

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

AEROPRES CORPORATION

AI # 2648

PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT

LA. R.S. 30:2001, ET SEQ.

* Settlement Tracking No.
* SA-AE-20-0117
*
* Enforcement Tracking No.
* AE-PP-17-01037
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SETTLEMENT

The following Settlement is hereby agreed to between Aeropres Corporation (“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 that owned and/or operated an industrial gases production facility located in Sibley, Webster Parish, Louisiana (“the Facility”).

II

On June 25, 2019, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. AE-PP-17-01037 (Exhibit 1).

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 SEVENTEEN THOUSAND AND NO/100 DOLLARS (\$17,000.00), of which One Thousand Four Hundred Forty-Two and 97/100 Dollars (\$1,442.97) represents the Department'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 the Department 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), permit record(s), the 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 La. R. S. 30:2025(E) of the Act.

VIII

As required by law, the Department has submitted this Settlement Agreement to the Louisiana Attorney General for approval or rejection. The Attorney General's concurrence is appended to this Settlement Agreement.

IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Webster Parish, Louisiana. The advertisement, in form and wording 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 an original proof-of-publication affidavit and an original public notice 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.

X

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 Accountant Administrator, 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).

XI

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

XII

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

AEROPRES CORPORATION

BY: _____
(Signature)

(Printed)

TITLE: _____

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

NOTARY PUBLIC (ID # _____)

(stamped or printed)

**LOUISIANA DEPARTMENT OF
ENVIRONMENTAL QUALITY**
Chuck Carr Brown, Ph.D., Secretary

BY: _____
Lourdes Iturralde, 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 # _____)

(stamped or printed)

Approved: _____
Lourdes Iturralde, Assistant Secretary

JOHN BEL EDWARDS
GOVERNOR



CHUCK CARR BROWN, Ph.D.
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

June 25, 2019

CERTIFIED MAIL (7014 0510 0002 3595 4134)
RETURN RECEIPT REQUESTED



AEROPRES CORPORATION
c/o Mr. Robert R. Wilkie
Agent for Service of Process
1324 N. Hearne Avenue, Suite 200
Shreveport, LA 71107

**RE: NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. AE-PP-17-01037
AGENCY INTEREST NO. 2648**

Dear Sir:

On or about April 24-26, 2017, an inspection of the **SIBLEY FACILITY** (the facility), an industrial gases production facility, owned and/or operated by **AEROPRES CORPORATION (RESPONDENT)**, was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Air Quality Regulations. The facility is located at 773 North Main Street in Sibley, Webster Parish, Louisiana. The facility operates under Small Source Air Permit No. 3080-00009-01, issued December 11, 2015.

While the investigation by the Louisiana Department of Environmental Quality (the Department) is not yet complete, the following violations were noted during the course of the inspection and subsequent file review conducted on June 17, 2019:

- A. The Respondent failed to provide documentation that operating procedures for the facility were certified for the years 2015 and 2016. Each failure to annually certify the facility's operating procedures is a violation of 40 CFR 68.69(c) which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2). In electronic correspondence dated May 12, 2017, the Respondent reported that documentation of the 2015 annual review is not available. The supporting statement submitted for the 2016 annual review was not properly certified, and is invalid.

Aeropres Corporation

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- B. The Respondent failed to conduct inspections in accordance with recognized and generally accepted good engineering practices. Specifically, the Respondent failed to perform ultrasonic thickness measurements as shown in Table B:

TABLE B

Ultrasonic Sonic Testing overdue		
Equipment	Testing completed	Testing Requirement
Tank 9	6/2004, 6/2006 (nozzles only)	10 year frequency due by 2016
Tank 11	2/1997, 6/2006 (nozzles only)	
Ultrasonic Sonic Testing not conducted		
Belt 1, Head A & B, Sieve 10 not conducted during 2014 inspection nor later		
Belt 1, belt 6 or nozzle 7, Sieve 3 not conducted during 2014 inspection nor later		
Shell of Tank 11 not conducted during 2016 inspection nor later		
Shell of Tank 9 not conducted during 2016 inspection nor later		

Each failure is a violation of 40 CFR 68.73(d)(2), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2).

- C. The Respondent failed to conduct inspections at a frequency consistent with good engineering practices. Specifically, the Respondent failed to inspect and/or calibrate process equipment at the appropriate frequency as shown in Table C:

TABLE C

Ultrasonic Sonic Testing overdue		
Equipment	Testing completed	Testing Requirement
Differential pressure flow meter Sibley T 8/9 A17	Calibrated 3/11/2014	Annually
Temperature probe Sibley S-4	Calibrated 11/2013, 7/2015	Annually
Liquid Level Gauges	Tested every two years	Annually

Each failure to conduct timely inspections is a violation of 40 CFR 68.73(d)(3) which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2). In electronic correspondence dated May 12, 2017, the Respondent disclosed that the overdue inspections/calibrations were being conducted as of April 27, 2017. The inspection report noted overdue inspections/calibrations were being conducted as of April 27, 2017.

- D. The Respondent failed to submit an updated Risk Management Plan (RMP) within six (6) months of a reportable incident which occurred on August 31, 2015. This is a violation of 40 CFR 68.195(a) which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2). In electronic correspondence dated May 12, 2017, the Respondent disclosed that the RMP was updated on May 11, 2017.

Aeropres Corporation

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Pursuant to La. R.S. 30:2050.3(B), you are hereby notified that the issuance of a penalty assessment is being considered for the violations described herein. Written comments may be filed regarding the violations and the contemplated penalty. If you elect to submit comments, it is requested that they be submitted within ten (10) days of receipt of this notice.

Prior to the issuance of any additional appropriate enforcement action, you may request a meeting with the Department to present any mitigating circumstances concerning the violations. If you would like to have such a meeting, please contact Mark E. Brown at (225) 219-3782 within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance in order to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue statement along with a statement of the monetary benefits of noncompliance for the cited violations to the above named contact person within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**. Include with your statement of monetary benefits the method(s) you utilized to arrive at the sum. If you assert that no monetary benefits have been gained, you are to fully justify this statement. If the Respondent chooses not to submit the requested most current annual gross revenues statement within ten (10) days, it will be viewed by the Department as an admission that the Respondent has the ability to pay the statutory maximum penalty as outlined in La. R.S. 30:2025.

For each violation described herein, the Department reserves the right to seek civil penalties and the right to seek compliance with its rules and regulations in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties and compliance.

The Department assesses civil penalties based on LAC 33:LSubpart1:Chapter 7. To expedite closure of this **NOTICE OF POTENTIAL PENALTY**, the Respondent may offer a settlement amount to resolve any claim for civil penalties for the violations described herein. The Respondent may offer a settlement amount, but the Department is under no obligation to enter into settlement negotiations. The decision to proceed with a settlement is at the discretion of the Department. The settlement offer amount may be entered on the attached "**NOTICE OF POTENTIAL PENALTY REQUEST TO SETTLE**" form. The Respondent must include a justification of the offer. **DO NOT** submit payment of the offer amount with the form. The Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.

To reduce document handling, please refer to the Enforcement Tracking Number and Agency Interest Number on the front of this document on all correspondence in response to this action.

Sincerely,


Lourdes Iturralde

Assistant Secretary

Office of Environmental Compliance

LI/MEB/meb

Alt ID No. 3080-00009

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE
ENFORCEMENT DIVISION
POST OFFICE BOX 4312
BATON ROUGE, LOUISIANA 70821-4312



Enforcement Tracking No.	AE-PP-17-01037	Contact Name	Mark E. Brown
Agency Interest (AI) No.	2648	Contact Phone No.	(225) 219-3782
Alternate ID No.	3080-00009		
Respondent:	Aeropres Corporation	Facility Name:	Sibley Facility
	c/o Mr. Robert R. Wilkie	Physical Location:	773 North Main Street
	Agent for Service of Process	City, State, Zip:	Sibley, LA 71073-3035
	1324 N. Hearne Avenue, Suite 200	Parish:	Webster
	Shreveport, LA 71107		

SETTLEMENT OFFER (OPTIONAL)

(check the applicable option)

<input type="checkbox"/>	The Respondent is not interested in entering into settlement negotiations with the Department with the understanding that the Department has the right to assess civil penalties based on LAC 33:I.Subpart1.Chapter7.
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY AE-PP-17-01037, the Respondent is interested in entering into settlement negotiations with the Department and would like to set up a meeting to discuss settlement procedures.
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY AE-PP-17-01037, the Respondent is interested in entering into settlement negotiations with the Department and offers to pay \$_____ which shall include LDEQ enforcement costs and any monetary benefit of non-compliance. <ul style="list-style-type: none"> • Monetary component = \$_____ • Beneficial Environmental Project (BEP) component (optional)= \$_____ • DO NOT SUBMIT PAYMENT OF THE OFFER WITH THIS FORM- the Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.
<input type="checkbox"/>	The Respondent has reviewed the violations noted in NOTICE OF POTENTIAL PENALTY AE-PP-17-01037 and has attached a justification of its offer and a description of any BEPs if included in settlement offer.

CERTIFICATION STATEMENT

I certify, under provisions in Louisiana and United States law that provide criminal penalties for false statements, that based on information and belief formed after reasonable inquiry, the statements and information attached and the compliance statement above, are true, accurate, and complete. I also certify that I do not owe outstanding fees or penalties to the Department for this facility or any other facility I own or operate. I further certify that I am either the Respondent or an authorized representative of the Respondent.

Respondent's Signature	Respondent's Printed Name	Respondent's Title
Respondent's Physical Address	Respondent's Phone #	Date

MAIL COMPLETED DOCUMENT TO THE ADDRESS BELOW:

Louisiana Department of Environmental Quality
Office of Environmental Compliance
Enforcement Division
P.O. Box 4312
Baton Rouge, LA 70821
Attn: Mark E. Brown