UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

DEC 12 2011

CERTIFIED MAIL - RETURN RECEIPT REQUESTED: 7007 2560 0002 7737 4081

Matthew Marra
Senior Director-Environmental
Enterprise Products Operating LLC
1100 Louisiana Street
Houston, Texas 77002

Re: Complaint and Consent Agreement and Final Order
Docket Number CAA-06-2012-3302

Dear Mr. Marra:

This is to acknowledge receipt of the signed "Complaint and Consent Agreement and Final Order" (combo). The Environmental Protection Agency hereby issues this combo. The penalty payment is due within thirty (30) days after the effective date.

If you have any questions, please feel free to contact Leonard Schilling, Assistant Regional Counsel, at (214) 665-7166. Thank you for your assistance with this matter.

Sincerely,

John Blevins
Compliance Assurance and
Enforcement Division

Enclosures

cc: Brian Sinclair
Director, Enforcement Division
Texas Commission on Environmental Quality

Jason Harris
Manager, Air Section
Houston Regional Office
Texas Commission on Environmental Quality

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

REGION 6
DALLAS, TEXAS

IN THE MATTER OF:	§	
	§	
ENTERPRISE PRODUCTS OPERATING LLC	§	
	§	
	§	
	§	
	§	EPA DOCKET NO. CAA-06-2012-3302
LA PORTE, TEXAS	§	
	§	
	§	COMPLAINT AND
	§	CONSENT AGREEMENT AND
	§	FINAL ORDER
	§	

The Director of the Compliance Assurance and Enforcement Division of the United States Environmental Protection Agency, Region 6 ("Complainant") and Enterprise Products Operating LLC ("Enterprise" or "Respondent") in the above referenced proceeding, hereby agree to resolve this matter through the issuance of this Complaint and Consent Agreement and Final Order.

I. PRELIMINARY STATEMENT

1. This proceeding is for the assessment of civil penalties pursuant to Section 113(d) of the Clean Air Act, as amended ("CAA"), 42 U.S.C. § 7413(d), the issuance of a compliance order pursuant to Section 113(a)(3)(B) of the CAA, 42 U.S.C. § 7413(a)(3)(B), and for additional terms of settlement as agreed to by Respondent. This proceeding was instituted by the issuance of a Complaint and Notice of Opportunity for Hearing incorporated herein, and is simultaneously concluded by the issuance of this Consent Agreement and Final Order ("CAFO") against Respondent pursuant to 40 C.F.R. §§ 22.13(b), 22.18(b)(2), 22.18(b)(3), and 22.34.

2. The Complaint alleges that Enterprise violated regulations promulgated under the CAA at its marine terminal located at 1200 N. Broadway in La Porte, Harris County, Texas.

3. For purposes of this proceeding, Respondent admits the jurisdictional allegations of this Complaint; however, Respondent neither admits nor denies the specific factual allegations contained in this Complaint.

4. Respondent consents to the issuance of this CAFO hereinafter recited and to the assessment and payment of the stated civil penalty in the amount and by the method set out in this CAFO and agrees to perform monthly monitoring of the valves identified below as Components 10325, 10341, 10352, and 01326 at the Facility until no leak is detected from the valves for 2 successive months. In addition, Respondent agrees to perform the Additional Terms of Settlement set forth in Paragraph 30 and the Appendix to this CAFO.

5. Respondent waives any right to contest the allegations in the CAFO and its right to appeal the Final Order set forth herein, and Respondent waives all defenses which have been raised or could have been raised to the claims set forth in the CAFO.

6. Compliance with all the terms and conditions of this CAFO shall resolve Respondent's liability for federal civil penalties for the violations alleged in this CAFO.

7. Respondent shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, or claim-splitting for violations not alleged in this Complaint.

8. Nothing in this CAFO shall be construed to prevent or limit the civil and criminal authorities of the United States Environmental Protection Agency, or that of other federal, state, or local agencies or departments to obtain penalties or injunctive relief under other federal, state, or local laws or regulations.

9. Respondent represents that it is duly authorized to execute this CAFO and that the party signing this CAFO on behalf of the Respondent is duly authorized to bind the Respondent to the terms and conditions of this CAFO.

10. Respondent agrees that the provisions of this CAFO shall be binding on its officers, directors, employees, agents, servants, authorized representatives, successors, and assigns.

II. STATUTORY AND REGULATORY BACKGROUND

11. Section 111(b)(1)(A) of the CAA, 42 U.S.C. § 7411(b)(1)(A), requires the Administrator of the United States Environmental Protection Agency to publish a list of categories of stationary sources that in his judgment cause, or contribute significantly to, air pollution that may reasonably be anticipated to endanger public health or welfare. Section 111(b)(1)(B) of the CAA, 42 U.S.C. § 7411(b)(1)(B), requires EPA to publish Federal standards of performance for new sources within each such category.

12. Pursuant to its authority under Section 111 of the CAA, EPA promulgated 40 C.F.R. Part 60, Subpart VV (Standards of Performance for Equipment Leaks of VOC [Volatile Organic Compounds] in the Synthetic Organic Chemicals Manufacturing Industry).

13. According to 40 C.F.R. § 60.480(a)(1), Subpart VV applies to affected facilities in the synthetic organic chemicals manufacturing industry.

14. Section 60.480(a)(2) of Subpart VV defines an affected facility as all equipment, including valves, within a process unit. *See also* 40 C.F.R. § 60.481.

15. Section 60.481 of Subpart VV defines synthetic organic chemicals manufacturing industry as the industry that produces, as intermediates or final products, one or more of the chemicals listed in 40 C.F.R. § 60.489, including isobutylene.

16. Section 60.482-7 of Subpart VV sets forth monitoring and repair requirements for valves in gas/vapor service and light liquid service.

17. According to 40 C.F.R. § 60.482-7(c)(2), if a leak is detected, the valve shall be monitored monthly until a leak is not detected for 2 successive months.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

18. Respondent is a limited liability company doing business in the State of Texas and is a "person" as that term is defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e), and within the meaning of Section 113(d) of the CAA, 42 U.S.C. § 7413(d).

19. At all relevant times, Respondent owned and operated the Morgan's Point Complex, a marine terminal located at 1200 N. Broadway in La Porte, Harris County, Texas (the "Facility").

20. The Facility includes one or more valves, including those specifically identified as Components 10325, 10341, 10352, and 01326, associated with the production of isobutylene and subject to the requirements of 40 C.F.R. Part 60, Subpart VV.

IV. VIOLATION

21. In December 2010, Enterprise discovered leaks from Components 10325, 10341, 10352, and 01326 but did not monitor the valves monthly until no leak was detected for two (2) successive months.

22. By failing to monitor Components 10325, 10341, 10352, and 01326 monthly until no leak was detected for two (2) successive months, Enterprise violated 40 C.F.R.

§ 60.482-7(c)(2).

V. CIVIL PENALTY, COMPLIANCE ORDER, AND ADDITIONAL TERMS OF SETTLEMENT

23. For the reasons set forth above, Respondent has agreed to pay a civil penalty which has been determined in accordance with Section 113(d) of the CAA, 42 U.S.C. § 7413(d), which authorizes EPA to assess a civil penalty of up to twenty-five thousand dollars ($25,000)[1] per day for each violation of the CAA. Upon consideration of the entire record herein, including the Findings of Fact and Conclusions of Law, which are hereby adopted and made a part hereof, and upon consideration of the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation, payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, the seriousness of the violation, specific facts and equities, litigation risks, and other factors as justice may require, INCLUDING Respondent's agreement to perform the additional terms of settlement set forth below, it is ORDERED that Respondent be assessed a civil penalty in the amount of thirty thousand five hundred dollars ($30,500).

24. Within thirty (30) days of Respondent's receipt of this fully executed CAFO, Respondent shall pay thirty thousand five hundred dollars ($30,500) by cashier's or certified check made payable to "Treasurer, United States of America, EPA - Region 6." Payment shall be remitted in one of five (5) ways: regular U.S. Postal Service mail, to include certified mail; overnight mail; wire transfer; Automated Clearinghouse; or On Line Payment. For regular U.S.

[1] The Civil Penalty Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by 31 U.S.C. § 3701 provides for increases in the statutory penalty provisions ($25,000) cited in the Clean Air Act Stationary Source Civil Penalty Policy dated October 25, 1991 (CAA Penalty Policy). It provides for up to $25,000 per day of violation for violations occurring on or before January 30, 1997; up to $27,500 per day for each such violation occurring after January 30, 1997 through March 15, 2004; up to $32,500 per day for each such violation occurring after March 15, 2004 through January 12, 2009; and up to $37,500 per day for each such violation occurring after January 12, 2009.

Postal Service mail, U.S. Postal Service certified mail, or U.S. Postal Service express mail, the check(s) should be remitted to:

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

For overnight mail (non-U.S. Postal Service, e.g. Fed Ex), the check(s) should be remitted to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101

Contact: Natalie Pearson
(314) 418-4087

For wire transfer, the payment should be remitted to:

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"

For Automated Clearinghouse (also known as REX or remittance express):

U.S. Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking
Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737

Contact: Jesse White (301) 887-6548

For On-line Payment:

WWW.PAY.GOV
Enter sfo 1.1 in search field
Open form and complete required fields.

PLEASE NOTE: Docket Number CAA-06-2012-3302 shall be clearly typed on the check to ensure proper credit. The check shall also be accompanied by a transmittal letter and shall reference Respondent's name and address, the case name, and docket number of the administrative complaint and CAFO. Respondent's adherence to this request will ensure proper credit is given when penalties are received for the Region. Respondent shall also send a simultaneous notice of such payment, including a copy of the money order, or check, and transmittal letter to the following:

Ryan Rosser (6EN-AT)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Region 6 Hearing Clerk
U.S. EPA Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

25. Respondent agrees not to claim, or attempt to claim, a federal income tax deduction or credit covering all or any part of the civil penalty paid to the United States Treasurer.

26. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, unless otherwise prohibited by law, EPA will assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim. Interest on the civil penalty assessed in this CAFO will begin to accrue thirty (30) days after the effective date of the CAFO and will be recovered by EPA on any amount of the civil penalty that is not paid by the respective due date. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). Moreover, the costs of the

Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. *See* 40 C.F.R. § 13.11(b).

27. EPA will also assess a fifteen dollar ($15.00) administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional fifteen dollars ($15.00) for each subsequent thirty (30) day period that the penalty remains unpaid. In addition, a penalty charge of up to six percent per year will be assessed monthly on any portion of the debt which remains delinquent more than ninety (90) days. *See* 40 C.F.R. § 13.11(c). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. *See* 31 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

28. Pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), any person who fails to pay on a timely basis a civil penalty ordered or assessed under this section shall be required to pay, in addition to such penalty and interest, the United States enforcement expenses, including, but not limited to, attorneys fees and costs incurred by the United States for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be 10 percent of the aggregate amount of such person's outstanding penalties and nonpayment penalties accrued as of the beginning of each quarter.

29. Within twelve (12) months of the effective date of this CAFO, Respondent shall perform monthly monitoring of Components 10325, 10341, 10352, and 01326 until no leak is detected for 2 successive months.

30. Respondent agrees to comply with the Additional Terms of Settlement described in the Appendix to this CAFO.

31. Nothing in this agreement shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of the Respondent's violation of this agreement or of the statutes and regulations upon which this agreement is based, or for the Respondent's violation of any applicable provision of law.

32. This CAFO shall not relieve the Respondent of its obligation to comply with all applicable provisions of federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit, nor shall it be construed to constitute EPA approval of any equipment or technology installed by the Respondent in connection with any additional settlement terms undertaken pursuant to this CAFO. Nothing in this CAFO shall be construed to prohibit or prevent the federal, state, or local government from developing, implementing, and enforcing more stringent standards through rulemaking, the permit process, or as otherwise authorized or required.

33. This document is a "Final Order" as that term is defined in the CAA Penalty Policy for the purpose of demonstrating a history of "prior such violations."

VI. RETENTION OF ENFORCEMENT RIGHTS

34. EPA does not waive any rights or remedies available to EPA for any violations by the Respondent of any other Federal laws, regulations, statutes, or permitting programs not the subject of this action.

35. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the CAA.

VI. COSTS

36. Each party shall bear its own costs and attorneys fees.

IT IS SO AGREED:

FOR THE RESPONDENT:

Date: 11-30-2011

Name of Authorized party: Terry L. Hurlburt
Title of Authorized Party: Sr. Vice President

FOR THE COMPLAINANT:

Date: DEC 12 2011

John Blevins
Director
Compliance Assurance and
Enforcement Division

FINAL ORDER

Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing Consent Agreement is hereby ratified. This Final Order shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order shall resolve only those causes of action alleged in this CAFO. The successful completion of the Additional Terms of Settlement set forth in Paragraph 30 and the Appendix to this CAFO are conditions precedent to the resolution of the claims set forth in Paragraphs 21 and 22 of this CAFO. Nothing in this Final Order shall be construed to waive, extinguish, or otherwise affect Respondent's (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. The Respondent is ordered to comply with the terms of settlement as they relate to the assessment of civil penalties and the requirement to perform monthly monitoring of Components 10325, 10341, 10352, and 01326 until no leak is detected for 2 successive months. In accordance with 40 C.F.R. § 22.31(b), this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Dated _____

_____
Patrick Rankin
Regional Judicial Officer
U.S. EPA, Region 6

CERTIFICATE OF SERVICE

I hereby certify that on the _____ day of _____, 2010, the original and one copy of the foregoing Complaint and Consent Agreement and Final Order ("Complaint and CAFO") was hand delivered to the Regional Hearing Clerk, U.S. EPA - Region 6, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733, and a true and correct copy was delivered to the following individual(s) by the method indicated below:

CERTIFIED MAIL - RETURN RECEIPT REQUESTED: _____

Name of authorized party: _____
Title of authorized party: _____

Address:

_____

U.S. EPA, Region 6
Dallas, Texas

APPENDIX – ADDITIONAL TERMS OF SETTLEMENT

Introduction

1. In order to minimize or eliminate fugitive emissions of volatile organic compounds ("VOCs"), benzene, volatile hazardous air pollutants ("VHAPs") and organic hazardous air pollutants ("HAPs") from equipment in light liquid service, in heavy liquid service, and/or in gas/vapor service, Respondent shall undertake the enhancements indentified in this Appendix to its leak detection and repair ("LDAR") program for the Facility. The terms "equipment," "in light liquid service," "in heavy liquid service," and "in gas/vapor service" shall have the respective definitions set forth in the applicable provisions of 40 C.F.R. Part 60, Subpart VV and applicable state and local LDAR regulations.

2. The requirements of this Appendix shall apply to all equipment at the Facility that is regulated under 40 C.F.R. Part 60, Subpart VV or other applicable federal, state, or local LDAR regulations ("Covered Equipment"), except that the requirements of paragraphs 7 and 8 also shall apply to equipment at the Facility that is not regulated under 40 C.F.R. Part 60, Subpart VV or other applicable federal, state, or local LDAR regulations (Non-Covered Equipment"). The requirements of this Appendix are in addition to, not in lieu of, the requirements of any other LDAR regulations that may be applicable to equipment at the Facility. If there is a conflict between a federal, state, or local LDAR regulation and this Appendix, Enterprise shall follow the more stringent of the requirements.

Written Facility-Wide LDAR Program

3. Within three (3) months of the effective date of this CAFO, Respondent shall develop a written Facility-wide program to ensure compliance with all federal, state, and local LDAR regulations applicable to equipment at the Facility (the "LDAR Program"). The LDAR Program shall include, at a minimum:

a. an identification system for all Covered Equipment;

b. procedures for identifying leaking Covered Equipment;

c. procedures for monitoring, repairing, and keeping track of leaking Covered Equipment;

d. a tracking program (e.g., Management of Change) that ensures that new Covered Equipment added to the Facility is integrated into the LDAR Program and that Covered Equipment taken out of service is removed from the LDAR program;

e. procedures for quality assurance/quality control ("QA/QC") reviews of all data generated by LDAR monitoring technicians; and

f. a description of the Facility's LDAR monitoring organization, including the roles and responsibilities of all employee and contractor personnel assigned to LDAR functions at the Facility, how the number of personnel dedicated to the LDAR functions is sufficient to satisfy LDAR requirements, and a designation of the person or position responsible for

LDAR management and who has the authority to implement LDAR improvements at the Facility.

Leak Definitions

4. Within one (1) month of the effective date of this CAFO, and for twelve (12) months after the effective date of this CAFO, Respondent shall use the following internal leak definitions for Covered Equipment at the Facility, unless a lower leak definition is established by permit, or federal, state, or local laws or regulations:

a. Valves – 250 ppm

b. Pumps – 500 ppm

5. For regulatory reporting purposes (i.e., reports to federal, state, or local agencies not required by this CAFO) Respondent may continue to report leaks using the applicable regulatory leak definition or the lower, internal leak definitions specified in this Appendix. Respondent shall indentify in the applicable report which definition is being used.

LDAR Training

6. Within six (6) months of the effective date of this CAFO, Respondent shall develop a training protocol and implement a training program at the Facility that includes the following features:

a. for personnel newly-assigned to LDAR responsibilities, Respondent shall require LDAR training prior to each employee beginning work;

b. for all personnel assigned LDAR responsibilities, Respondent shall require completion of annual LDAR training;

c. for all other Facility operations and maintenance personnel (including contract personnel) who have duties relevant to LDAR, Respondent shall provide and require completion of an initial training program that includes instruction on aspects of LDAR that are relevant to the person's duties.

FLIR Camera

7. Within three (3) months of the effective date of this CAFO, Respondent shall purchase a forward looking infrared ("FLIR") camera. Beginning three (3) months after the effective date of the CAFO and once every two (2) months thereafter for twelve (12) months, Respondent shall conduct monitoring of equipment at the Facility using the FLIR camera according to the following terms:

a. Leaks from Covered Equipment – For any leaks detected from Covered Equipment, Respondent shall repair or place such equipment on delay of repair status in accordance with applicable LDAR regulations

b. Leaks from Non-Covered Equipment – For any leaks detected from Non-Covered Equipment, Respondent shall either 1) make a first attempt to repair within fifteen (15) calendar days of identifying the leak and a second attempt to repair, if necessary, within forty-five (45) calendar days of identifying the leak or 2) if necessary, place the equipment on delay of repair status until the next turnaround at the Facility.

c. If Respondent identifies a leak from Covered or Non-Covered Equipment that is an unauthorized release under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601-9675, the Emergency Planning and Community Right-To-Know Act, 42 U.S.C. §§ 11001-11050, or other federal, state, or local air and release reporting laws, Respondent shall comply with all applicable requirements under the aforementioned laws.

8. Within twelve (12) months of the effective date of this CAFO, Respondent shall submit to EPA a report describing, among other things, all of the leaks that were identified using the FLIR camera and any corrective actions taken to repair the leaks (the "FLIR Camera Report").

LDAR Audit

9. Within six (6) months of the effective date of this CAFO, Respondent shall conduct a third-party audit of the Facility to ensure compliance with all applicable LDAR regulations (the "LDAR Audit"). The LDAR Audit shall include comparative monitoring of valves and pumps, records review to ensure monitoring and repairs for valves and pumps were completed as required, tagging review, data management review, and observation of the LDAR technicians' calibration and monitoring techniques. For purposes of this requirement, "third party" may include a qualified contractor, consultant, industry group or trade association. If Respondent has used a third party to undertake routine LDAR monitoring prior to the effective date of the CAFO, Respondent shall not use the same third party to undertake the LDAR Audit required by this Appendix.

10. If the results of the LDAR Audit identify non-compliance with any applicable LDAR requirements, Respondent shall implement, as soon as practicable, all appropriate steps necessary to correct the non-compliance, and to prevent, to the extent practicable, a recurrence of the cause(s) of the non-compliance.

11. Within twelve (12) months of the effective date of this CAFO, Respondent shall submit to EPA a report that describes, among other things, the results of the LDAR Audit, all identified areas of non-compliance, and actions taken to correct identified areas of non-compliance (the "Audit Report"). In the Audit Report, Respondent shall certify that 1) it has completed all corrective actions or is in the process of completing all corrective actions pursuant to a Corrective Action Plan, 2) the Facility is in compliance with all applicable LDAR regulations except for the indentified areas of non-compliance in the Audit Report, and 3) all Covered Equipment has been identified and included in the LDAR Program.