee the implementation of the RMP elements as described in 40 C.F.R. § 68.12(d).

16. Pursuant to Section 112(r) of the CAA, 42 U.S.C. § 7412(r), EPA established a TQ for each “regulated substance” at or above which a facility using such a substance in one or more

processes shall be subject to the requirements of Section 112(r) of the CAA, 42 U.S.C. § 7412(r). For substances designated as “regulated flammable substances,” the TQs are specified at 40 C.F.R. § 68.130, Tables 3 and 4.

17. At all times relevant to this CA/FO, Respondent had 10,000 pounds or more of regulated flammable substances, including a combination of Isobutane, Isopentane, Butane, Methane, Pentane, Propane, Hydrogen, and Ethane, in one or more processes at its Facility, exceeding the TQ for one or more of those substances.

18. At all times relevant to this CA/FO, Respondent has been the “owner or operator” of a “stationary source” that has a regulated substance in an amount equal to or in excess of the applicable “threshold quantity” in a “process,” as defined by 40 C.F.R. § 68.3, and is subject to the Program 3 RMP requirements.

19. Section 113 of the CAA, 42 U.S.C. § 7413, authorizes EPA to assess civil penalties for any violation of Section 112(r) of the CAA, 42 U.S.C. § 7412(r).

EPCRA Section 304

20. Section 304 of EPCRA, 42 U.S.C. § 11004, requires the owner or operator to immediately notify the appropriate government entities for any release that requires CERCLA notification and for releases of “extremely hazardous substances” (“EHSs”), as defined at EPCRA § 302. The notification must be given to the State Emergency Response Commission (“SERC”) for all states likely to be affected by the release and to the community emergency response coordinator for the Local Emergency Planning Committee (“LEPC”) for all areas likely to be affected by the release.

21. Sulfur dioxide (or “SO₂”) is a “hazardous chemical,” as defined in Sections 311(e) and 312(c) of EPCRA, 42 U.S.C. §§ 11021(e) and 11022(c), with a “reportable quantity” (“RQ”) or threshold planning quantity of 500 pounds. 42 C.F.R. Part 355, App. A & B. At all times relevant

to this CA/FO, Respondent exceeded 500 pounds or more of SO₂ in one or more processes at the Facility and is required to immediately notify the SERC and LEPC for any release of EHSs, including SO₂.

C. ALLEGED VIOLATIONS

COUNT I

(Failure to comply with process safety information for piping and instrument diagrams)

22. Paragraphs 1 through 19, above, are incorporated herein by this reference as if they were set forth here in their entirety.

23. 40 C.F.R. § 68.65(d)(1) specifies that, before conducting any process hazard analysis, owners and operators shall complete a compilation of process safety information and information pertaining to the equipment in any activity involving a regulated process, which includes: (i) materials of construction; (ii) process and instrument diagrams (“P&IDs”); (iii) electrical classification; (iv) relief system design and design basis; (v) ventilation system design; (vi) design codes and standards employed; (vii) material and energy balances for processes built after June 21, 1999; and (viii) safety systems (e.g., interlocks detection or suspension systems).

24. Based on EPA’s inspection and information gathered during EPA’s investigation, Respondent failed to keep up to date information pertaining to the equipment in the process for the Distillate Hydrocracker (“DHC”) and the Naptha Hydrotreater (“NHT”), which are RMP-covered processes. EPA’s inspection team found numerous minor errors in the five process P&IDs that were sampled, including discrepancies between the instrumentation, piping, and valve configurations in the field that were not accurately identified on the P&IDs.

25. By failing to comply with the process safety information requirements for P&IDs, Respondent violated 40 C.F.R. § 68.65(d)(1)(ii).

COUNT II

(Failure to comply with process safety information for the Naptha Hydrotreater)

26. Paragraphs 1 through 19, above, are incorporated herein by this reference as if they were set forth here in their entirety.

27. 40 C.F.R. § 68.65(d)(2) requires owners and operators to document that process equipment complies with recognized and generally accepted good engineering practices (“RAGAGEP”).

28. API Recommended Practice (“RP”) 941, *Steels for Hydrogen Service at Elevated Temperatures and Pressures in Petroleum Refineries and Petrochemical Plants*, eighth edition, February 2016, recommends use of the appropriate Carbon Steel Nelson Curve for safe operating limits for preventing High Temperature Hydrogen Attack (“HTHA”) in NHT units, including Carbon 0.5 Molybdenum (“Mo”) equipment. API RP 941 has been in publication since 1970 and EPA and the Facility view API RP 941 as a source of RAGAGEP. The eighth edition of API RP 941 added a new Carbon Steel Nelson Curve for carbon steel that has not been post weld heat treated (non-PWHT’d) and includes Figure 1, which has Carbon Steel Nelson Curves for both PWHT’d carbon steel and non-PWHT’d carbon steel.

29. The third edition of API RP 581, Section 19.6 indicates that at the temperatures and pressures that the Respondent is operating R-401 and downstream equipment, any carbon 1/2 Mo steel will have a “high susceptibility to HTHA”, and to move to medium or low susceptibility, the operation needs to be at least 50 °F below the appropriate Nelson Carbon Steel Curve.

30. An industry standard of practice is to operate at 50 °F below the applicable Carbon Steel Nelson Curve for both carbon steel and for Carbon 0.5 Mo equipment.

31. Based on EPA’s inspection and information gathered during EPA’s investigation, Respondent failed to comply with RAGAGEP because the Carbon 0.5 Mo equipment sampled at the NHT unit was found to be operating at different safe operating temperature limits for the same

hydrogen partial pressure. Additionally, for the Carbon 0.5 Mo equipment sampled, there was an inconsistent application of limiting temperatures to 50 °F below the appropriate Carbon Steel Nelson Curve.

32. By failing to comply with RAGAGEP for the process safety information requirements for the NHT unit, Respondent violated 40 C.F.R. § 68.65(d)(2).

COUNT III

(Failure to comply with operating procedures for the Distillate Hydrocracker units)

33. Paragraphs 1 through 19, above, are incorporated herein by this reference as if they were set forth here in their entirety.

34. 40 C.F.R. § 68.69(a) requires that owners or operators develop and implement written operating procedures that provide clear instructions for safely conducting activities in each covered process, consistent with the process safety information, and requires owners or operators to address certain elements including steps for each operating phase, operating limits, safety and health considerations, and the functions of the safety systems.

35. Based on EPA's inspection and information gathered during EPA's investigation, Respondent failed to develop and implement operating procedures that provide clear instructions for safely conducting activities for the DHC process. Specifically, the operating procedures for the Emergency Procedure HT Loss of Feed (SOP-500-EP-06), and the C-604 Compressor, Taking Out of Service (SOP-60-EQ-17), are not clearly written.

36. By failing to develop and implement clearly written operating procedures for the DHC units, Respondent violated 40 C.F.R. § 68.69(a).

COUNT IV

(Failure to address consequences of deviation in written operating procedures)

37. Paragraphs 1 through 19, above, are incorporated herein by this reference as if they were set forth here in their entirety.

38. 40 C.F.R. § 68.69(a)(2) requires owners and operators to develop and implement written operating procedures that provide clear instructions for safely conducting activities involved in each covered process at the facility. These procedures must address among other subjects, operating limits, including consequences of deviation, and steps required to correct or avoid deviations.

39. Based on EPA's inspection and information gathered during EPA's investigation, Respondent failed to develop and implement operating procedures that provide clear instructions for safely conducting activities involved in a covered process for the eight operating procedures that EPA reviewed. The eight operating procedures that EPA reviewed did not include the consequences of deviation, or the steps required to correct or avoid deviation.

40. By failing to address the consequences of deviation for the operating procedures, Respondent violated 40 C.F.R. § 68.69(a)(2).

COUNT V

(Failure to comply with mechanical integrity for process equipment)

41. Paragraphs 1 through 19, above, are incorporated herein by this reference as if they were set forth here in their entirety.

42. 40 C.F.R. § 68.73(d)(3) requires owners and operators to ensure that the frequency of inspections and tests of process equipment shall be consistent with applicable manufacturers' recommendations and good engineering practices, and more frequently if determined to be necessary by prior operating experience.

43. Based on EPA's inspection and information gathered during EPA's investigation, Respondent failed to include control valve PCV-172B and vibration transmitter VT-121A and the

associated alarms and control loops in its mechanical integrity program or any preventative maintenance lists of instruments.

44. By failing to comply with the mechanical integrity requirements, Respondent violated 40 C.F.R. § 68.73(d)(3).

COUNT VI

(Failure to comply with management of change)

45. Paragraphs 1 through 19, above, are incorporated herein by this reference as if they were set forth here in their entirety.

46. 40 C.F.R. § 68.75(b)(4) requires that owners and operators establish and implement written procedures to manage changes (except for “replacements in kind”) to process chemicals, technology, equipment, procedures, and to stationary sources that affect a covered process (“Management of Change,” or “MOC”). The procedures shall assure that certain considerations are addressed prior to any change, including the necessary time period for the change.

47. Based on EPA’s inspection and information gathered during EPA’s investigation, Respondent allowed expired gaskets to be used on R-401, per temporary MOC, which expired about 7 months prior to the inspection, with no further action, new MOC created, or modified temporary MOC.

48. By failing to comply with the management of change requirements, Respondent violated 40 C.F.R. § 68.75(b)(4).

COUNT VII

(Failure to comply with notification requirements to the State Emergency Response Commission)

49. Paragraphs 1 through 21, above, are incorporated herein by this reference as if they were set forth here in their entirety.

50. 40 C.F.R. § 355.42(a) requires owners and operators to provide the immediate emergency release notification information and the written follow-up notification to the SERC of any state likely to be affected by the release.

51. Based on EPA's inspection and information gathered during EPA's investigation, Respondent failed to immediately notify the SERC of releases of SO₂ above the applicable RQ that occurred on February 20, 2015, August 24, 2015, and September 21, 2015. Respondent notified the SERC approximately 3.5 hours after the start of the February 20, 2015 release, approximately 5 hours after the start of the August 24, 2015 release, and approximately 2.5 hours after the start of the September 21, 2015 release.

52. By failing to comply with the notification requirements to the SERC, Respondent violated 40 C.F.R. § 355.42(a).

COUNT VIII

(Failure to comply with notification requirements to the Local Emergency Planning Committee)

53. Paragraphs 1 through 21, above, are incorporated herein by this reference as if they were set forth here in their entirety.

54. 40 C.F.R. § 355.42(a) requires owners and operators to provide the immediate emergency release notification information and the written follow-up notification to the community emergency coordinator for the LEPC of any area likely to be affected by the release.

55. Based on EPA's inspection and information gathered during EPA's investigation, Respondent failed to immediately notify the community emergency coordinator for the LEPC of releases of SO₂ above the applicable RQ that occurred on February 20, 2015, August 24, 2015, and September 21, 2015. Respondent notified the community emergency coordinator for the LEPC approximately 3.5 hours after the start of the February 20, 2015 release, approximately 5

hours after the start of the August 24, 2015 release, and approximately 2.5 hours after the start of the September 21, 2015 release.

56. By failing to comply with the notification requirements to the LEPC, Respondent violated 40 C.F.R. § 355.42(a).

D. CIVIL ADMINISTRATIVE PENALTY

57. EPA proposes that Respondent be assessed, and Respondent agrees to pay, **ONE-HUNDRED SEVENTY-SIX THOUSAND AND EIGHT HUNDRED AND NINETY-NINE DOLLARS (\$176,899.00)** as the civil administrative penalty for the violations alleged herein.

58. The proposed penalty was calculated in accordance with the “Combined Enforcement Policy for Clean Air Act Sections 112(r)(1), 112(r)(7), and 40 C.F.R. Part 68” dated June 2012, and the “Enforcement Response Policy for Sections 304, 311, and 312 of the Emergency Planning and Community Right-to-Know Act and Section 103 of the Comprehensive Environmental Response, Compensation and Liability Act” dated September 30, 1999, and was adjusted for inflation by the Federal Civil Penalties Inflation Adjustment Act, as amended, and the Civil Monetary Inflation Adjustment Rule, 40 C.F.R. Part 19.

E. ADMISSIONS AND WAIVER OF RIGHTS

59. In accordance with 40 C.F.R. § 22.18(b)(2) and for the purpose of this proceeding, Respondent: (i) admits that EPA has jurisdiction over the subject matter of this CA/FO and over Respondent; (ii) neither admits nor denies the specific factual allegations contained in the CA/FO; (iii) consents to any and all conditions specified in this CA/FO and to the assessment of the civil administrative penalty under Section H of this CA/FO; (iv) waives any right to contest the allegations contained in Section C of the CA/FO; and (v) waives the right to appeal the proposed final order contained in this CA/FO.

60. EPA and Respondent agree that settlement of this matter is in the public interest and that entry of this CA/FO without further litigation is the most appropriate means of resolving this matter.

F. PARTIES BOUND

61. This CA/FO shall apply to and be binding upon Respondent and its successors and assigns, until such time as the civil penalty required under Section D (and any additional civil penalty required under Section I) have been paid, the compliance tasks under section G have been completed, and any delays in performance and/or stipulated penalties have been resolved.

62. No change in ownership or legal status relating to the Facility will in way alter Respondent's obligations and responsibilities under this CA/FO.

63. Until all the requirements of this CA/FO are satisfied, Respondent shall give notice of this CA/FO to any successor in interest prior to transfer of ownership or operation of the Facility and shall notify EPA within seven (7) days prior to such transfer.

64. The undersigned representative hereby certifies that he or she is fully authorized by Respondent to enter into and execute this CA/FO, and to legally bind Respondent to it.

G. COMPLIANCE TASKS

65. All submissions required in this section shall be in writing and sent to Don Nixon, electronically at Nixon.don@epa.gov, or, if a hard copy is requested, to:

Don Nixon (ENF-2-2)
Enforcement Compliance and Assurance Division
U.S. Environmental Protection Agency – Region 9
75 Hawthorne Street
San Francisco, CA 94105

66. If Respondent is unable to complete any of the compliance tasks required in this section within the associated schedule, Respondent shall submit a written request, including the basis for

the request, for an extension to EPA. Based on this request, EPA may grant or deny an extension to the aforementioned schedule.

67. Within 30 days of the Effective Date, Respondent shall provide EPA with the name, contact information, and credentials of an independent third-party inspection or engineering company who has not previously worked for Par Hawaii Refining, nor the refinery located at 91-325 Komohana Street, Kapolei, HI 96707-1713, for approval. Within 30 days of receipt of the all of the necessary information described above, EPA will approve or disapprove of Respondent's choice of this independent third-party inspection or engineering company. The third-party inspection or engineering company shall determine, for R-401 and downstream equipment, including but not limited to the E-401C shell, specifically for any equipment made of carbon 1/2 Mo steel, if the current maximum operating temperatures and alarm limits, in conjunction with the refinery's inspection program, are in alignment with RAGAGEP for addressing the risk of HTHA. The determinations shall be based on the latest version of API RP 941, the latest version of API RP 581, and common refining industry practice such as operating 50 °F below the appropriate Nelson Curve. Within 60 days of EPA's approval of a third-party inspection or engineering company, Respondent will provide EPA with a documented report that includes at a minimum, the third-party's conclusions and recommendations. Within 60 days of EPA's receipt of the report, Respondent shall submit to EPA a plan for addressing the recommendations, if the report recommends any physical or operational changes. Respondent shall provide EPA with certification of completion after it has completed the work identified in the plan for addressing any recommendations in the report by December 31, 2023.

H. PAYMENT OF CIVIL PENALTY

68. Respondent consents to the assessment of and agrees to pay civil administrative penalties of **ONE-HUNDRED SEVENTY-SIX THOUSAND AND EIGHT HUNDRED AND**

NINETY-NINE DOLLARS (\$176,899.00) in settlement of the civil penalty claims made in this CA/FO. This CA/FO constitutes a settlement of all claims for the violations of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and Section 304 of EPCRA, 42 U.S.C. § 11004, alleged in Section C above.

69. Respondent shall pay the civil penalty within sixty (60) days of the Effective Date of this CA/FO, as established in Section L of this CA/FO.

70. All payments shall indicate the name of the Facility, EPA identification number of the Facility, the Respondent's name and address, and the appropriate EPA docket number of this action. Payment shall be made by corporate, certified, or cashier's checks payable to "Treasurer of the United States" and sent as follows:

Regular Mail:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

Overnight Mail:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
ATTN Box 979077

St. Louis, MO 63101
Contact: Natalie Pearson (314-418-4087)

Alternatively, payment may be made by electronic transfer as provided below:

Wire Transfers:

Wire transfers must be sent directly to the Federal Reserve Bank in New York City with the following information:
Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727

SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message should read “D 68010727 Environmental Protection Agency”

ACH (also known as REX or remittance express):

Automated Clearinghouse (ACH) for receiving US currency
PNC Bank
808 17th Street, NW
Washington, DC 20074
Contact - Jesse White (301-887-6548)
ABA = 051036706
Transaction Code 22 - checking
Environmental Protection Agency
Account 31006
CTX Format

Online Payment:

This payment option can be accessed from the information below:
www.pav.gov
Enter “sfol.l” in the search field
Open form and complete required fields

A copy of each check, or notification that the payment has been made by one of the other methods listed above, including proof of the date payment was made, shall be sent with a transmittal letter, indicating Respondent’s name, the case title, and docket number, to both:

Regional Hearing Clerk (RC-1)
U.S. Environmental Protection Agency - Region 9
75 Hawthorne Street
San Francisco, CA 94105
r9hearingclerk@epa.gov

And

Don Nixon
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency - Region 9
75 Hawthorne Street
San Francisco, CA 94105
Nixon.Donald@epa.gov

71. In accordance with the Debt Collection Act of 1982 and U.S. Treasury directive (TFRM 6-8000), failure to pay the penalty so that it is received by the due date will result in imposition of interest from the Effective Date of this CA/FO at the current interest rate published by the U.S. Treasury, as described at 40 C.F.R. §13.11. In addition, a six percent (6%) per annum penalty that will be assessed monthly will be applied on any principal amount not paid within ninety (90) days of the due date.

72. The penalties specified in this CA/FO shall represent civil administrative penalties assessed by EPA and shall not be deducted by Respondent or any other person or entity for federal, state or local taxation purposes.

I. DELAY IN PERFORMANCE/STIPULATED PENALTIES

73. In the event that Respondent fails to meet any requirement set forth in this CA/FO, Respondent shall pay stipulated penalties as follows: FIVE HUNDRED DOLLARS (\$500) per day for the first to fifteenth day of delay, ONE THOUSAND DOLLARS (\$1,000) per day for the sixteenth to thirtieth day of delay, and FIVE THOUSAND DOLLARS (\$5,000) per day for each day of delay thereafter. Compliance by Respondent shall include completion of any activity under this CA/FO in a manner acceptable to EPA and within the specified time schedules in and approved under this CA/FO.

74. Stipulated penalties shall begin to accrue on the day after performance is due and shall continue to accrue through the final day until performance is complete. Respondent shall pay stipulated penalties within fifteen (15) days of receipt of a written demand by EPA for such penalties. Payment of stipulated penalties shall be made in accordance with the procedure set forth for payment of penalties in Section H of the CA/FO.

75. If a stipulated penalty is not paid in full, interest shall begin to accrue on the unpaid balance at the end of the fifteen-day period at the current rate published by the United States Treasury, as

described at 40 C.F.R. § 13.11. EPA reserves the right to take any additional action, including but not limited to, the imposition of civil penalties, to enforce compliance with this CA/FO or with the CAA and its implementing regulations.

76. The payment of stipulated penalties specified in this Section shall not be deducted by Respondent or any other person or entity for federal, state, or local taxation purposes.

77. Notwithstanding any other provision of this section, EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this CA/FO.

J. RESERVATION OF RIGHTS

78. Except as addressed in this CA/FO, EPA hereby reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, including the right to require that Respondent perform tasks in addition to those required by this CA/FO. EPA further reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, which may pertain to Respondent's failure to comply with any of the requirements of this CA/FO, including without limitation, the assessment of penalties under the CAA or any other statutory, regulatory, or common law enforcement authority of the United States. This CA/FO shall not be construed as a covenant not to sue, release, waiver or limitation of any rights, remedies, powers or authorities, civil or criminal, which EPA has under the CAA, or any other statutory, regulatory, or common law enforcement authority in the United States.

79. Compliance by Respondent with the terms of this CAFO shall not relieve Respondent of its obligations to comply with the CAA, or any other applicable local, state, tribal, or federal laws and regulations. This CA/FO is not intended to be nor shall it be construed as a permit. This CA/FO does not relieve Respondent of any obligation to obtain and comply with any local, state, tribal, or federal permits nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, tribal, state, or local permit.

80. The entry of this CA/FO and Respondent's consent to comply shall not limit or otherwise preclude EPA from taking additional enforcement action should EPA determine that such actions are warranted except as it relates to those matters resolved by this CA/FO. Respondent's full compliance with this CA/FO, including compliance with the condition stated in Paragraph 67, shall only resolve Respondent's liability for federal civil penalties for the violations and facts alleged in this CAFO

81. EPA reserves its right to seek reimbursement from Respondent for such additional costs as may be incurred by the United States in the event of delay of performance as provided by this CA/FO.

K. MISCELLANEOUS

82. This CA/FO may be amended or modified only by written agreement executed by both EPA and Respondent.

83. The headings in this CA/FO are for convenience of reference only and shall not affect interpretation of this CA/FO.

84. Each party to this action shall bear its own costs and attorneys' fees.

85. Respondent consents to entry of this CA/FO without further notice.

L. EFFECTIVE DATE

86. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CA/FO shall be effective on the date that the Final Order contained in this CA/FO, having been approved and issued by the Regional Judicial Officer, is filed with the Regional Hearing Clerk.

IT IS SO AGREED.

Respondent Par Hawaii Refining, LLC

DATE: 14 December 2021

BY: 
James Matthew Vaughn
Chief Administrative Officer and General Counsel

United States Environmental Protection Agency, Region 9

DATE: _____


JOEL JONES Digitally signed by JOEL JONES
Date: 2022.01.03 16:08:29
-08'00'
BY: _____
for/Amy C. Miller-Bowen
Director, Enforcement and Compliance Assurance
Division

FINAL ORDER

IT IS HEREBY ORDERED that this Consent Agreement and Final Order (“CA/FO”) pursuant to 40 C.F.R. Sections 22.13 and 22.18 (Docket No. CAA (112r)-09-2022-0008) be entered and that Respondent pay a civil penalty ONE-HUNDRED SEVENTY-SIX THOUSAND AND EIGHT HUNDRED AND NINETY-NINE DOLLARS (\$176,899.00) due within sixty (60) days from the Effective Date of this CA/FO, in accordance with all terms and conditions of this CA/FO.

January 7, 2022

Date



Beatrice Wong
Regional Judicial Officer
U.S. EPA, Region IX

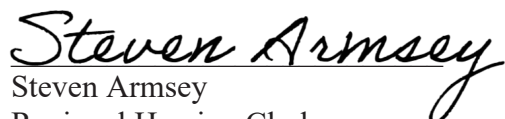
CERTIFICATE OF SERVICE

This is to certify that the original of the fully executed Consent Agreement and Final Order in the matter of Par Hawaii Refining, LLC (Docket # **CAA(112r)-09-2022-0008**) was filed with the Regional Hearing Clerk and that a true and correct copy of the same was sent to the following parties.

RESPONDENT: James Matthew Vaughn
Chief Administrative Officer and General Counsel
Par Hawaii Refining, LLC
mvaughn@parpacific.com

Whit Swift
Bracewell LLP
Whit.Swift@bracewell.com

COMPLAINANT: Ylan Nguyen
Assistant Regional Counsel
U.S. EPA, Region IX
Nguyen.Ylan@epa.gov


Steven Armsey
Regional Hearing Clerk
U.S. EPA, Region IX

07 January 2022
Date