UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

OCT 17 2016

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

C. Michael Palmer, President
Cincinnati Renewable Fuels, LLC
4700 Estes Avenue
Cincinnati, Ohio 45232

Dear Mr. Palmer:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves Cincinnati Renewable Fuels LLC, docket no. **CAA-05-2017-0002**. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on October 17, 2016.

Pursuant to paragraph 54 of the CAFO, Cincinnati Renewable Fuels LLC must pay the civil penalty within 30 days of the filing date. Your check or electronic funds transfer must display the case name and case docket number.

Please direct any questions regarding this case to Mary McAuliffe, Associate Regional Counsel, at (312) 353-9538.

Sincerely,

Sarah G. Marshall
Chief
Air Enforcement and Compliance Assurance Branch (MI/WI)

Enclosure

cc: Ann Coyle, Regional Judicial Officer/C-14J
Regional Hearing Clerk/E-19J
Mary McAuliffe/C-14J
Bob Hodanbosi, Chief, Ohio EPA

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:	)	**Docket No.** **CAA-05-2017-0002**
Cincinnati Renewable Fuels LLC	)	**Proceeding to Assess a Civil Penalty Under**
Cincinnati, Ohio,	)	**Section 113(d) of the Clean Air Act,**
	)	**42 U.S.C. § 7413(d)**
Respondent.	)	

REGIONAL HEARING CLERK
RECEIVED
OCT 17 2016
U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 5

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the CAA), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b) and 22.18(b)(2) and (3) 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 Director of the Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 5.

3. Respondent is Cincinnati Renewable Fuels LLC (CRF), a Delaware limited liability company, doing business in the State of Ohio.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO.

Statutory Background

9. Section 111 under Title I of the Act, 74 U.S.C. § 7411, requires EPA to promulgate Standards of Performance for New Stationary Sources (NSPS). Pursuant to Section 111 of the CAA, EPA promulgated NSPS General Provisions (40 C.F.R. Part 60, Subpart A); NSPS for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for which Construction, Reconstruction, or Modification Commenced After January 5, 1981, and on or Before November 7, 2006 (40 C.F.R. Part 60, Subpart VV); NSPS for Volatile Organic Liquids 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); and Standards of Performance for Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations (40 C.F.R. Part 60, Subpart NNN).

10. Respondent owns and operates certain process equipment at its facility that is subject to the NSPS provisions at 40 C.F.R. Part 60, Subparts A, Kb, VV, and NNN.

11. Section 112 under Title I of the CAA, 42 U.S.C. § 7412, requires EPA to promulgate National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source

Categories. Pursuant to Section 112 of the Act, EPA promulgated NESHAP General Provisions (40 C.F.R. Part 63, Subpart A) and NESHAP for the miscellaneous organic chemical (MON) manufacturing industry (40 C.F.R. Part 63, Subpart FFFF).

12. Section 112(i)(3) of the CAA, 42 U.S.C. § 7412(i)(3) prohibits the owner or operator of any affected source from operating such source in violation of any applicable NESHAP.

Regulatory Background

13. On October 18, 1983, EPA promulgated the Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for which Construction, Reconstruction, or Modification Commenced After January 5, 1981, and on or Before November 7, 2006 (NSPS Subpart VV). *See* 48 Fed. Reg. 48335. NSPS Subpart VV has been subsequently amended. The subpart is codified at 40 C.F.R. §§60.480 - 60.489.

14. The NSPS for VV applies to Respondent because it produces glycerin and was constructed between January 5, 1985 and November 7, 2006.

15. EPA promulgated NSPS Subpart Kb on April 8, 1987. *See* 52 Fed. Reg. 11420. NSPS Subpart Kb has been subsequently amended. The subpart is codified at 40 C.F.R. §§ 60.110b – 60.117b.

16. The NSPS for Kb applies to Respondent because the methanol storage tank (V-4209) is subject to NSPS Subpart Kb.

17. EPA promulgated NSPS Subpart NNN on June 29, 1990. *See* 55 Fed. Reg. 26942. NSPS Subpart NNN has been subsequently amended. This subpart is codified at 40 C.F.R. §§ 60.660-668.

18. The NSPS for NNN applies to Respondent's distillation operation at the methanol dryer (T-2401).

19. The NESHAPs are national technology-based performance standards for hazardous air pollutant (HAP) sources in each category that become effective on a specified date. The purpose of these standards is to ensure that all sources achieve the maximum degree of reduction in emissions of HAP that EPA determines is achievable for each source category.

20. EPA promulgated the MON on November 10, 2003. *See* 68 Fed. Reg. 63888. The MON has been subsequently amended. This subpart is codified at 40 C.F.R. §§ 63.2430-2550. Under the MON, EPA established emission limits and work practice standards for new and existing miscellaneous organic chemical manufacturing process units, wastewater treatment and conveyance systems, transfer operations, and associated ancillary equipment by requiring all major sources to meet HAP emission standards to reflect application of the maximum achievable control technology (MACT).

21. "Major source" means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any HAP or 25 tons per year or more of any combination of HAPs. 42 U.S.C. § 7412(a)(1) and 40 C.F.R. § 63.2.

22. The MON applies to Respondent's glycerin miscellaneous organic manufacturing process unit.

23. 40 C.F.R. § 63.4 prohibits the owner or operator of any affected source from operating such source in violation of any applicable NESHAP.

24. The "affected source" to which the NEHSAP for the MON applies is the facilitywide collection of miscellaneous organic chemical manufacturing process units and heat

exchange systems, wastewater, and waste management units that are associated with manufacturing materials described in 40 C.F.R. § 63.2535(b)(1). 40 C.F.R. § 63.2440(b).

25. The MON, at 40 C.F.R. § 63.2445(b), provides that owners and operators of existing sources subject to the MON must comply with the requirements for existing sources no later than May 10, 2008.

26. The MON, at 40 C.F.R. § 63.2435(a), provides that owners and operators are subject to the MON if they operate miscellaneous organic chemical manufacturing process units (MCPU) that are located at, or are part of, a major source of HAP emissions as defined in Section 112(a) of the CAA.

27. The MON, at 40 C.F.R. § 63.2550, defines "miscellaneous organic chemical manufacturing process" as all equipment which collectively functions to produce a product or isolated intermediate that is "material" as described in 40 C.F.R. § 63.2435(b). Process equipment includes any, all, or a combination, of reaction, recovery, separation, purification, or other activity, operation, manufacture, or treatment which is used to produce a product or isolated intermediate.

28. The MON, at 40 C.F.R. § 63.2435(b), provides that a MCPU includes equipment necessary to operate a miscellaneous organic chemical manufacturing process that, among other things, processes, uses, or generates any of the organic HAPs listed in Section 112(b) of the CAA. A MCPU also includes any assigned storage tanks and transfer racks; equipment in open systems that is used to convey or store water having the same concentration and flow characteristics as wastewater; and components such as pumps, compressors, agitators, pressure relief devices, sampling connection systems, open ended valves or lines, valves, connectors, and

instrumentation systems that are used to manufacture any material or family, including but not limited to an organic chemical with an SIC code listed in 40 C.F.R. § 63.2435(b)(1)(i).

29. The MON, at 40 C.F.R. § 63.2550, defines "in organic HAP service" to mean a piece of equipment that either contains or contacts a fluid (liquid or gas) that is at least 5 percent by weight of total organic as determined according to Method 18 of 40 C.F.R. Part 60, Appendix A. *See also* 40 C.F.R. § 63.180(d)(1).

30. Respondent owns and operates certain process equipment at its facility that is subject to the NESHAP provisions identified above, 40 C.F.R. Part 63, Subparts A and FFFF.

31. The Administrator of EPA (the Administrator) may assess a civil penalty of up to $37,500 per day of violation up to a total of $320,000 for CAA violations that occurred between December 6, 2013 and November 2, 2015 under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

32. The Administrator may assess a penalty greater than $320,000 where the Administrator and the Attorney General of the United States jointly determine that a matter involving a larger penalty is appropriate for an administrative penalty action. 42 U.S.C. § 7413(d)(1) and 40 C.F.R. Part 19.

33. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that this matter involving a penalty greater than $320,000 is appropriate for an administrative penalty action.

34. Section 113(d)(1) limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and the Attorney General of the United

States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

35. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

Factual Allegations and Alleged Violations

36. Respondent is a "person" as that term is defined under Section 101(21) of CAA, 42 U.S.C. § 9601(21).

37. Respondent owns and operates a facility located at 4700 Este Avenue, Cincinnati, Ohio (Facility).

38. The Facility currently produces approximately 60 million gallons per year of biodiesel, with glycerin as a byproduct.

39. The Facility was originally constructed by The Procter & Gamble Company to produce olestra from soybean and/or cottonseed oils. The Facility began production of biodiesel in 1999. Facility ownership changed in May 2002, and again in December 2009 when Felda Iffco, Inc., purchased the Facility. The Facility ceased producing olestra in February 2014.

40. In April 2014, a subsidiary of Marathon Petroleum Corporation acquired Felda Iffco, Inc., and CRF (a wholly-owned subsidiary of Marathon Petroleum Corporation) began to operate the Facility.

41. EPA conducted a CAA inspection of the Facility on December 8, 2014.

42. In May 2014, Respondent commenced a compliance review at the Facility, and Respondent completed the compliance review in April 2015.

43. In conducting its compliance review, Respondent found that the Facility was subject to 40 C.F.R. Part 60, Subparts VV, Kb, and NNN.

44. On September 10, 2015, Respondent presented the findings from its compliance review in a meeting with EPA. Respondent identified violations of New Source Performance Standard requirements under 40 C.F.R. Part 60, Subparts VV, Kb, and NNN.

45. The Facility violated NSPS Subpart VV because it did not implement any elements of a leak detection and repair program, including monitoring, repair, recordkeeping, and reporting.

46. The Facility violated Subpart Kb because it had not identified the Methanol Storage Tank (V-4209) as subject to this standard to ensure it was meeting all appropriate emission standards, recordkeeping, and reporting.

47. The Facility violated Subpart NNN because it had not identified distillation column T-2401 as a distillation operation for the Methanol dryer that produced a chemical listed in 40 C.F.R. § 60.667 of Subpart NNN, as a product, co-product, by-product, or intermediate.

48. EPA determined that for certain periods between May 2008 and April 2014, the Facility's HAP emissions, specifically its methanol emissions, exceeded 10 tons per year.

49. The Facility's methanol emission sources include tanks, equipment leaks, loading operations, and a wastewater treatment plant.

50. The MON applies to Respondent because it was a major source of HAP for the period listed in Paragraph 48 and it manufactures glycerin as a by-product.

51. EPA has determined that the Facility violated the MON because it has failed to comply with all the applicable requirements of the MON since the Facility was a major source of HAP emissions in 2008.

52. After the September 2015 meeting with EPA, Respondent provided EPA with the following information and documentation of actions taken to correct the issues identified in Paragraphs 43-51, above:

a. By September 30, 2015, Respondent fully implemented a leak detection and repair program in compliance with NSPS Subpart VVa;

b. On April 26, 2016, Respondent received a permit to install and operate (PTIO) that requires Respondent to comply with NSPS Subpart VVa; and

c. On April 27, 2016, Respondent received a PTIO that requires Respondent to comply with NSPS Subparts NNN and Kb.

Civil Penalty

53. Based on analysis of the factors specified in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), the facts of this case, cooperation, prompt return to compliance, and agreement to perform a supplemental environmental project, Complainant has determined that an appropriate civil penalty to settle this action is $110,000.

54. Within 30 days after the effective date of this CAFO, Respondent must pay a $110,000 civil penalty by electronic funds transfer, payable to "Treasurer, United States of America," and sent to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read:
"D68010727 Environmental Protection Agency"

In the comment or description field of the electronic funds transfer, state Respondent's name and the docket number of this CAFO.

55. Respondent must send a notice of payment that states Respondent's name and the docket number of this CAFO to EPA at the following addresses when it pays the penalty:

Attn: Compliance Tracker (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

Mary McAuliffe (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

Regional Hearing Clerk (E-19J)
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

56. This civil penalty is not deductible for federal tax purposes.

57. If Respondent does not pay timely the civil penalty or any stipulated penalties due under Paragraphs 75, 76, and 77, below, EPA may request the Attorney General of the United States to bring an action to collect any unpaid portion of the penalty with interest, nonpayment penalties and the United States enforcement expenses for the collection action under Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

58. Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621(a)(2). Respondent must pay the United States enforcement expenses, including but not limited to attorney's fees and costs incurred by the United States for collection proceedings. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue. This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter. 42 U.S.C. § 7413(d)(5).

Supplemental Environment Project

59. Respondent must complete two supplemental environmental projects (SEPs) designed to protect the environment and public health, as set forth below.

60. Community SEP. Respondent must complete a SEP designed to protect families by abating lead-based paint hazards in a number of child-occupied facilities as defined at 40 C.F.R. § 745.83, or residential properties in or about the Cincinnati, Ohio area, as further described below. This Community SEP may include, but is not limited to, window replacement, the removal of lead-based paint and dust, the permanent enclosure or encapsulation of lead-based paint, and the replacement of lead-based painted surfaces or fixtures. The focus of the Community SEP will be lead abatement at low-income residences or child-occupied facilities where children age six and under or pregnant women reside or regularly visit, and whose occupants are unable to afford the costs of such work. Respondent may use a contractor/consultant to implement the Community SEP.

61. The Community SEP may also include energy efficiency work such as air sealing and insulation in child-occupied facilities where lead-based paint hazards are abated.

62. Respondent must complete the Community SEP as follows: the Respondent will contract with a local not-for-profit organization (NFP) experienced in lead abatement work to promptly undertake and complete such work in or about the Cincinnati, Ohio area. Respondent has tentatively selected Elevate Energy, which is acceptable to EPA. The foregoing statement shall not be construed to prohibit Respondent from selecting a different NFP. Respondent shall require the NFP to conduct the Community SEP according to all applicable federal and state work practice and notification requirements including, but not limited to, the United States Department of Housing and Urban Development's Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing and the State of Ohio, unless otherwise specifically

provided in this CAFO. Respondent must fully fund an escrow account to pay for the Community SEP not later than 90 days after the Effective Date of this CAFO. Respondent must spend at least $400,000 for the Community SEP. Respondent shall complete the Community SEP by January 31, 2018, provided that this date may be extended by mutual agreement of the Respondent and EPA in writing.

63. Facility SEP. Respondent will replace an existing closed-purge sampling station at the CRF Facility with a new closed-loop sampling station. Installation of such new closed-loop sampling station will reduce methanol emissions. In addition, the Facility SEP will reduce employee exposure to methanol emissions. Respondent must spend at least $50,000 for this Facility SEP not later than 30 days after the Effective Date of this CAFO. Respondent will install the closed-loop sampling station not later than December 31, 2017.

64. Community and Facility SEP Certifications:

a. For the Community SEP, it is not a party to any open federal financial assistance transaction that is funding or could fund the same activity as the SEP described in Paragraphs 60-62;

b. For the Facility SEP, it is not a party to any open federal financial assistance transaction that is funding or could fund the same activity as the SEP described in Paragraph 63;

c. For the Community SEP, it has inquired of Elevate Energy whether it is a party to an open federal financial assistance transaction that is funding or could fund the same activity as the SEP and has been informed by the recipient that it is not a party to such a transaction;

d. That all cost information provided to the EPA in connection with the EPA's approval of each SEP is complete and accurate and that Defendant in good faith estimates that the cost to implement the Community SEP is $400,000, and the cost to implement the Facility SEP is $50,000;

e. That, as of the date of executing this CAFO, Respondent is not required to perform or develop the Community SEP or Facility SEP by any federal, state, or local law or regulation and is not required to perform or develop the Community SEP or Facility by agreement, grant, or as injunctive relief awarded in any other

action in any forum;

f. That the Community SEP and Facility SEP are not projects that Respondent was planning or intending to construct, perform, or implement other than in settlement of the claims resolved in this CAFO;

g. That Respondent has not received and will not receive credit for the Community SEP or Facility SEP in any other enforcement action; and

h. That Respondent will not receive reimbursement for any portion of the Community SEP or Facility SEP from another person or entity.

65. Respondent must submit a SEP completion report for the Community SEP to EPA no later than 60 days after Respondent receives a report from the NFP that the SEP is complete.

66. Respondent must submit a SEP completion report for the Facility SEP to EPA no later than March 1, 2018.

67. Respondent must continuously use or operate the closed-loop sampling station for two years following its installation.

68. Respondent certifies as follows:

> I certify that Cincinnati Renewable Fuels LLC, is not required to perform or develop the SEPs by any law, regulation, order, or agreement or as injunctive relief as of the date that I am signing this CAFO. I further certify that Cincinnati Renewable Fuels LLC, has not received, and is not negotiating to receive, credit for the SEPs in any other enforcement action.
>
> I certify that Cincinnati Renewable Fuels LLC, is not a party to any open federal financial assistance transaction that is funding or could be used to fund the same activity as the SEPs. I further certify that, to the best of my knowledge and belief after reasonable inquiry, there is no such open federal financial transaction that is funding or could be used to fund the same activity as the SEPs, nor has the same activity been described in an unsuccessful federal financial assistance transaction proposal submitted to EPA within two years of the date that I am signing this CAFO (unless the project was barred from funding as statutorily ineligible). For purposes of this certification, the term "open federal financial assistance transaction" refers to a grant, cooperative agreement, loan, federally-guaranteed loan guarantee or other mechanism for providing federal financial assistance whose performance period has not expired.

69. EPA may inspect the Facility at any time to monitor Respondent's compliance with this CAFO's Facility SEP requirements.

70. Respondent must submit a SEP completion report for the Community SEP and the Facility SEP to EPA by the dates specified in Paragraphs 65 and 66. Each SEP completion report must contain the following information:

a. Detailed description of the SEP as completed;

b. Description of any operating problems and the actions taken to correct the problems;

c. Itemized cost of goods and services used to complete the SEP documented by copies of invoices, purchase orders or cancelled checks that specifically identify and itemize the individual cost of the goods and services;

d. Certification that Respondent has completed the SEP in compliance with this CAFO; and

e. Description of the environmental and public health benefits resulting from the SEP (quantify the benefits and pollution reductions, if feasible).

71. Respondent must submit all notices and reports required by this CAFO by first-class mail to the Compliance Tracker of the Air Enforcement and Compliance Assurance Branch at the address provided in Paragraph 55, above.

72. In each report that Respondent submits as provided by this CAFO, it must certify that the report is true and complete by including the following statement signed by one of its officers:

> I certify that I am familiar with the information in this document and that, based on my inquiry of those individuals responsible for obtaining the information, it is true and complete to the best of my knowledge. I know that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

73. Following receipt of each SEP completion report described in Paragraph 70, above, EPA must notify Respondent in writing that:

a. It has satisfactorily completed the SEP and the SEP report;

b. There are deficiencies in the SEP as completed or in the SEP report and EPA will give Respondent 30 days to correct the deficiencies; or

c. It has not satisfactorily completed the SEP or the SEP report and EPA will seek stipulated penalties under Paragraph 75 or 76.

74. If EPA exercises option b above, Respondent may object in writing to the deficiency notice within 10 days of receiving the notice. The parties will have 30 days from EPA's receipt of Respondent's objection to reach an agreement. If the parties cannot reach an agreement, EPA will give Respondent a written decision on its objection. Respondent will comply with any requirement that EPA imposes in its decision. If Respondent does not complete the SEP as required by EPA's decision, Respondent will pay stipulated penalties to the United States under Paragraph 75 or 76, below.

75. If Respondent violates any requirement of this CAFO relating to the Community SEP, Respondent must pay stipulated penalties to the United States as follows: If Respondent fails to implement the Community SEP, or halts or abandons work on the Community SEP, Respondent shall pay a stipulated penalty to EPA equal to $25,000 plus the difference between $400,000 and the amount expended in satisfactory performance of the Community SEP as demonstrated in certified cost reports. If Respondent fails to implement the Community SEP, and Respondents failure to implement the Community SEP is caused by the failure of the NFP to perform any obligation under its contract with Respondent, Respondent shall pay a stipulated penalty equal to the difference between $400,000 and the amount expended in satisfactory performance of the Community SEP as demonstrated in certified cost reports. The penalty under this Paragraph shall apply as of the date specified for completing the SEP or the date performance ceases, whichever is earlier.

76. If Respondent violates any requirement of this CAFO relating to the Facility SEP, Respondent must pay stipulated penalties to the United States as follows:

a. Except as provided in subparagraph b, below, if Respondent did not complete the Facility SEP satisfactorily according to the requirements of this CAFO, including the schedule in Paragraph 63, Respondent must pay a penalty of $55,000.

b. If Respondent did not complete the Facility SEP satisfactorily, but EPA determines that Respondent made good faith and timely efforts to complete the Facility SEP and certified, with supporting documents, that it spent at least 90 percent of the amount set forth in paragraph 63, Respondent will not be liable for any stipulated penalty under subparagraph a, above.

c. If Respondent completed the Facility SEP satisfactorily, but spent less than 90 percent of the amount set forth in Paragraph 63, Respondent must pay a penalty of the difference of the actual expenditures and $50,000.

77. If Respondent did not submit timely a SEP completion report for each SEP, Respondent must pay penalties in the following amounts for each day after each SEP completion report was due until it submits the report:

Penalty per violation per day	Period of violation
$500	1st through 14th day
$750	15th through 30th day
$1,000	31st day and beyond

78. EPA's determinations of whether Respondent completed each SEP satisfactorily and whether Respondent made good faith and timely efforts to complete each SEP will bind Respondent.

79. Respondent must pay any stipulated penalties within 15 days of receiving EPA's written demand for the penalties. Respondent will use the method of payment specified in Paragraph 54, above, and will pay interest and nonpayment penalties on any overdue amounts.

80. Any public statement that Respondent makes referring to the Community SEP and the Facility SEP must include the following language: "Cincinnati Renewable Fuels, LLC,

undertook this project under the settlement of the United States Environmental Protection Agency's enforcement action against Cincinnati Renewable Fuels LLC for violations of the Clean Air Act."

81. For federal income tax purposes, Respondent will neither capitalize into inventory or basis, nor deduct any costs or expenditures incurred in performing the SEP.

General Provisions

82. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in this CAFO.

83. The CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

84. This CAFO does not affect Respondent's responsibility to comply with the CAA and other applicable federal, state and local laws. Except as provided in paragraph 82, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

85. Respondent certifies that it has achieved compliance with NSPS Kb and NNN, and is on a schedule to achieve compliance with VVaand the MON.

86. This CAFO constitutes an "enforcement response" as that term is used in EPA's Clean Air Act Stationary Civil Penalty Policy to determine Respondent's "full compliance history" under Section 113(e) of the CAA, 42 U.S.C. § 7413(e).

87. The terms of this CAFO bind Respondent, its successors and assigns.

88. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

89. Each party agrees to bear its own costs and attorney's fees in this action.

90. This CAFO constitutes the entire agreement between the parties.

91. Consistent with the Standing Order Authorizing E-Mail Service of Orders and Other Documents Issued by the Regional Administrator or Regional Judicial Officer under the Consolidated Rules, dated March 27, 2015, the parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: mcauliffe.mary@epa.gov (for Complainant), and), and Benjamin Franz at rbfranz@marathonpetroleum.com (for Respondent). The parties waive their right to service by the methods specified in 40 C.F.R. § 22.6.

92. The Effective Date of this CAFO is the date on which this CAFO is filed with the Regional Hearing Clerk.

Cincinnati Renewable Fuels LLC, Respondent

9/23/16
Date

C. M. Palmer
C. Michael Palmer
President
Cincinnati Renewable Fuels LLC

RLB 9-22-16

APPROVED AS TO FORM

JFM 9/22

United States Environmental Protection Agency, Complainant

10/13/16
Date

Edward Nam
Acting Director
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5

Consent Agreement and Final Order
In the Matter of: Cincinnati Renewable Fuels, LLC
Docket No. CAA-05-2017-0002

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

October 14, 2016
Date

Ann Coyle
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 5

Consent Agreement and Final Order
In the matter of: Cincinnati Renewable Fuels LLC
Docket Number: **CAA-05-2017-0002**

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number [**CAA-05-2017-0002**], which was filed on 10/17/2016, in the following manner to the following addresses:

Copy by Certified Mail to Respondent:	C. Michael Palmer, President Cincinnati Renewable Fuels LLC 4700 Estes Avenue Cincinnati, Ohio 45232
Copy by E-mail to Attorney for Complainant:	Mary McAuliffe mcauliffeo.mary@epa.gov
Copy by E-mail to Attorney for Respondent:	Ben Franz rbfranz@marathonpetroleum.com
Copy by E-mail to Regional Judicial Officer:	Ann Coyle coyle.ann@epa.gov

Dated: October 17, 2016

LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5

CERTIFIED MAIL RECEIPT NUMBER(S): 7011 1150 0000 2640 6981