BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, PA 19103

In the Matter of	:	
	:	
Celanese Acetate, L.L.C.	:	
Celco Plant	:	
PO Box 1000	:	
3520 Virginia Avenue	:	**Docket No. CAA-03-2008-0278**
Narrows, VA 24124	:	

CONSENT AGREEMENT

I. Preliminary Statement

1. This Consent Agreement is entered into by the Complainant, the Director of the Air Protection Division, U.S. Environmental Protection Agency ("EPA"), Region III, and Celanese Acetate, L.L.C. ("Celanese" or "Respondent"), and is filed with the accompanying Final Order pursuant to Section 113 of the Clean Air Act ("CAA" or the "Act"), as amended, 42 U.S.C. § 7413, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 C.F.R. Part 22 (the "Consolidated Rules of Practice"). The Consolidated Rules of Practice, at 40 C.F.R. § 22.13, provide in pertinent part that when parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding simultaneously may be commenced and concluded by the issuance of a consent agreement and final order pursuant to 40 C.F.R. § 22.18(b)(2) and (3).

2. This Consent Agreement and the accompanying Final Order address the specifically alleged violations by Respondent of requirements in the federally enforceable Commonwealth of Virginia State Implementation Plan ("Virginia SIP"), in 40 C.F.R. Part 63, Subpart F, National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry ("Subpart F"), in 40 C.F.R. Part 63, Subpart H, National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks ("Subpart H"), in 40 C.F.R. Part 60, Subpart VV (40 CFR 60, Subpart VV, Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry ("Subpart VV"), in 40 C.F.R. Part 63, Subpart EEEE, National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline) (the "OLD MACT"), and in Respondent's federally enforceable Title V operating

permit.

II. General Provisions

3. Section 113(a)(3) and (d) of the CAA, 42 U.S.C. § 7413(a)(3) and (d), authorize the Administrator of EPA to issue an administrative order assessing a civil administrative penalty 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 rule, plan, order, waiver, or permit promulgated, issued, or approved under Subchapters I and V [also referred to as Titles I and V] of the CAA. The authority to issue the accompanying Final Order has been duly delegated to the Regional Judicial Officer, EPA, Region III.

4. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order and agrees not to contest EPA's jurisdiction with respect to the issuance, execution and enforcement of this Consent Agreement and the accompanying Final Order.

5. Respondent consents to the issuance of this Consent Agreement and the accompanying Final Order and to the terms and conditions set forth therein.

6. Respondent neither admits nor denies the specific findings of fact and conclusions of law set forth in this Consent Agreement and the accompanying Final Order except as otherwise stated in Paragraph 4.

7. Respondent agrees that this Consent Agreement and the accompanying Final Order shall apply to, and be binding upon, Respondent, its officers, directors, servants, employees, agents, successors and assigns.

8. For the purposes of this proceeding, Respondent hereby expressly waives its right to a hearing with respect to any issue of law or fact set forth in this Consent Agreement and the accompanying Final Order, including the finality and/or validity thereof. Respondent hereby expressly waives its right to contest the factual allegations and legal conclusions set forth in Section III, "Findings of Fact and Conclusions of Law," of this Consent Agreement or to appeal the accompanying Final Order.

III. Findings of Fact and Conclusions of Law

9. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3), EPA alleges the following findings of fact and conclusions of law:

Virginia NOx Budget Trading Program

10. In October 1998, EPA finalized the "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone"—commonly called the "NOx SIP Call." The NOx SIP Call was designed to mitigate significant transport of nitrogen oxides ("NOx"). For those states opting to meet the obligations of the NOx SIP Call through a cap and trade program, EPA developed a model NOx Budget Trading Program rule at 40 C.F.R. Part 96.

11. The Commonwealth of Virginia has implemented the NOx Budget Trading Program in 9 VAC 5-140 *et seq* ("Virginia NOx Budget Trading Program"). EPA approved Virginia's NOx Budget Trading Program as part of the Virginia SIP, effective August 7, 2003 (68 FR 40520- July 8, 2003) (with the exception of NOx allowance banking provisions which received conditional approval). On August 25, 2004, EPA published final full approval for Virginia's NOx Budget Trading Program (effective October 25, 2004).

12. The Virginia SIP at 9 VAC 5-140-20 defines a "NOx Budget source" as a source that includes one or more NOx Budget units, and "NOx Budget unit" is defined as a unit that is subject to the NOx Budget emissions limitation under 9 VAC 5-140-40 or 9 VAC 5-140-800.

13. Units which commenced operation prior to January 1, 1997 with maximum design heat input greater than 250 million British thermal units per hour ("mmBtu/hr") are subject to the Virginia NOx Budget Trading Program in the Virginia SIP. See 9 VAC 5-140-40.

14. Pursuant to 9 VAC 5-140-60(F)(4), each NOx Budget source and each NOx Budget unit shall meet the requirements of the Virginia NOx Budget Trading Program. Any provision of the NOx Budget Trading Program that applies to a NOx Budget source or authorized account representative of a NOx Budget source also applies to owners and operators of such NOx Budget source and NOx Budget unit. 9 VAC 5-140-60(F)(5).

15. Pursuant to 9 VAC 5-140-60(B)(1) and 9-VAC-5-140-700(A), owners and operators of each NOx Budget source and unit must comply with the monitoring and reporting requirements of the Virginia NOx Budget Trading Program and 40 C.F.R. Part 75, Subpart H.

16. Pursuant to 9 VAC 5-140-700(A), owners and operators of a NOx Budget unit must comply with all monitoring and reporting requirements as provided in the Virginia NOx Budget Trading Program and in 40 C.F.R. Part 75, Subpart H. Owners and operators of a NOx Budget unit must successfully complete all certification tests required under 9 VAC 5-140-710 and meet all other provisions in the Virginia NOx Budget Trading Program and 40 C.F.R. Part 75 applicable to monitoring systems. 9 VAC 5-140-700(B).

17. Pursuant to 9 VAC 5-140-700(B) and (C), owners and operators of each NOx Budget unit must install all monitors required under 40 C.F.R. Part 75 and the Virginia NOx Budget

Trading Program, record and report data from the monitoring systems, and comply with 40 C.F.R. Part 75 from May 1, 2003 onward.

18. Pursuant to 9 VAC 5-140-700(E), no owner or operator of a NOx Budget Unit shall operate the unit so as to discharge, or allow to be discharged, NOx emissions to the atmosphere without accounting for such emissions in accordance with the VA NOx Budget Trading Program and 40 C.F.R. Part 75.

19. Pursuant to 9 VAC 5-140-740(A)(1) and (D), owners and operators of each NOx Budget unit must comply with all recordkeeping and reporting requirements in the Virginia NOx Budget Trading Program and 40 C.F.R. § 75.73.

20. The federal Continuous Emissions Monitoring requirements are located in 40 C.F.R. Part 75 and provide requirements for the monitoring, recordkeeping, and reporting of NOx and carbon dioxide ("CO_2") emissions from units subject to NOx reduction requirements such as the Virginia NOx Budget Trading Program. See 40 C.F.R. §§ 75.1 and 75.2. In addition, 40 C.F.R. Part 75 provides requirements for the installation, certification, operation and maintenance of continuous emissions monitors ("CEMS") for monitoring NOx and CO_2 emissions. 40 C.F.R. § 75.1.

21. Pursuant to 40 C.F.R. § 75.5, a violation of any applicable regulation of 40 C.F.R. Part 75 is a violation of the Act, and no owners or operators of affected units may operate an affected unit without complying with 40 C.F.R. Part 75 and its Appendices.

22. Pursuant to 40 C.F.R. §§ 75.10, 75.71, and 75.72, owners and operators of affected units shall install, certify, operate, and maintain in accordance with 40 C.F.R. Part 75 a NOx CEMS and a CO_2 diluent monitor and must record and report the hourly, daily, quarterly, and annual information collected under the monitor requirements contained in 40 C.F.R. Part 75.

23. 40 C.F.R. Part 75, Subpart H applies to owners and operators of units subject to a state's NOx Budget Trading Program and requires compliance with 40 C.F.R. Part 75, Subparts A-G and its Appendices as well. 40 C.F.R. § 75.70. Affected units using CEMs to account for NOx mass emissions must comply with the quality assurance and quality control requirements in § 75.21, Appendix B to Part 75, and § 75.74(c) for all monitors, including, but not limited to, the NOx CEMS and CO_2 monitor. 40 C.F.R. § 75.70(e).

24. Pursuant to 40 C.F.R. §§ 75.60, 75.64 and 75.73, the designated representative of a facility (and owner and operator of an affected unit under the Virginia SIP) must submit electronic quarterly reports including quality assurance and quality control data with information as required in 40 C.F.R. Part 75 to EPA. Pursuant to 40 C.F.R. § 75.64(c), the designated representative must submit a compliance certification with each quarterly report based on reasonable inquiry of those persons with primary responsibility for ensuring that all of the unit's emissions are correctly and fully monitored.

25. Pursuant to 40 C.F.R. § 75.74(c), the owner or operator of an affected unit must operate, maintain, and calibrate the NOx CEMS and CO_2 monitor by performing diagnostic testing and quality assurance, during which the facility must periodically conduct linearity checks on its NOx CEMS and CO_2 monitor in accordance with 40 C.F.R. Part 75 and its Appendices and report the results of such tests to EPA and the Commonwealth of Virginia.

26. Pursuant to 40 C.F.R. § 75.74(c)(2) and (3), at the time relevant to this order, the owner or operator of an affected unit was required to conduct linearity checks on the NOx CEMS and CO_2 monitor prior to the ozone season, in the second calendar quarter (defined as May or June) and in the third calendar quarter in accordance with 40 C.F.R. Part 75 and its Appendices.

27. General procedures for conducting linearity checks and performing linearity check calculations using specified quality assurance and quality control procedures are outlined in 40 C.F.R. Part 75, Appendices A and B.

28. 40 C.F.R. § 75.74(c)(6)(iv) and (v) requires the owner and operator of an affected unit to submit quality assurance tests (including linearity check test data collected pre-ozone season as well as in the second and third quarters of the calendar year) to EPA in accordance with 40 C.F.R. § 75.73, which requires the quarterly electronic reports. 40 C.F.R. §§ 75.73, 75.57(a)(4), and 75.59(a)(3) specify the information to be recorded and therefore reported for required linearity checks.

29. 40 C.F.R. § 75.73(f)(4) requires the designated representative (and owners and operators pursuant to the Virginia NOx Budget Trading Program) to comply with all the reporting requirements in 40 C.F.R. § 75.64(d), (f) and (g). 40 C.F.R. § 75.64(d) requires each quarterly report to be submitted in a format specified by the Administrator of EPA. The format and instructions for reporting data electronically can be found in EDR version 2.2 and specifically Record Type 601 and 602.

Title V

30. Title V of the Act, 42 U.S.C. §§ 7661-7661f, mandates a federally enforceable operating permit program for certain sources which states may implement.

31. U.S. EPA promulgated final approval of the Virginia Title V program on December 4, 2001. 40 C.F.R. Part 70, Appendix A. 66 FR 62961. Virginia's Title V program became effective on November 30, 2001. 61 FR 39597. EPA had granted interim approval of Virginia's Title V program in a rulemaking published on June 10, 1997, as corrected on March 19, 1998 (62 FR 31516 and 63 FR 13346, respectively).

32. The Virginia regulations governing the Title V permitting program are located at 9 VAC 5-80-50 *et seq*.

33. Section 502(a) of the Act, 42. U.S.C. § 7661a(a), provides that it is unlawful for any person to violate any requirement of a permit issued under Title V of the Act after the effective date of any permit program approved under Title V of the Act. See also 40 C.F.R. §§ 70.1(b), 71.1(b) and 71.12.

34. Pursuant to 40 C.F.R. § 52.23, "[f]ailure to comply with any . . . permit condition . . . issued pursuant to approved or promulgated regulations for the review of new or modified stationary . . . sources, or with any permit limitation or condition . . . , shall render the person or governmental entity so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement action under Section 113 of the Clean Air Act."

LDAR

35. Section 112 of the Act, 42 U.S.C. § 7412, requires the Administrator of EPA to publish a list of air pollutants determined to be hazardous and to promulgate regulations establishing emission standards or, where necessary, design, equipment, work practice, or operational standards for each listed hazardous air pollutant.

36. Pursuant to Section 112 of the Act, 42 U.S.C. § 7412, EPA promulgated 40 C.F.R. Part 63, Subpart F and Subpart H. Chemical manufacturing process units which meet all the criteria in 40 C.F.R. § 63.100 (b) (1)-(3) of Subpart F must also comply with Subpart H.

37. "Chemical manufacturing process unit" means the equipment assembled and connected by pipes or ducts to process raw materials and to manufacture an intended product. A chemical manufacturing process unit includes pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, instrumentation systems, and control devices or systems. A chemical manufacturing process unit is identified by its primary product. 40 C.F.R. § 63.101(b). "Co-product" means a chemical that is produced during the production of another chemical and "product" means a compound or chemical which is manufactured as the intended product of the chemical manufacturing process unit. 40 C.F.R. § 63.101(b).

38. The provisions of Subpart F and Subpart H apply to chemical manufacturing process units which manufacture as a primary product one or more chemicals listed in table 1 of Subpart F, use as a reactant or manufacture as a product or co- product one or more of the organic hazardous air pollutants listed in table 2 of Subpart F, and are located at a plant site that is a major source as defined in Section 112(a) of the Act, 42 U.S.C. § 7412. See 40 C.F.R. § 63.100(b)(1)-(3). Table 1 of Subpart F includes acetic anhydride and Table 2 includes 1.3-butadiene and acetonitrile.

39. Existing sources were required to comply with Subpart H in 1995. 40 C.F.R. § 63.100(k).

40. Subpart H, at 40 C.F.R. § 63.160(a), applies to pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, instrumentation systems, control devices, and closed-vent systems that are intended to operate in organic hazardous air pollutant ("HAP") service 300 hours or more during the calendar year within a source subject to the provisions of a specific subpart in 40 C.F.R. Part 63 that references Subpart H. Subpart H contains leak detection and repair ("LDAR") provisions.

41. Subpart H, at 40 C.F.R. § 63.161, defines equipment in organic HAP service as equipment that either contains or contacts a fluid that is at least 5% by weight of total organic HAP.

42. Subpart H, at 40 C.F.R. § 63.168, requires the owner or operator of a source subject to Subpart H to monitor valves in gas/vapor and light liquid service to detect leaks by the method specified in 40 C.F.R. § 63.180(b) at the intervals provided in 40 C.F.R. § 63.168(c) and (d).

43. Subpart H, at 40 C.F.R. § 63.174, requires the owner or operator of a process unit subject to Subpart H to monitor connectors in gas/vapor and light liquid service annually by the method specified in 40 C.F.R. § 63.180(b).

44. Subpart H, at 40 C.F.R. § 63.180(b), requires each owner or operator of a source subject to Subpart H to comply with the monitoring procedures and requirements of Method 21, at 40 C.F.R. Part 60, Appendix A.

45. Method 21, at 40 C.F.R. Part 60, Appendix A, Section 8.3.1, requires the owner or operator of an affected source to sample slowly the interface of a component where leakage is indicated until the maximum meter reading is obtained.

46. Subpart H, at 40 C.F.R. § 63.182(a) and (d), requires the owner or operator of a process unit subject to Subpart H to submit periodic semi-annual reports including the number of pumps monitored in accordance with the subpart.

47. Subpart F, at 40 C.F.R. § 63.104(a) and (b), requires the owner or operator of a source subject to Subpart F to monitor heat exchangers in HAP service initially during first six months of applicability and quarterly thereafter.

48. Pursuant to Section 112 of the Act, 42 U.S.C. § 7412, EPA promulgated the OLD MACT at 40 C.F.R. Part 63, Subpart EEEE. The OLD MACT establishes emission limitations, operating limits and work practice standards for organic HAP emitted from organic liquids distribution ("OLD") (non-gasoline) operations at major sources of HAP emissions. The

OLD MACT applies to new and existing OLD operations including the collection of activities and equipment used to distribute organic liquids into, out of, and within a facility that is a major source of HAP. 40 C.F.R. §§ 63.2330, 63.2334, and 63.2338.

49. The affected source for the OLD MACT includes all equipment leak components in organic liquids service. 40 C.F.R. § 63.2338. Existing affected sources were required to comply with the OLD MACT by February 5, 2007. 40 C.F.R. § 63.2342(b).

50. Pursuant to 40 C.F.R. § 63.2346(c), affected sources under the OLD MACT with pumps, valves, and sampling connections that operate in organic liquids service for at least 300 hours per year must also comply with 40 C.F.R. Part 63, Subpart TT, Subpart UU or Subpart H.

51. Section 111(b) of the Act, 42 U.S.C. § 7411(b), requires the Administrator of EPA to publish a list of categories of sources of air pollution which, in the Administrator's judgment, cause or contribute significantly to air pollution that may reasonably be anticipated to endanger public health or welfare, and to promulgate standards of performance for new sources within the categories. These standards of performance, known as the New Source Performance Standards ("NSPS"), are codified at 40 C.F.R. Part 60 and include Subpart VV.

52. Section 111(e) of the Act, 42 U.S.C. § 7411(e), prohibits any owner or operator of a new source from operating that source in violation of a NSPS after the effective date of that standard.

53. Subpart VV at 40 C.F.R. § 60.482-8 requires the owner or operator of an affected source to repair leaks as soon as practicable after one is detected at pumps, certain valves and pressure relief devices, and connectors. However, Subpart VV at 40 C.F.R. § 60.482-9 permits delay of repair of equipment for which leaks were detected under certain circumstances as long as the equipment does not remain in VOC service which is defined as containing or contacting a process fluid that is at least ten percent VOC by weight pursuant to 40 C.F.R. § 60.481.

54. Subpart VV at 40 C.F.R. § 60.482-6 and Subpart H at 40 C.F.R. § 63.167 require open-ended valves or lines to be equipped with a cap, blind flange, plug or second valve.

55. Celanese owns and operates the Celco plant at 3520 Virginia Avenue, Narrows, Virginia 24124 (the "Facility"). Until June 30, 2003, Celanese also owned and operated the boilers (including Boiler 7) and ancillary equipment and activities for producing steam and electricity located at and supporting the Facility. On and after June 30, 2003, Cinergy Solutions of Narrows, LLC (presently known as DEGS of Narrows, LLC) has owned and operated the boilers including Boiler 7.

56. Celanese is a "person" within the meaning of Sections 113(a) and 502 of the Act, 42 U.S.C. §§ 7413(a) and 7661(a), and as defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e). Until June 30, 2003, Celanese was an "owner and operator" of a NOx Budget unit and a NOx Budget source as defined in the Virginia NOx Budget Trading Program in the Virginia SIP

and was an "owner or operator of an affected unit" under 40 C.F.R. Part 75. For all relevant times in this Consent Agreement, Celanese has also been the NOx authorized account representative for Boiler 7 at the Facility for the NOx Budget unit and NOx Budget source.

57. The Commonwealth of Virginia has issued a Federal Operating Permit for the Facility (permit # VA-20304), effective June 30, 2003 through June 30, 2008 ("Title V Permit").

58. Celanese is subject to the Title V Permit.

59. The Title V Permit provides in Section XIA, General Conditions, that all terms and conditions in the Title V Permit are enforceable under the Act (unless designated as state-enforceable only), requires the permittee to comply with all terms and conditions of the Title V Permit, and states that noncompliance with the permit constitutes a violation of the Act as well as of the Virginia Air Pollution Control Law and grounds for a permit enforcement action.

60. Boiler 7 at the Facility is subject to the Virginia NOx Budget Trading Program, 9 VAC 5-140. *et seq* and 40 C.F.R. Part 75. Until June 30, 2003, Celanese, as owner and operator of Boiler 7, was subject to the Virginia NOx Budget Trading Program, 9 VAC 5-140 *et seq* and 40 C.F.R. Part 75.

61. Until June 30, 2003, Celanese was required to operate, maintain and calibrate a NOx CEMS and CO_2 monitor on Boiler 7 at the Facility and submit reports to EPA for compliance with the Virginia NOx Budget Trading Program and 40 C.F.R. Part 75.

62. Pursuant to the Title V Permit, Section IV, Celanese is required to comply with Subpart H and Subpart VV for the acetic anhydride production equipment.

63. Respondent failed to conduct the required linearity check for the Boiler 7 NOx CEMS and CO_2 monitor for the second quarter of 2003 in May or June 2003 and failed to submit to EPA linearity check data for the second quarter of 2003 in the required quarterly electronic data report ("EDR") for second quarter 2003 for the Boiler 7 NOx CEMS and CO_2 monitor.

64. Duly authorized EPA personnel inspected the Facility on July 16-20, 2007 and August 6, 7 and 8, 2007. EPA prepared inspection reports on December 28, 2007 for the August 2007 inspection of the Facility and on February 15, 2008 for the July 2007 inspection of the Facility. EPA issued a Notice of Violation to Celanese on February 27, 2008 pursuant to Section 113 of the Act, 42 U.S.C. § 7413. On February 26, 2008, Celanese submitted its Title V Annual Compliance Certification for 2007 for the Facility.

65. Celanese is a major source as defined in Section 112(a) of the Act, 42 U.S.C. § 7412(a). Celanese manufactures as a primary product acetic anhydride and manufactures as a co-product acetonitrile and 1.3-butadiene.

66. In its August 19, 1994 Initial Notification of HON Applicability, Celanese stated its anhydride manufacturing process is a "chemical manufacturing process unit" subject to Subpart F and Subpart H. The anhydride chemical manufacturing process unit ("CMPU") includes equipment assembled to manufacture acetic anhydride from acetic acid and during this manufacture, some byproducts containing HAPs are produced. The anhydride CMPU includes valves, pumps and connectors which are subject to Subpart H.

67. Celanese's anhydride CMPU is subject to Subpart F and has pumps, valves, connectors and heat exchangers that are intended to operate in organic HAP service 300 hours or more during the calendar year within a source subject to the provisions of a specific subpart in 40 C.F.R. Part 63 that references Subpart H.

68. Celanese's valves, pumps, connectors and heat exchangers are equipment in organic HAP service because they contain or contact a fluid that is at least 5% by weight of total organic HAP.

69. Celanese is an existing source and was required to comply with Subpart H for the anhydride manufacturing process by 1995. See 40 C.F.R. § 63.100(k)(3)(ii).

70. At the Facility, Celanese uses tags to identify components in organic HAP service subject to Subpart H. Celanese reported the following leak rates for previous monitoring events of components in the anhydride CMPU:

Reporting Period	Components Monitored	Leaks	Rate
1/1/07 – 6/60/07	13	0	0
7/1/06 – 12/31/06	1732	0	0

71. During the August 6-8, 2007 EPA inspection, EPA personnel conducted LDAR field monitoring per EPA Reference Method 21 on 412 components out of the 1,360 components in the anhydride CMPU subject to LDAR monitoring (through Subpart F and Subpart H) at the Facility. The results of this monitoring are shown in Table 1 below. Specific information about the leaks is in Table 2.

TABLE 1

	# of Components Monitored	Leaks	% Leaks
Valves	137	3	2.2%
Connectors	275	5	1.8%
Total	412	8	1.9%

TABLE 2
Leak Information

Tag #	Component	EPA Reading	Team Inc. Reading
044	valve	860	1,300
320	connector	1,100	1,400
722	connector	36,000	36,000
729	valve	32,000	30,000
738	valve	1,500	840
744	connector	30,000	30,000
747.1	connector	900	1,100
749	connector	32,000	15,000

72. Celanese failed to monitor 43 valves and 91 connectors at the light ends column and in the light ends condensate line in the anhydride CMPU from August 2004 until July 2007 pursuant to Subpart F and Subpart H.

73. Celanese failed to monitor heat exchangers in HAP service and subject to Subpart F and Subpart H.

74. Celanese failed to include the number of pumps monitored in its February 2007 periodic semi-annual report pursuant to Subpart H.

75. Celanese is subject to Subpart VV for equipment in anhydride manufacturing.

76. Celanese discovered a leaking connector on the unit 2 ketene furnace in anhydride manufacturing on April 16, 2007 and failed to repair the leak prior to the connector and the unit 2 ketene furnace returning to "in VOC service."

77. Prior to September 2007, Celanese had at least 4 open-ended lines on equipment in anhydride manufacturing which were not equipped with a cap, blind flange, plug, or second valve.

78. Celanese owns and operates at the Facility part of a methylene chloride system which cools the cellulose acetate process at the Facility.

79. Methylene chloride is a HAP pursuant to Section 112 of the Act, 42 U.S.C. § 7412. Methylene chloride is a fluid that is at least 5% by weight of total organic HAP.

80. Celanese owns and operates equipment for the methylene chloride system including, but not limited to valves and connectors. Celanese has equipment used to distribute organic liquids into, out of, and within the Facility, and this equipment has pumps, valves, connectors, and

sampling connections all of which operate in organic liquids service for at least 300 hours per year. Celanese is a major source of HAP and is subject to the OLD MACT.

81. Because Celanese has pumps, valves, connectors, and sampling connections that operate in organic liquids service for at least 300 hours per year, Celanese has elected to comply with Subpart H and its LDAR provisions under the OLD MACT. 40 C.F.R. § 63.2346(c).

82. Prior to July 2007, Celanese failed to monitor sixteen valves in the methylene chloride system in accordance with the OLD MACT. Prior to February 2008, Celanese failed to monitor an additional three valves and 29 connectors in the methylene chloride system in accordance with the OLD MACT.

83. Celanese failed to conduct a linearity check on the Boiler 7 NOx CEMS and CO_2 monitor when required in the second quarter in 2003 in May or June 2003 as identified above and as required by and in violation of: the Act; 40 C.F.R. Part 75 and its Appendices, including, but not limited to, 40 C.F.R. §§ 75.5, 75.10, 75.21, 75.57, 75.59, 75.60, 75.64, 75.70, 75.71, 75.72, 75.73 and 75.74; the Virginia SIP and the Virginia NOx Budget Trading Program, including, but not limited to, 9 VAC 5-140-60, 9 VAC 5-140-700, and 9 VAC 5-140-740.

84. Celanese failed to submit required linearity check data in an electronic quarterly report for the Second Quarter of 2003 to EPA for the Boiler 7 NOx CEMS and CO_2 monitor in violation of: the Act; 40 C.F.R. Part 75 and its Appendices, including, but not limited to, 40 C.F.R. §§ 75.5, 75.10, 75.21, 75.57, 75.59, 75.60, 75.64, 75.70, 75.71, 75.72, 75.73 and 75.74; the Virginia SIP and the Virginia NOx Budget Trading Program, including, but not limited to, 9 VAC 5-140-60, 9 VAC 5-140-700, and 9 VAC 5-140-740.

85. Celanese has failed to monitor equipment (including valves and connectors in the anhydride CMPU) subject to Subpart H and Subpart F in accordance with EPA Reference Method 21 in violation of: Sections 112 and 113 of the Act, 42 U.S.C. §§ 7412 and 7413; Subpart F and Subpart H, including, but not limited to, 40 C.F.R. § 63.168, 40 C.F.R. § 63.174, 40 C.F.R. § 63.180; and EPA Reference Method 21 at 40 C.F.R. Part 60, Appendix A, including, but not limited to, Section 8.3.1 of EPA Reference Method 21. Celanese's failure to monitor equipment from the anhydride CMPU in accordance with EPA Reference Method 21 is also a violation of Sections 113 and 502 of the Act, 42 U.S.C. §§ 7413 and 7661a, 40 C.F.R. §§ 52.23, 70.1(b), 71.1(b) and 71.12, and its Title V Permit.

86. Celanese failed to monitor heat exchangers in violation of: Sections 112 and 113 of the Act, 42 U.S.C. §§ 7412 and 7413; Subpart F and Subpart H, including, but not limited to, 40 C.F.R. § 63.104. Celanese's failure to monitor equipment from the anhydride CMPU is also a violation of Sections 113 and 502 of the Act, 42 U.S.C. §§ 7413 and 7661a, 40 C.F.R. §§ 52.23, 70.1(b), 71.1(b) and 71.12, and its Title V Permit.

87. Celanese failed to include all required information in its February 2007 semiannual report in violation of Sections 112 and 113 of the Act, 42 U.S.C. §§ 7412 and 7413; Subpart F and

Subpart H, including, but not limited to, 40 C.F.R. § 63.182. Celanese's failure to include all information in the February 2007 report is also a violation of Sections 113 and 502 of the Act, 42 U.S.C. §§ 7413 and 7661a, 40 C.F.R. §§ 52.23, 70.1(b), 71.1(b) and 71.12, and its Title V Permit.

88. Celanese failed to repair a leaking connector prior to its return to VOC service and failed to equip open-ended lines on equipment in anhydride manufacturing with a cap, blind flange, plug or second valve in violation of Sections 111, 112 and 113 of the Act, 42 U.S.C. §§ 7411, 7412 and 7413; Subpart VV, Subpart F and Subpart H, including, but not limited to, 40 C.F.R. §§ 60.482-8, 60.482-9, 60.482-6, and 63.167. These failures are also violations of Sections 113 and 502 of the Act, 42 U.S.C. §§ 7413 and 7661a, 40 C.F.R. §§ 52.23, 70.1(b), 71.1(b) and 71.12, and Celanese's Title V Permit.

89. Celanese failed to monitor nineteen valves and twenty-nine connectors in the methylene chloride system subject to Subpart H and the OLD MACT in violation of: Sections 112 and 113 of the Act, 42 U.S.C. §§ 7412 and 7413; the OLD MACT and Subpart H, including, but not limited to, 40 C.F.R. §§ 63.168, 63.170, 63.180 and 63.2346(c).

IV. Settlement Recitation, Settlement Conditions and Civil Penalty

90. Complainant and Respondent enter into this Consent Agreement and the accompanying Final Order in order to settle fully and resolve all violations set forth in Section III (Paragraphs 10 through 89) of this Consent Agreement which include the violations identified in the December 28, 2007 and February 15, 2008 EPA inspection reports, violations identified in the February 27, 2008 Notice of Violation, violations identified in Celanese's Title V Annual Compliance Certification for 2007 for the Facility, and violations of the OLD MACT identified above in Paragraph 89.

91. In full and final settlement of the allegations in Section III, Findings of Fact and Conclusions of Law, of this Consent Agreement and in consideration of each provision of this Consent Agreement and the accompanying Final Order, Respondent consents to the assessment and payment of a civil penalty in the amount of Sixty Thousand Dollars ($60,000.00) within the time and manner specified herein.

92. The settlement amount of Sixty Thousand Dollars ($60,000.00) is based upon Complainant's consideration and application of the statutory penalty factors set forth in Section 113(e) of the Act, 42 U.S.C. § 7413(e) (which include the size of the business, economic impact of the penalty, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence, the economic benefit of noncompliance, the payment of penalties previously assessed for same violation, the seriousness of violation and such other matters as justice may require), and EPA's Clean Air Act Stationary Source Civil Penalty Policy (dated October 25, 1991), as indexed for inflation in keeping with 40 C.F.R. Part 19 (Adjustment to Civil Monetary Penalties for Inflation).

Complainant has determined that Respondent's payment of this civil penalty shall constitute full and final satisfaction of the violations set forth in Section III of this Consent Agreement.

93. Respondent shall pay the civil penalty of Sixty Thousand Dollars ($60,000) no later than thirty (30) days after the effective date of this Consent Agreement and accompanying Final Order in order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with such civil penalty as described in this Consent Agreement and accompanying Final Order.

94. The following notice concerns interest and late payment penalty charges that will accrue if the civil penalty is not paid as directed.

> Pursuant to 31 U.S.C. § 3717, an executive agency is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will begin to accrue on this civil penalty if it is not paid as directed. 4 C.F.R. § 102.13(b). Interest will be assessed at the rate of the United States Treasury tax and loan rate. 4 C.F.R. § 102.13(c). In addition, a penalty charge of no more than six percent per year will be assessed on any portion of the debt that remains delinquent more than ninety (90) days after payment is due. However, should assessment of the penalty charge on the debt be required, it will be assessed as of the first day payment is due. 4 C.F.R. § 102.13(e).

95. Thus, in accordance with the above provisions, to avoid the assessment of interest and handling charges on the penalty set forth herein, Respondent must pay the full amount of the civil penalty, in the manner directed, within thirty (30) days of the effective date of this Consent Agreement and accompanying Final Order. To avoid the assessment of penalty charges on the debt, Respondent must pay the full amount of the civil penalty, in the manner directed, within one hundred twenty (120) days of the effective date of this Consent Agreement and accompanying Final Order.

96. Payment of the penalty in Paragraph 91 shall be made by cashier's check, certified check, electronic wire transfer, Automated Clearing House ("ACH"), or an on line, internet payment as specified below. All payments are payable to Treasurer, United States of America and shall reference the above case caption and docket number.

All checks shall be made payable to Treasurer, United States of America and shall be mailed to the attention of:

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

Overnight deliveries shall be sent to:
U.S. Environmental Protection Agency
Fines and Penalties
ATTENTION: Natalie Pearson
U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101.

All electronic wire transfer payments shall be directed 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"

Payments through ACH (also known as REX or remittance express) shall be directed to:

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 310006
CTX Format

An on-line, internet payment option, is also available through the United States Department of Treasury. This payment option can be accessed from www.pay.gov. Enter sfo 1.1 in the search field. Open form and complete required fields.

97. At the same time that any payment is made, copies of any corresponding check or written notification confirming any electronic transfer through wire transfer, ACH, or internet payment shall be mailed to Lydia A. Guy, Regional Hearing Clerk (3RC00), U.S. EPA, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029, to Donna L. Mastro, Esq., Senior Assistant Regional Counsel (3RC10), U.S. EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103-2029, and to Richard Killian (3AP12), U.S. EPA Region

III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103-2029.

98. Respondent agrees not to deduct for federal tax purposes the civil penalty specified in, and any civil penalty amount paid pursuant to, this Consent Agreement and accompanying Final Order.

99. Each party to this action agrees to pay its own costs and attorney fees.

100. Payment of the penalty specified in Paragraph 91 in the manner set forth in this Consent Agreement and payment of any applicable interest, handling costs and/or late payment charges as set forth above shall constitute full and final satisfaction of all civil claims for penalties for the specific violations alleged in Section III of this Consent Agreement. Compliance with this Consent Agreement and accompanying Final Order shall not be a defense to any action commenced at any time for any other violation of any federal laws and regulations administered by EPA.

101. Respondent's failure to make timely payment of the civil penalty or any portion of the civil penalty provided herein may result in referral of this matter to the United States Attorney for enforcement of this Consent Agreement and the accompanying Final Order in the appropriate United States District Court. Additionally, Respondent's failure to make timely payment of the civil penalty or any portion of the civil penalty provided herein may result in the assessment of additional interest, penalties and/or late payment penalty charges.

V. Reservation of Rights

102. This Consent Agreement and the accompanying Final Order resolve only the civil claims for the specific violations alleged in Section III of this Consent Agreement. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. Nor shall anything in this Consent Agreement and Final Order be construed to limit the United States' authority to pursue criminal sanctions. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in 40 C.F.R. § 22.18(c). Further, Complainant reserves any rights and remedies available to it under the Act, the regulations promulgated thereunder, and any other federal laws or regulations for which Complainant has jurisdiction, to enforce the provisions of this Consent Agreement and accompanying Final Order following its filing with the Regional Hearing Clerk.

VI. Effective Date

103. The effective date of this Consent Agreement and the accompanying Final Order is the date on which the Consent Agreement and Final Order is filed with the Regional Hearing Clerk of EPA, Region III.

VII. Entire Agreement

104. This Consent Agreement and the accompanying Final Order constitute the entire agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Consent Agreement and the accompanying Final Order. Nothing in this Consent Agreement or the accompanying Final Order shall be construed to affect or limit in any way the obligation of Respondent to comply with all federal, state and local laws and regulations governing any activity required by this Consent Agreement and the accompanying Final Order.

VIII. Execution

105. The person signing this Consent Agreement on behalf of Respondent acknowledges and certifies by his/her signature that he/she is fully authorized to enter into this Consent Agreement and to legally bind Respondent, to the terms and conditions of this Consent Agreement and the accompanying Final Order.

For Respondent:

6/12/08
Date

Kyle T. Rash
Celanese Acetate Site Director
Narrows, VA

For Complainant:

6/19/08
Date

Donna L. Mastro
Senior Assistant Regional Counsel
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

Accordingly, the Air Protection Division, United States Environmental Protection Agency, Region III, recommends that the Regional Administrator or his designee, the Regional Judicial Officer, issue the accompanying Final Order and thereby ratify this Consent Agreement and the terms and provisions herein.

6/17/08
Date

Christopher B Pilla for
Judith M. Katz, Director
Air Protection Division
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, PA 19103

In the Matter of	:	
	:	
Celanese Acetate, L.L.C.	:	
Celco Plant	:	
PO Box 1000	:	
3520 Virginia Avenue	:	**Docket No. CAA-03-2008-0278**
Narrows, VA 24124	:	

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FINAL ORDER

The Preliminary Statement, General Provisions, Findings of Fact and Conclusions of Law, and other sections and terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated herein as if set forth at length.

NOW THEREFORE, pursuant to Section 113 of the Clean Air Act ("CAA"), as amended, 42 U.S.C. § 7413, and 40 C.F.R. Part 22, Celanese Acetate, L.L.C. is hereby ordered to pay a civil penalty in the amount Sixty Thousand Dollars ($60,000.00). Payment of the aforesaid civil penalty shall be made within thirty (30) days of the effective date of this Final Order.

The effective date of the accompanying Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk of U.S. EPA Region III.

Date: 6/23/08

Renée Sarajian

Renée Sarajian
Regional Judicial Officer
U.S. EPA Region III