UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1201 ELM STREET, SUITE 500
DALLAS, TEXAS 75270

April 27, 2020

TRANSMITTED VIA EMAIL:

Zachary Craft, Counsel
Baton Rouge Fractionators LLC, and
Baton Rouge Propylene Concentrator LLC
2220 North River Road
Port Allen, Louisiana 70767
zlcraft@eprod.com; and
environmental@eprod.com

Re: *In the Matter of Enterprise Products Operating LLC*
Docket No. CAA-06-2020-3354

Dear Mr. Craft:

Enclosed is a fully executed Administrative Compliance Order (ACO) issued by the United States Environmental Protection Agency, Region 6 (EPA) concerning the matter referenced above. The EPA requests that you immediately confirm receipt of this e-mail and the attached ACO by a response e-mail.

As provided in the ACO, Enterprise Products Operating LLC shall comply with the general and specific obligations identified in Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r) and the implementing regulations found at 40 C.F.R. § 68, as identified in paragraph 29 of the ACO.

If you have any questions regarding this ACO, please contact the attorney by phone at (214) 665-6782 or by email at mills.clarissa@epa.gov.

Sincerely,

Cheryl T. Seager

Digitally signed by CHERYL SEAGER
DN: c=US, o=U.S. Government, ou=Environmental Protection Agency, cn=CHERYL SEAGER, 0.9.2342.19200300.100.1.1=68001003651793
Date: 2020.04.27 15:46:43 -05'00'

Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division
U.S. EPA Region 6

Enclosure
Ecc: Celena Cage, Administration
Enforcement Division
Louisiana Department of Environmental Quality
P.O. Box 4312
Baton Rouge, LA 70821-4312
celena.cage@la.gov

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
Dallas, Texas

In the Matter of	§	
	§	
Baton Rouge Fractionators LLC,	§	**Docket No. CAA-06-2020-3354**
Baton Rouge Propylene Concentrator LLC,	§	
Enterprise Products Operating LLC	§	
	§	
Respondents	§	

ADMINISTRATIVE COMPLIANCE ORDER ON CONSENT

Preliminary Statement

1. The U.S. Environmental Protection Agency, Region 6 (EPA), and Baton Rouge Fractionators LLC, Baton Rouge Propylene Concentrator LLC, and Enterprise Products Operating LLC (Respondents) have agreed to voluntarily enter into this Administrative Compliance Order on Consent (Order) for the purposes of carrying out the goals of Section 112(r) of the Clean Air Act (CAA), 42 U.S.C. § 7412(r), and the regulations promulgated thereunder and codified at 40 C.F.R. Part 68.

Jurisdiction

2. This Order is entered into pursuant to the authority of Section 113(a)(3)(B) of the CAA, 42 U.S.C. § 7413(a)(3)(B). Section 113(a)(3)(B) of the CAA, 42 U.S.C. § 7413(a)(3)(B), provides that whenever, on the basis of any information available to the Administrator, the Administrator finds that any person has violated, or is in violation of, any other requirement or prohibition of Subchapter I of the CAA, which includes, among other things, the requirements of

Section 112(r) and the regulations promulgated thereunder, the Administrator may issue an order requiring compliance with such requirement or prohibition.

Parties

3. Complainant, by delegation from the Administrator of the EPA and the Regional Administrator, EPA, Region 6, is the Director of the Enforcement and Compliance Assurance Division, EPA, Region 6.

4. Respondent Baton Rouge Fractionators LLC is a Delaware company authorized to conduct business in the state of Louisiana.

5. Respondent Baton Rouge Propylene Concentrator LLC is a Delaware company authorized to conduct business in the state of Louisiana.

6. Respondent Enterprise Products Operating LLC is a Texas company conducting business in the state of Texas.

Statutory and Regulatory Authority

7. On November 15, 1990, the President signed into law the CAA Amendments of 1990. The Amendments added Section 112(r) to Title I of the CAA, 42 U.S.C. § 7412(r), which requires the Administrator of EPA to, among other things, promulgate regulations in order to prevent accidental releases of certain regulated substances.

8. Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), mandates the Administrator to promulgate a list of regulated substances which, in the case of an accidental release, are known to cause or may reasonably be anticipated to cause death, injury, or serious adverse effects to human health or the environment. Section 112(r)(5) of the CAA, 42 U.S.C. § 7412(r)(5), mandates that the Administrator establish a threshold quantity for any substance

listed pursuant to Section 112(r)(3), 42 U.S.C. § 7412(r)(3). The list of regulated substances with threshold quantities is codified at 40 C.F.R. § 68.130.

9. Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), requires the Administrator to promulgate regulations that address release prevention, detection, and correction requirements for stationary sources with threshold quantities of regulated substances listed pursuant to Section 112(r)(3), 42 U.S.C. § 7412(r)(3). On June 20, 1996, EPA promulgated a final rule known as the Risk Management Program, 40 C.F.R. Part 68, which implements Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7). These regulations require owners and operators of stationary sources to develop and implement a Risk Management Program that includes a hazard assessment, a prevention program, and an emergency response program.

10. The regulations at 40 C.F.R. Part 68 set forth the requirements of a Risk Management Program that must be established at each stationary source. The Risk Management Program is described in a Risk Management Plan (RMP) that must be submitted to EPA.

11. Pursuant to Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 C.F.R. § 68.150, an RMP must be submitted for all covered processes by the owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process no later than the latter of June 21, 1999, or the date on which a regulated substance is first present above the threshold quantity in a process.

12. The regulations at 40 C.F.R. § 68.10 set forth how the chemical accident prevention provisions apply to covered processes. Pursuant to 40 C.F.R. § 68.10(i), a covered process is subject to Program 3 requirements if the process does not meet the requirements of Program 1, as described in 40 C.F.R. § 68.10(g), and if it is in a specified North American

Industrial Classification System code or is subject to the OSHA process safety management standard, 29 C.F.R. 1910.119.

Definitions

13. Section 302(e) of the CAA, 42 U.S.C. § 7602(e), defines "person" to include any individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency department, or instrumentality of the United States and any officer, agent, or employee thereof.

14. Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C) and the regulation at 40 C.F.R. § 68.3 define "stationary source," in part, as any buildings, structures, equipment, installations or substance emitting stationary activities which belong to the same industrial group, which are located on one or more contiguous properties, which are under the control of the same person (or persons under common control) and from which an accidental release may occur.

15. The regulations at 40 C.F.R. § 68.3 define "regulated substance" as any substance listed pursuant to Section 112(r)(3) of the CAA, as amended, in 40 C.F.R. § 68.130.

16. The regulations at 40 C.F.R. § 68.3 define "threshold quantity" as the quantity specified for regulated substances pursuant to Section 112(r)(5) of the CAA, as amended, listed in 40 C.F.R. § 68.130 and determined to be present at a stationary source as specified in 40 C.F.R. § 68.115.

17. The regulations at 40 C.F.R. § 68.3 define "process" as any activity involving a regulated substance including any use, storage, manufacturing, handling or on-site movement of such substances or combination of these activities. For the purposes of this definition, any group

of vessels that are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release, shall be considered a single process.

EPA Findings of Fact and Conclusions of Law

18. Respondents are the owners and operators of the facility located at: 2220 North River Road, Port Allen, Louisiana 70767 (the Facility).

19. The Facility is a "stationary source" pursuant to Section 112(r)(2)(C) of the CAA, 42 U.S.C. 7412(r)(2)(C), and the regulation at 40 C.F.R. § 68.3.

20. Respondents are, and at all times referred to herein were, each a "person" as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

21. The EPA conducted an inspection of the Facility on March 19-21, 2019, to determine Respondents' compliance with Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and 40 C.F.R. Part 68 (the Inspection).

22. Information gathered during the Inspection and included in the RMP submitted by Respondents on March 5, 2019, revealed that the Facility has more than a threshold quantity of regulated substances (in flammable mixtures) in a process. Specifically, the processes at the Facility has over 10,000 pounds of flammable mixtures that are made up of the following regulated substances, as listed in 40 C.F.R. § 68.130:

a. Butane
b. Ethane
c. Ethylene [Ethene]
d. Isobutane [Propane, 2-methyl]
e. Isopentane [Butane, 2-methyl-]
f. Pentane

g. Propane

h. Propylene [1-Propene]

23. From the time Respondents first had onsite greater than 10,000 pounds of any flammable mixture made up of the regulated substances listed above in a process, Respondents were subject to the requirements of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and 40 C.F.R. Part 68, because they were the owners and operators of a stationary source that had more than a threshold quantity of a regulated substance in a process.

24. From the time Respondents first had onsite greater than 10,000 pounds of any flammable mixture made up of the regulated substances listed above in a process, Respondents were subject to the Program 3 prevention program requirements because pursuant to 40 C.F.R. § 68.10(i), the covered processes at the Facility did not meet the requirements of Program 1 and was subject to the OSHA process safety management standard, 29 C.F.R. § 1910.119.

EPA Findings of Violation

25. The facts stated in Paragraphs 18 through 24 above are herein incorporated.

Mechanical Integrity

26. The regulation at 40 C.F.R. § 68.12(d)(3) requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. Pursuant to Pursuant to 40 C.F.R. § 68.73(b), the owner or operator shall establish and implement written procedures to maintain the ongoing integrity of process equipment. Pursuant to 40 C.F.R. §§ 68.73(d)(1)–(3) the owner or operator shall perform inspection and tests on process equipment that follow recognized and generally accepted good engineering practices and the frequency for which shall be consistent with applicable manufacturers' recommendations and good engineering practices.

27. A review of Respondents' mechanical integrity program at the Facility during the Inspection revealed that six (6) inspections and tests on process equipment had not been completed and the frequency for fourteen (14) inspections and tests were not completed consistent with applicable recognized and generally acceptable good engineering practices. Moreover, the uncompleted inspections and past due inspections were beyond frequency timelines set by Respondents' mechanical integrity written procedures.

28. Respondents' failure to implement their written procedures to maintain the ongoing integrity of process equipment pursuant to 40 C.F.R. § 68.73(b), and failure to conduct inspections and tests following recognized and generally accepted good engineering practices and at a frequency consistent with applicable good engineering practices pursuant to 40 C.F.R. §§ 68.73(d)(1)–(3), as required by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Order for Compliance

29. Based on the EPA Findings of Fact and Conclusions of Law and the EPA Findings of Violation set forth above, and pursuant to the authority of Section 113(a)(3)(B) of the CAA, 42 U.S.C. § 7413(a)(3)(B), as amended, Respondents are hereby ORDERED and agree that Respondents shall comply with the requirements of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and the regulations promulgated thereunder and codified at 40 C.F.R. Part 68.

30. The EPA and Respondents agree that Respondents shall, as expeditiously as possible, but in no event later than thirty (30) days from the Effective Date of this Order, submit to the EPA, Respondent's written procedures for maintaining the ongoing integrity of process equipment in accordance with 40 C.F.R. § 68.73(b).

31. The EPA and Respondents agree that Respondents shall, as expeditiously as possible, but in no event later than November 1, 2020 (the Compliance Deadline), complete the following compliance actions:

a. In accordance with 40 C.F.R. § 68.73(d)(1)-(3), perform inspections and tests on all process equipment at the Facility for which no inspection or test has been conducted or the frequency of the inspection or test is beyond applicable manufacturers' recommendations and good engineering practices. The inspection and testing procedures shall follow recognized and generally accepted good engineering practices.

b. In accordance with 40 C.F.R. § 68.73(d)(4), submit to the EPA documentation demonstrating that inspections and tests have been performed on all process equipment at the Facility for which, as of the Effective Date, no inspection or test has been conducted or the frequency of the inspection or test is beyond applicable manufacturers' recommendations and good engineering practices. The documentation shall identify the date of the inspection or test, the name of the person who performed the inspection or test, the serial number or other identifier of the equipment on which the inspection or test was performed, a description of the inspection or test performed, and the results of the inspection or test.

32. COMPLIANCE DEADLINE EXTENSION FOR COVID-19/CORONAVIRUS: Notwithstanding the preceding section, the Compliance Deadline may be extended for certain inspections and tests as provided in this section:

a. Inspections subject to extended deadline: The Compliance Deadline may only be extended for inspections and tests that would require a shutdown and clearing of the applicable components of the Facility.

b. Basis for extended deadline: The Compliance Deadline may only be extended if circumstances related to the COVID-19/Coronavirus (such as a COVID-19/Coronavirus-related deferral of a scheduled shutdown) prevent the applicable inspections or tests from being conducted by October 15, 2020.

c. Extension period: For each applicable inspection or test, the Compliance Deadline may only be extended until 15 days after the restart of the applicable portion of the Facility following its first scheduled shutdown and clearing subsequent to November 1, 2020; *provided, however,* that the Compliance Deadline may not be extended more than 11 months after the Effective Date unless this Order is amended or terminated.

d. Notice to EPA: To extend the Compliance Deadline, the Respondents shall notify EPA no later than October 15, 2020. Such notice shall describe the basis and estimated timeline for the extension and identify the specific inspections and tests for which the Compliance Deadline is extended. The Respondents shall provide a status update at least once every 60 days until the applicable inspections and tests are completed.

e. Retention of deadline for other inspections: Extension of the Compliance Deadline for some inspections and tests does not change the Respondents' corrective action and documentation submittal deadlines for other inspections and tests subject to this Order.

Submissions

33. Respondents must provide documentation of completion of the compliance actions described above to EPA by the Compliance Deadline. All documentation shall be submitted as set forth in this sub-section.

34. All submissions to EPA required by this Order shall contain the following certification signed by an authorized representative of Respondent:

> I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

35. All submissions to EPA required by this Order shall be sent to:

Justin McDowell
Enforcement and Compliance Assurance Division
Air Enforcement Branch
U.S. Environmental Protection Agency, Region 6
1201 Elm Street, Suite 500 (ECDAC)
Dallas, Texas 75270-2101
mcdowell.justin@epa.gov

36. All documents submitted by Respondents to EPA in the course of implementing this Order shall be available to the public unless identified and determined to be confidential pursuant to 40 C.F.R. Part 2, Subpart B.

Stipulated Penalties

37. Respondents shall be liable for stipulated penalties for failure to comply with the requirements of this Order. The following stipulated penalties shall accrue per violation per day for failure to comply with the requirements of Paragraphs 29 through 32 of this Order:

Penalty per Violation per Day	Period of Noncompliance
$37,500	1st through 30th day
$48,192	31st day and beyond

38. All penalties shall begin to accrue on the day after the complete performance is due or on the day a violation occurs and shall continue to accrue through the final day of the correction of the noncompliance or completion of the activity.

39. The payment of penalties shall not alter in any way Respondent's obligation to comply with the provisions of this Order.

40. All penalties accruing under this section shall be due and payable to the United States within thirty (30) days of Respondent's receipt from the EPA of a demand for payment of penalties. Such payments shall identify Respondents by name and docket number and shall be by certified or cashier's check made payable to the "United States Treasury" and sent to:

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

or by alternate payment method described at http://www.epa.gov/financial/makepayment.

41. A copy of the check or other information confirming payment shall simultaneously be sent to:

Justin McDowell
Enforcement and Compliance Assurance Division
Air Enforcement Branch
U.S. Environmental Protection Agency, Region 6
1201 Elm Street, Suite 500 (ECDAC)
Dallas, Texas 75270-2101
mcdowell.justin@epa.gov

42. Respondents understand that failure to timely pay any portion of the stipulated penalty may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest. In such case, interest shall begin to accrue on the stipulated penalty from the date of delinquency until such stipulated penalty and any accrued interest are paid in full. 31 C.F.R. § 901.9(b)(1). Interest will be assessed at a rate of the United States Treasury Tax and loan rates in accordance with 31 U.S.C. § 3717. Additionally, a charge will be assessed to cover the costs of debt collection including processing and handling costs, and a non-payment penalty charge of six percent (6%) per year compounded annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. 31 U.S.C. § 3717(e)(2).

Other Terms and Conditions

43. By entering into this Order, Respondents: (a) consent to and agree not to contest EPA's authority or jurisdiction to issue or enforce this Order; and (b) agree to undertake all actions required by this Order.

44. Respondents neither admit nor deny the EPA Findings of Fact and Conclusions of Law and the EPA Findings of Violation.

45. Respondents and the EPA agree to bear their respective costs and attorney's fees. Respondents waive their right to seek reimbursement of their costs and attorney's fees under the Equal Access to Justice Act (5 U.S.C. § 504), as amended by the Small Business Regulatory Enforcement Fairness Act (P.L. 04-121), and any regulations promulgated thereunder.

General Provisions

46. Respondents waive any and all remedies, claims for relief and otherwise available rights to jurisdictional or administrative review that Respondents may have with respect to any

issue of fact or law set forth in this Order, including, but not limited to, any right of judicial review under Section 307(b)(1) of the CAA, 42 U.S.C. § 7607(b)(1), or under the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

47. Any violation of this Order may result in an enforcement action under Section 113 of the CAA, 42 U.S.C. § 7413. The EPA may use any information submitted under this Order in an administrative, civil judicial, or criminal action. Section 113 of the CAA, 42 U.S.C. § 7413, authorizes the Administrator to:

a. issue an administrative penalty order under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), assessing a civil penalty not to exceed $48,192 (or amount as adjusted by the Civil Monetary Penalty Adjustment Rule) per day of violation, pursuant to Section 113(d)(1)(B) of the CAA, 42 U.S.C. § 7413(d)(1)(B);
b. bring a civil judicial enforcement action for permanent or temporary injunction, or to assess and recover a civil penalty not to exceed $101,439 (or amount as adjusted by the Civil Monetary Penalty Adjustment Rule) per day of violation, or both, pursuant to Section 113(b)(2) of the CAA, 42 U.S.C. § 7413(b)(2); or
c. request the Attorney General to commence a criminal action pursuant to Section 113(c) of the CAA, 42 U.S.C. § 7413(c).

48. This Order does not resolve any civil or criminal claims for violations alleged in this Order. In accordance with Section 113(a)(4) of the CAA, 42 U.S.C. § 7413(a)(4), issuance of this Order does not preclude EPA from assessing penalties, obtaining injunctive relief, or taking any other action authorized under the CAA, or other applicable federal laws or regulation. This Order does not affect the obligation of Respondents to comply with all federal, state, and local statutes, regulations, and permits.

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

50. Nothing in this Order shall limit EPA's right to obtain access to, and/or inspect the Facility, and/or to request additional information from Respondents pursuant to the authority of Section 114 of the CAA, 42 U.S.C. § 7414.

51. By signing this Order, the undersigned representative of Respondents certify that he or she is authorized to enter into the terms and conditions of this Order and to execute and legally bind Respondents to this Order.

52. The provisions of this Order shall apply and be binding upon Respondents and their agents, officers, directors, employees, trustees, authorized representatives, successors, and assigns. Respondents shall ensure that any agents, officers, directors, employees, contractors, consultants, firms or other persons or entities acting under or for Respondents with respect to matters included herein comply with the terms of this Order. From the Effective Date until termination of this Order, Respondents must give written notice and a copy of this Order to any successors in interest prior to any transfer of ownership or control of nay portion or interest in the Facility. Simultaneously with such notice, Respondents shall provide written notice of such transfer, assignment, or delegation to the EPA. In the event of such transfer, assignment, or delegation, Respondents shall not be released form the obligations or liabilities of this Order unless the EPA has provided written approval of the release of said obligations or liabilities.

53. The terms of this Order shall be effective immediately upon signature of the latter of Respondents or the EPA (Effective Date).

54. The EPA and Respondents may subsequently amend this Order, in writing, in accordance with the authority of the CAA. In the event of any amendment to this Order, all requirements for performance of this Order not affected by the amendment shall remain as specified by the original Order.

55. This Order shall remain in effect until the earlier of the following, at which point Respondents shall operate in compliance with the CAA:

a. One year after the Effective Date of this order;
b. The effective date of any determination by the EPA that Respondents have achieved compliance with all terms of this Order; or
c. Immediately upon receipt by Respondents of notice from the EPA finding that an imminent and substantial endangerment to public health, welfare, or the environment has occurred.

56. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

57. The EPA and Respondent agree to the use of electronic signatures for this matter. The EPA and Respondent further agree to electronic service of this Order by email to the following:

To EPA:

mills.clarissa@epa.gov

To Respondent:

environmental@eprod.com

RESPONDENT:
BATON ROUGE FRACTIONATORS LLC

Date: 4/24/20

Signature

Graham Bacon
Name

Authorized Representative
Title

RESPONDENT:
BATON ROUGE PROPYLENE CONCENTRATOR LLC

Date: 4/24/20

Signature

Graham Bacon
Name

Authorized Representative
Title

RESPONDENT:
ENTERPRISE PRODUCTS OPERATING LLC
By its Manager, Enterprise Products OLPGP, Inc.

Date: 4/24/20

Signature

Graham Bacon
Name

Chief Operating Officer and Executive Vice President
Title

COMPLAINANT:

U.S. ENVIRONMENTAL PROTECTION AGENCY

Digitally signed by CHERYL SEAGER
DN: c=US, o=U.S. Government, ou=Environmental Protection Agency, cn=CHERYL SEAGER, 0.9.2342.19200300.100.1.1=68001003651793
Date: 2020.04.27 15:44:28 -05'00'

Date: ____________________

Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division
U.S. Environmental Protection Agency, Region 6

CERTIFICATE OF SERVICE

I certify that on the date noted below I sent a true and correct copy of the original Administrative Order for Compliance on Consent to:

Zachary Craft, Counsel
Baton Rouge Fractionators LLC, and
Baton Rouge Propylene Concentrator LLC
zlcraft@eprod.com; and
environmental@eprod.com

Dated this 28 day of April, 2020.

CLARISSA MILLS

Digitally signed by CLARISSA MILLS
DN: c=US, o=U.S. Government, ou=Environmental Protection Agency, cn=CLARISSA MILLS, 0.9.2342.19200300.100.1.1=68001003653451
Date: 2020.04.28 07:13:43 -05'00'

Signed