

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

AIR PRODUCTS AND CHEMICALS, INC.  
AI # 2062, 30073, 2679

PROCEEDINGS UNDER THE LOUISIANA  
ENVIRONMENTAL QUALITY ACT  
LA. R.S. 30:2001, ET SEQ.

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\* **Enforcement Tracking No.**  
\* **AE-CN-03-0255**  
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SETTLEMENT

The following Settlement is hereby agreed to between Air Products And Chemicals, Inc. ("Respondent") and the Department of Environmental Quality ("DEQ" or "the Department") under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. ("the Act").

I

Respondent is a corporation who owns and/or operates a gas production facility (New Orleans Intracoastal Gas Production) located at Almonaster Industrial District South of U.S. Highway 90 in New Orleans, Orleans Parish, Louisiana ("the Facility" AI #2062). The facility currently operates under Title V Permit No. 2140-00016-V1, issued on October 28, 2002.

II

On March 1, 2004, the Department issued a Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. AE-CN-03-0255, to Respondent regarding the New Orleans Intracoastal Gas Production facility (AI #2062) which was based upon the following findings of fact:

On or about August 14, 2003, a file review of the Respondent's facility was performed to determine the degree of compliance with the Act and Air Quality Regulations.

The Department received the Respondent's 2002 Title V Annual Compliance Certification dated April 1, 2003. The following violations were noted during the course of the file review:

- A. The Respondent failed to permit an existing emission source in Title V Permit No. 2140-00016-V0 issued on March 9, 1999. This failure to properly permit the existing emission source was initially reported to the Department in a letter from the Respondent dated February 4, 2002. According to this letter, approximately thirteen (13) tons per year of methanol are being emitted from the unpermitted CO<sub>2</sub> Plant "B" Temperature Swing Absorption (TSA) Reactivation Vent (Emission Point 91). Emission Point 91 utilizes TSA vessels filled with alumina to remove impurities. The TSA vessels periodically undergo a reaction process that produces a methanol-containing reactivation gas that is being discharged to the atmosphere. The Respondent submitted a follow-up letter to the Department dated October 14, 2003, providing further details concerning the actual unpermitted emissions from Emission Point 91. In the letter, the Respondent indicated that Emission Point 91 and the associated emissions were permitted in Title V Air Permit No. 2140-00016-V1 issued on October 28, 2002. In addition, the Respondent stated that the actual methanol emissions from Emission Point 91 were 4.6 tons in calendar year 2002, 3.8 tons in calendar year 2001, 3.1 tons in calendar year 2000, 2.9 tons in calendar year 1999, 3.4 tons in calendar year 1998, 2.3 tons in calendar year 1997, 3.6 tons in calendar year 1996, and 2.1 tons in calendar year 1995. The construction, modification, or operation of a facility which may ultimately result in an initiation or increase in emission of air contaminants prior to approval from the permitting authority is a violation of LAC 33:III.501.C.2 and Sections 2057(A)(1) and (A)(2) of the Act. Information concerning this violation was also provided to the Department in the Respondent's 2002 annual compliance certification.
  
- B. According to information submitted in letters to the Department dated February 7, 2002, and October 14, 2003, methanol is being emitted from the Hydrogen Plant "C" CO<sub>2</sub> Stripper Vent (Emission Point 1), at a rate greater than the permitted average and maximum pounds per hour emission rates. Approximately 16.0 pounds per hour of methanol have been emitted from Emission Point 1, which is above the permitted maximum 11.909 pounds per hour emission rate. The permit exceedance was caused when the Hydrogen Plant "C" CO<sub>2</sub> Stripper Vent catalyst was changed with new catalyst on October 26, 2001. On February 17, 2002, laboratory data confirmed that the methanol emissions generated from the new

catalyst are now below the maximum pounds per hour permitted emission rate. The Respondent's failure to operate in accordance with all terms and conditions of Title V Permit Nos. 2140-00016-V0 and 2140-00016-V1 is a violation of LAC 33:III.501.C.4 and Sections 2057(A)(1) and 2057(A)(2) of the Act. Information concerning this violation was also provided to the Department in the Respondent's 2002 annual compliance certification.

- C. The Respondent submitted a Notification of Permit Deviation Report as required by General Condition R of Title V Air Permit No. 2140-00016-V1 dated October 17, 2003. As stated in the report, the Respondent failed to submit a Title V permit renewal application 180 days prior to permit expiration, as specified in General Condition A of Title V Air Permit No. 2140-00016-V1. However, an application was submitted and a modified Title V Air Permit was issued prior to expiration of the subsequent permit. The failure to submit the Title V permit renewal application at least six (6) months prior to the date of expiration is a violation of LAC 33:III.507.E.4, Part 70 General Condition A of Title V Air Permit No. 2160-00052-V1, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.
- D. By letter dated February 14, 2003, the Respondent notified the Department of two startup/shutdown emission points that were not included in the facility's Title V Air Permit No. 2140-00016-V1. These emission points were included in the original Title V Air Permit No. 2140-00016-V0 and emissions from these points have been reported each year in the facility's annual EIS as Emission Point Nos. 76 and 77. Once the Respondent became aware the two points were not included in the facility's current permit, two Variance Requests to address the startup/shutdown emissions were submitted to the Department on March 6, 2003, and December 5, 2003. The failure to properly permit existing emission sources is a violation of LAC 33:III.501.C.2 and Section 2057(A)(2) of the Act.
- E. By letters dated April 27, 2004, and April 30, 2004, the Respondent reported that the total flow and emissions of carbon monoxide, methanol, and VOCs through Emission Point No. 95 ("D" Hydrogen Plant) had been underestimated. During the 180-day startup/shutdown period for the "D" Hydrogen Plant, the Respondent determined that emissions are actually occurring at rates greater than the current permitted annual emission limits. The Respondent reported this issue to the Department in a timely manner and took appropriate steps to cover these emissions under a Variance. The failure to operate the source in accordance with the limits specified in the operating permit is a violation of LAC 33:III.501.C.4 and Sections 2057(A)(1) and 2057(A)(2) of the Act.

The Respondent owns and/or operates the Geismer No. 1 Synthesis Facility (AI #2679) located near Geismer on land leased from Shell Chemical Company in Ascension Parish.

Louisiana ("the Facility"). The facility currently operates under Title V Air Permit No. 0180-00023-V0, issued on January 10, 2005.

The Respondent submitted a Quarterly Deviation Report for the Geismer No. 1 Synthesis Facility (AI #2679) dated June 29, 2004. The following violation was noted during the review of the Respondent's submitted report:

As stated in the report, during the preparation of the annual EIS, it was noted that the facility had been reporting emissions for a source that was not listed in the permit. The emissions from the source totaled 1.15 TPY of carbon monoxide. An administrative amendment was filed with LDEQ on May 19, 2004 to correct this item in the current operating permit. This insignificant source, MEA System Fugitives, was included as part of a new fugitive emissions source, Emission Point No. 10060, in the current Title V Air Permit No. 0180-00023-V0. The failure to properly permit an emission source prior to operation is a violation of LAC 33:III.501.C.2 and Section 2057(A)(2) of the Act.

The Respondent owns and/or operates the Geismer 2 Facility (AI #30073) located at 36637 Louisiana Highway 30 in Geismer, Ascension Parish, Louisiana ("the Facility"). The facility currently operates under Air Permit No. 0180-00069-03, issued on December 20, 2002.

The Department received a release notification from the Respondent for the Geismer 2 Facility (AI # 30073) dated September 2, 2004. The following violation was noted during the review of the Respondent's submitted notification:

The release report notification indicated an unauthorized release of 123 pounds of nitrogen oxides on August 23, 2004, at approximately 5:30 p.m. The release occurred due to operator error when a bleed valve was left open following maintenance work. By failing to properly operate the facility's control equipment, the Respondent is in violation of LAC 33:III.905 and Sections 2057(A)(1) and 2057(A)(2) of the Act.

### III

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

### IV

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of THREE THOUSAND FIVE HUNDRED SIXTY AND 00/100 DOLLARS (\$3,560.00) of which Four Hundred Nine and 72/100 Dollars (\$409.72) represents DEQ's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to DEQ as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

### V

Respondent further agrees that the Department may consider the inspection report(s), the Consolidated Compliance Order and Notice of Potential Penalty and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

### VI

This agreement shall be considered a final order of the secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such

review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

## VII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in LSA- R. S. 30:2025(E) of the Act.

## VIII

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Orleans and Ascension Parishes. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted a proof-of-publication affidavit to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

## IX

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Darryl Serio, Office of Management and

Finance, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

X

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XI

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his/her respective party, and to legally bind such party to its terms and conditions.

**AIR PRODUCTS AND CHEMICALS, INC.**

BY: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed or Typed)

TITLE: \_\_\_\_\_

THUS DONE AND SIGNED in duplicate original before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC (ID # \_\_\_\_\_)

\_\_\_\_\_  
(Printed or Typed)

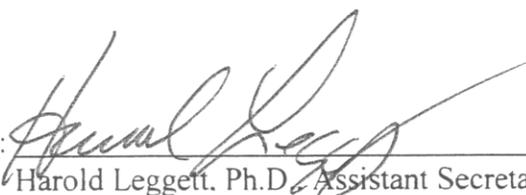
**STATE OF LOUISIANA**  
Mike D. McDaniel, Ph.D., Secretary  
Department of Environmental Quality

BY: \_\_\_\_\_  
Harold Leggett, Ph.D., Assistant Secretary  
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, at Baton Rouge, Louisiana.

\_\_\_\_\_  
NOTARY PUBLIC (ID # \_\_\_\_\_)

\_\_\_\_\_  
(Printed or Typed)

Approved:  \_\_\_\_\_  
Harold Leggett, Ph.D., Assistant Secretary