

**STATE OF LOUISIANA**

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**IN THE MATTER OF:**

**AIR PRODUCTS AND CHEMICALS, INC.**

**AI # 170668**

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

\* **Settlement Tracking No.**  
\* **SA-AE-25-0100**  
\*  
\* **Enforcement Tracking No.**  
\* **AE-CN-22-00613**  
\*  
\*  
\* **Docket No. 2025-10055-DEQ**  
\*

**SETTLEMENT AGREEMENT**

The following Settlement Agreement 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 that owns and/or operates a steam methane reforming plant located in Luling, St. Charles Parish, Louisiana (“the Facility”).

II

On February 2, 2024, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-22-00613 (Exhibit 1).

III

In response to the Consolidated Compliance Order & Notice of Potential Penalty, Respondent made a timely request for a hearing.

IV

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

V

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 TWENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$25,000.00), of which Two Thousand Seven Hundred Forty-Three and 23/100 Dollars (\$2,743.23) represents the Department's enforcement costs, in settlement of the claims set forth in this Settlement 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).

VI

Respondent further agrees that the Department may consider the inspection report(s), permit record(s), the Consolidated Compliance Order & Notice of Potential Penalty and this Settlement Agreement 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.

VII

This Settlement 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 Settlement Agreement in any action by the Department to enforce this Settlement Agreement.

## VIII

This Settlement Agreement 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 Agreement, the Department considered the factors for issuing civil penalties set forth in La. R.S. 30:2025(E) of the Act.

## IX

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.

## X

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in St. Charles Parish, Louisiana. The advertisement, in form and wording approved by the Department, announced the availability of this Settlement Agreement 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 Agreement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

## XI

Payment is to be made within thirty (30) days from notice of the Secretary's signature. If payment is not received within that time, this Settlement Agreement is voidable at the option of the Department. The Respondent shall provide its tax identification number when submitting payment.

Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Accounts Receivable, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303 or by Electronic Funds Transfer (EFT) to the Department of Environmental Quality, in accordance with instructions provided to Respondent by the Financial Services Division. Each payment shall be accompanied by a completed Settlement Payment Form attached hereto.

XII

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

XIII

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.

**AIR PRODUCTS AND CHEMICALS, INC.**

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**  
Courtney J. Burdette, Secretary

BY: \_\_\_\_\_  
Jerrie "Jerry" Lang, 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: \_\_\_\_\_  
Jerrie "Jerry" Lang, Assistant Secretary

JEFF LANDRY  
GOVERNOR



AURELIA S. GIACOMETTO  
SECRETARY

STATE OF LOUISIANA  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OFFICE OF ENVIRONMENTAL COMPLIANCE

FEB 02 2024

EXHIBIT

1

CERTIFIED MAIL (7021 1970 0000 3974 0389)  
RETURN RECEIPT REQUESTED

**AIR PRODUCTS AND CHEMICALS, INC.**

c/o C T Corporation System  
Agent for Service of Process  
3867 Plaza Tower Drive  
Baton Rouge, LA 70816

**RE: CONSOLIDATED COMPLIANCE ORDER  
& NOTICE OF POTENTIAL PENALTY  
ENFORCEMENT TRACKING NO. AE-CN-22-00613  
AGENCY INTEREST NO. 170668**

Dear Sir/Madam:

Pursuant to the Louisiana Environmental Quality Act (La. R.S. 30:2001, et seq.), the attached **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is hereby served on **AIR PRODUCTS AND CHEMICALS, INC. (RESPONDENT)** for the violations described therein.

Compliance is expected within the maximum time period established by each part of the **COMPLIANCE ORDER**. The violations cited in the **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** could result in the issuance of a civil penalty or other appropriate legal actions.

Any questions concerning this action should be directed to Courtney Tolbert at 225-219-3347 or Courtney.Tolbert@la.gov.

Sincerely,

Angela Marse  
Administrator  
Enforcement Division

AM/CJT/cjt  
Alt ID No. 2520-00160  
Attachment

c: Air Products and Chemicals, Inc.  
c/o Darrell Serrett, Site Manager  
P.O. Box 68  
Luling, LA 70070

STATE OF LOUISIANA  
DEPARTMENT OF ENVIRONMENTAL QUALITY

OFFICE OF ENVIRONMENTAL COMPLIANCE

IN THE MATTER OF

AIR PRODUCTS AND CHEMICALS, INC.	*	ENFORCEMENT TRACKING NO.
ST. CHARLES PARISH	*	
ALT ID NO. 2520-00160	*	AE-CN-22-00613
PROCEEDINGS UNDER THE LOUISIANA	*	AGENCY INTEREST NO.
ENVIRONMENTAL QUALITY ACT,	*	
La. R.S. 30:2001, ET SEQ.	*	170668
	*	

CONSOLIDATED  
COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **AIR PRODUCTS AND CHEMICALS, INC. (RESPONDENT)** by the Louisiana Department of Environmental Quality (the Department), under the authority granted by the Louisiana Environmental Quality Act (the Act), La. R.S. 30:2001, et seq., and particularly by La. R.S. 30:2025(C), 30:2050.2 and 30:2050.3(B).

**FINDINGS OF FACT**

I.

The Respondent owns and/or operates Luling Hydrogen Plant (the facility), a steam methane reforming (SMR) plant, located at a portion of 12501 River Road in Luling, St. Charles Parish, Louisiana. The facility is subject to 40 CFR 68 Chemical Accident Prevention Provisions (CAPP) Program Level 3. The facility operates under Minor Source Air Permit No. 2520-00160-02 issued on April 27, 2015, which will expire on April 27, 2025.

II.

On or about January 1, 2022 through June 2022, and October 2, 2023, a CAPP inspection and subsequent file review were performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act), Air Quality Regulations, and CAPP requirements. While the

investigation by the Department is not yet complete, the following violations were noted during the course of the inspection and subsequent file review:

- A. The Respondent failed to maintain records supporting the implementation of 40 CFR 68 at the facility for five years. Specifically, the Respondent failed to retain initial training records for three (3) employees. The facility's Operator Certification Procedure No. 5558-TR-100 states the new operators should retain copies of any documentation acquired to show completion of checklist items. Neither the Respondent nor the employees maintained documentation of the initial training. The failure to maintain records supporting the implementation of this part at the stationary source for five years, unless otherwise provided in 40 CFR 68, Subpart D is a violation of 40 CFR 68.200, 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 March 1, 2022, the Respondent's representative submitted training documentation for the three (3) employees certifying each received training prior to operating the plant; however, the records were missing documentation that the operators were trained in the overview of the process. On or about March 24, 2022, a virtual follow-up meeting was held between the Department's inspectors and the Respondent. The Department's inspectors requested the Respondent document the operators received training on the overview of the process. In electronic correspondence dated March 24, 2022, the Respondent's representative submitted documentation for the three (3) employees, certifying training was received on the overview of the process.
- B. The Respondent failed to provide refresher training at least every three (3) years, or more often if necessary, to each employee involved in operating the process to assure the employee understands and adheres to the current operating procedures of the process. Specifically, the Respondent used the Luling SMR Operator Recertification Training Process to document refresher training. This training process has a series of qualification tests the operator must complete in order to be requalified. The Respondent's representative stated the recertification training process did not ensure that operators understood and adhered to the current operating procedures. The failure to provide refresher training at least every three (3) years, or more often if necessary, to each employee involved in operating the process to assure the employee understands

and adheres to the current operating procedures of the process is a violation of 40 CFR 68.71(b), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2). In correspondence dated March 1, 2022, the Respondent's representative submitted Operator Refresher Training documentation for four (4) operators. The Operator Refresher Training was conducted between January 27, 2022 and February 28, 2022, and met the requirements of 40 CFR 68.71(b).

- C. The Respondent failed to include all required information on process equipment inspection documentation. The documentation shall identify the date of the inspection, the name of the person who performed the inspection, the serial number or other identifier of the equipment on which the inspection was performed, and the results of the inspection. The following occurrences failed to document one of the abovementioned requirements:

	DEVIATION	CORRECTIVE ACTION
1.	2019 and 2021 Annual Pressure Safety Valve (PSV) Inspections failed to identify the date of the inspection.	In correspondence dated March 1, 2022, the Respondent's representative submitted updated 2019 and 2021 Annual PSV Inspection Reports, which included the inspection dates. Additionally, the Respondent's representative stated the inspection checklist has been modified to have the date as a required field on the form.
2.	2019 Annual PSV Inspection failed to identify the name of the person who performed the inspection.	In correspondence dated March 1, 2022, the Respondent's representative submitted an updated 2019 Annual PSV Inspection, which included the inspector's name. Additionally, the Respondent's representative stated the inspection checklist has been modified to have the inspector's name as a required field on the form.
3.	2017 Annual PSV Inspection report was missing.	Every year subsequent to 2017 has been documented as having been completed.
4.	2018 and 2019 Inspection reports missing for critical alarms: CA 1000, CA 1002, and CA 1009. The Department's inspector spoke with the facility's inspector, the inspector responsible for performing inspections on critical alarms. The facility's inspector stated he performed the inspections; however, the documentation may not be available.	In correspondence dated February 3, 2022, the Respondent's representative stated the facility's preventative maintenance task descriptions will be updated to include document retention guidance. Additionally, the records have been maintained for the inspections in 2020 and 2021.

5.	2018 Interlock 630 Validation report missing. The Department's inspector spoke with the facility's inspector, the inspector responsible for performing interlock inspections. The facility's inspector stated he performed the inspections; however, the documentation may not be available.	In correspondence dated February 3, 2022, the Respondent's representative stated the facility's preventative maintenance task descriptions will be updated to include document retention guidance. Additionally, the records have been maintained for the inspections in 2019, 2020, and 2021.
6.	2017 C141 Pre-Reformer Inspection report failed to identify the name of the person who performed the inspection.	In correspondence dated October 9, 2023, the Respondent's representative submitted an updated 2017 C141 Pre-Reformer Inspection report, which includes the inspector's name.

Each failure include all required information on the process equipment inspection documentation is a violation of 40 CFR 68.73(d)(4), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2).

- D. The Respondent failed to coordinate response actions with the local fire department. Specifically, the facility contains regulated flammable substances, which are held in a process above threshold quantity. The failure to coordinate response actions with the local fire department is a violation of 40 CFR 68.90(b)(2), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2). In correspondence dated February 3, 2022, the Respondent's representative submitted documentation of correspondence sent to the Luling Volunteer Fire Department and the St. Charles Parish Emergency Operations Center on January 31, 2022, which included a copy of the facility's Emergency Action Plan and an invitation to both groups to tour the facility. In correspondence dated October 17, 2023, the Respondent's representative submitted a sign-in sheet from an August 31, 2022 coordination event with the St. Charles Parish Emergency Operations Center and Industrial Emergency Services.
- E. The Respondent failed to have an appropriate mechanism in place to notify emergency responders when there is a need for a response. Specifically, the emergency telephone listing within the Emergency Action Plan for the facility does not contain 911 nor the local fire department phone number within the call down list to call in the event of the need for emergency responders. The failure to have an appropriate mechanism in place to notify emergency responders when there is a need for a response is a violation of 40 CFR 68.90(b)(3), which language has been adopted as a Louisiana regulation in

LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2). In correspondence dated February 3, 2022, the Respondent's representative stated the Emergency Action Plan has been updated to include contact information for the local fire department (911).

- F. The Respondent failed to perform the annual emergency response activities under 40 CFR 68.93. Specifically, the Respondent failed to perform the coordination activities under 40 CFR 68(a) – (c) with the local fire department in 2019, 2020, and 2021. The failure to perform the annual emergency response activities under 40 CFR 68.93 is a violation of 40 CFR 68.90(b)(4), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2). In correspondence dated February 3, 2022, the Respondent submitted documentation of correspondence sent to the Luling Volunteer Fire Department and the St. Charles Parish Emergency Operations Center on January 31, 2022, which included a copy of the facility's Emergency Action Plan and an invitation to both groups to tour the facility.
- G. The Respondent failed to coordinate response needs with the local emergency planning and response organizations. Specifically, the Respondent failed to request an opportunity to meet with the local emergency planning committee in 2020 and 2021. Additionally, the Respondent failed to document coordination with the local emergency planning committee in 2019. The failure to coordinate response needs with the local emergency planning and response organizations is a violation of 40 CFR 68.93, which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2). In correspondence dated February 3, 2022, the Respondent submitted documentation of correspondence sent to the Luling Volunteer Fire Department and the St. Charles Emergency Operations on January 31, 2022, which included a copy of the facility's Emergency Action Plan and an invitation to both groups to tour the facility.

### III.

On or about January 1, 2022 through June 2022, the Department conducted a CAPP inspection at the facility. The facility is a covered process subject to 40 CFR 68 Subpart D, Program Level 3. Pursuant to 40 CFR 68.73(d)(2), inspection and testing of process equipment shall follow recognized and generally accepted good engineering practices (RAGAGEP). Additionally, the facility is subject to the Occupational Safety and Health Administration (OSHA) Process Safety Management (PSM) standard, 29 CFR

1910.119. On or about May 11, 2016, OSHA provided a standard interpretation for PSM standard, 29 CFR 1910.119. The interpretation describes the four (4) types of RAGAGEP: widely adopted codes, consensus documents, non-consensus documents, and internal standards. Internal standards, the preamble to the PSM standard recognizes that employers may develop internal standards for use within their facilities. The reasons an employer might choose to follow internal standards can include: translating the requirements of published RAGAGEP into detailed corporate or facility implementation programs and/or procedures; setting design, maintenance, inspection, and testing requirements, for unique equipment for which no other RAGAGEP exists; supplementing or augmenting RAGAGEP selected by the employer that only partially or inadequately address the employer's equipment; controlling hazards more effectively than the available codes and consensus and/or non-consensus documents when deemed necessary by the employer's PSM program; or addressing hazards when the codes and consensus and/or non-consensus documents used for existing equipment are outdated and no longer describe good engineering practice.

At the time of the inspection, the Department requested to review the most recent American Petroleum Institute (API) 510 external visual and any internal and/or on-stream inspections applicable to vessels: C141 Pre-Reformer, C321 Process Gas Condensate Separator, E311-1 and E311-2 Feed Pre-heaters, and the most recent API 570 external visual inspection and thickness history for piping class 2 circuits SG-3009 and 30-TG-5053B. The Respondent stated that internal inspections and thickness monitoring were not performed and will not be performed on the vessels because the vessels are above the dew point for corrosion. Pursuant to 40 CFR 68.73(d)(3), the frequency of inspections and tests of process equipment shall be consistent with applicable manufacturers' recommendations and good engineering practices, and more frequently if determined to be necessary by prior operating experience. Additionally, the Respondent stated no risk-based inspection (RBI) analysis has been performed in accordance with API 580. An RBI analysis, performed in accordance with API 580, justifies an alternative to the inspection intervals listed in API 510 for internal inspections and thickness monitoring on vessels. In correspondence dated February 3, 2022, the Respondent's representative stated they do not believe an RBI needs to be conducted.

The Department's inspectors requested to review the facility's internal standards, specifically, procedures: 25-012037, 25-012037t, and 25-012037g. Procedure 25-012037, Mechanical Integrity (MI) Program for Pressure Systems is used for all the Respondent's facilities and in conjunction with procedure 25-012037t, MI Program for Pressure Systems – Standard Program Inspection Frequency Definition, in the absence of RBI. Procedure 25-012037 outlines how the internal standards for RAGAGEP are

established for the MI program in Air Product facilities. Furthermore, the Respondent's representative provided a document, the Respondent's MI Technical Basis, which includes generalized justifications for inspection frequencies outside RAGAGEP. The Department's inspectors asked for documentation of supporting data for the generalized justifications for the use of their internal standards versus the use of standard RAGAGEP. The Respondent's documentation of supporting data for the generalized justifications for the use of their internal standards lack historical data outlining facility operational history, previous inspection history of the process equipment, and amount of condition monitoring locations. The internal standards the Respondent developed do not meet nor represent published code and standard established for intervals for inspection. The process equipment (vessels) at the facility is not unique equipment for which no other RAGAGEP exists. The vessels located in the facility's covered process are pressure vessels, which are covered under existing RAGAGEP API 510, API 570, and API 936.

A. The Respondent failed to perform the following inspections on process equipment:

	INSPECTION TYPE	EQUIPMENT IDENTIFIER	EQUIPMENT IN-SERVICE DATE	STANDARD REQUIRED FOR RAGAGEP INSPECTION	REQUIRED RAGAGEP FREQUENCY	DUE DATE	INSPECTION DATE	DEVIATION	OCTOBER 2022 API 510 INSPECTION DATE
1.	Internal inspection	C141	1/3/2012	API 510	10 years or half the remaining life, whichever is less	1/3/2022	October 2017 Turnaround	Not performed by an API certified inspector	10/2/2022
2.	Thickness monitoring inspection						-	Not performed	10/6/2022
3.	Internal inspection	E311-1	1/3/2012	API 510	10 years or half the remaining life, whichever is less	1/3/2022	-	Not performed	10/4/2022
4.	Thickness monitoring inspection						-	Not performed	10/5/2022
5.	Internal inspection	E311-2	1/3/2012	API 510	10 years or half the remaining life, whichever is less	1/3/2022	-	Not performed	10/4/2022
6.	Thickness monitoring inspection						-	Not performed	10/5/2022
7.	Internal inspection	C321	1/3/2012	API 510	10 years or half the remaining life,	1/3/2022	10/14/2017	Not performed by an API certified inspector	10/6/2022

	INSPECTION TYPE	EQUIPMENT IDENTIFIER	EQUIPMENT IN-SERVICE DATE	STANDARD REQUIRED FOR RAGAGEP INSPECTION	REQUIRED RAGAGEP FREQUENCY	DEVIATION	OCTOBER 2022 API 510 INSPECTION DATE
8.	Thickness monitoring inspection				whichever is less	Not performed	10/8/2022

Each failure to perform the abovementioned inspections on process equipment and the failure to perform inspections of process equipment at a frequency consistent with RAGAGEP, and more frequently if determined to be necessary by prior operating experience is a violation of 40 CFR 68.73(d)(2) and (d)(3), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2). In correspondence dated October 9, 2023, the Respondent provided documentation of internal and thickness monitoring inspections conducted on the abovementioned equipment using API 510 standards and API 510 certified inspectors during the October 2022 facility outage; however, the documentation did not address the frequency at which subsequent inspections would be conducted.

B. The Respondent failed to perform inspections of process equipment at a frequency consistent with applicable manufacturers' recommendations and good engineering practices, and more frequently if determined to be necessary by prior operating experience on the following process equipment:

	INSPECTION TYPE (date)	EQUIPMENT IDENTIFIER	EQUIPMENT IN-SERVICE DATE	STANDARD REQUIRED FOR RAGAGEP INSPECTION	REQUIRED RAGAGEP FREQUENCY	DEVIATION	INSPECTION DATE	RESPONDENT'S ASSIGNED FREQUENCY	OCTOBER 2022 API 510 INSPECTION DATE
1.	External inspection	Vessel C141	1/3/2012	API 510	5 years	1/3/2017	3/28/2018	6 years	10/20/2022
2.	External inspection	Vessel E311	1/3/2012				4/13/2018	6 years	10/4/2022
3.	External inspection	Vessel C321	1/3/2012				4/13/2018	6 years	10/6/2022
4.	External inspection	Piping circuit SG-3009	1/3/2012	API 570	5 years	1/3/2017	4/13/2018	6 years	10/9/2022
5.	External inspection	Piping circuit 30-TG-5053B	1/3/2012				4/17/2018	6 years	10/9/2022

Each failure to perform inspections of process equipment at a frequency consistent with RAGAGEP, and more frequently if determined to be necessary by prior operating experience 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, and La. R.S. 30:2057(A)(2). In correspondence dated October 9, 2023, the Respondent provided documentation of external inspections conducted on the abovementioned equipment using API 510 standards and API 510 certified inspectors during the October 2022 facility outage; however, the documentation did not address the frequency at which subsequent inspections would be conducted.

### **COMPLIANCE ORDER**

Based on the foregoing, the Respondent is **hereby ordered**:

I.

To take, immediately upon receipt of this **COMPLIANCE ORDER**, any and all steps necessary to meet and maintain compliance with the Air Quality Regulations.

II.

To provide, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, documentation that demonstrates how the facility is following RAGAGEP; including but not limited to, RBI data that demonstrates the basis for the facility's internal standard for frequency of inspections on process equipment, as referenced in Findings of Fact Paragraphs III.A and B.

III.

To revise, if needed, within ninety (90) days after receipt of this **COMPLIANCE ORDER**, site-specific MI procedures for all facilities owned and/or operated by Air Products and Chemicals, Inc. in Louisiana to reflect change(s), as referenced in **COMPLIANCE ORDER** Paragraph III.

IV.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, a written report that includes a detailed description of the circumstances surrounding the cited violations and actions taken or to be taken to achieve compliance with the Order Portion of this **COMPLIANCE ORDER**. This report and all other reports or information required to be submitted to the Enforcement Division by this **COMPLIANCE ORDER** shall be submitted to:

Office of Environmental Compliance  
Post Office Box 4312  
Baton Rouge, Louisiana 70821-4312  
**Attn: Courtney Tolbert**  
**Re: Enforcement Tracking No. AE-CN-22-00613**  
**Agency Interest No. 170668**

**THE RESPONDENT SHALL FURTHER BE ON NOTICE THAT:**

I.

The Respondent has a right to an adjudicatory hearing on a disputed issue of material fact or of law arising from this **COMPLIANCE ORDER**. This right may be exercised by filing a written request with the Secretary no later than thirty (30) days after receipt of this **COMPLIANCE ORDER**.

II.

The request for an adjudicatory hearing shall specify the provisions of the **COMPLIANCE ORDER** on which the hearing is requested and shall briefly describe the basis for the request. This request should reference the Enforcement Tracking Number and Agency Interest Number, which are located in the upper right-hand corner of the first page of this document and should be directed to the following:

Department of Environmental Quality  
Office of the Secretary  
Post Office Box 4302  
Baton Rouge, Louisiana 70821-4302  
**Attn: Hearings Clerk, Legal Division**  
**Re: Enforcement Tracking No. AE-CN-22-00613**  
**Agency Interest No. 170668**

III.

Upon the Respondent's timely filing a request for a hearing, a hearing on the disputed issue of material fact or of law regarding this **COMPLIANCE ORDER** may be scheduled by the Secretary of the Department. The hearing shall be governed by the Act, the Administrative Procedure Act (La. R.S. 49:950, et seq.), and the Division of Administrative Law (DAL) Procedural Rules. The Department may amend or supplement this **COMPLIANCE ORDER** prior to the hearing, after providing sufficient notice and an opportunity for the preparation of a defense for the hearing.

IV.

This **COMPLIANCE ORDER** shall become a final enforcement action unless the request for hearing is timely filed. Failure to timely request a hearing constitutes a waiver of the Respondent's right to a hearing on a disputed issue of material fact or of law under Section 2050.4 of the Act for the violation(s) described herein.

V.

The Respondent's failure to request a hearing or to file an appeal or the Respondent's withdrawal of a request for hearing on this **COMPLIANCE ORDER** shall not preclude the Respondent from contesting the findings of facts in any subsequent penalty action addressing the same violation(s), although

the Respondent is estopped from objecting to this **COMPLIANCE ORDER** becoming a permanent part of its compliance history.

VI.

Civil penalties of not more than thirty-two thousand five hundred dollars (\$32,500) for each day of violation for the violation(s) described herein may be assessed. The Respondent's failure or refusal to comply with this **COMPLIANCE ORDER** and the provisions herein will subject the Respondent to possible enforcement procedures under La. R.S. 30:2025, which could result in the assessment of a civil penalty in an amount of not more than fifty thousand dollars (\$50,000) for each day of continued violation or noncompliance.

VII.

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

**NOTICE OF POTENTIAL PENALTY**

I.

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 violation(s) described herein. Written comments may be filed regarding the violation(s) 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.

II.

Prior to the issuance of additional appropriate enforcement action(s), you may request a meeting with the Department to present any mitigating circumstances concerning the violation(s). If you would like to have such a meeting, please contact Courtney Tolbert at 225-219-3347 within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

III.

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 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 violation(s) 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 that 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.

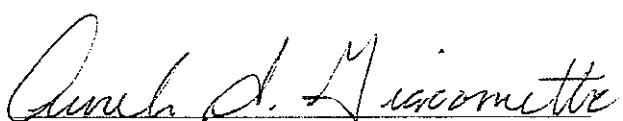
IV.

The Department assesses civil penalties based on LAC 33:1.Subpart1.Chapter7. To expedite closure of this **NOTICE OF POTENTIAL PENALTY** portion, the Respondent may offer a settlement amount to resolve any claim for civil penalties for the violation(s) 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 "**CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY REQUEST TO CLOSE**" form. The Respondent may submit the settlement offer within one hundred and eighty (180) days of receipt of this **NOTICE OF POTENTIAL PENALTY** portion but no later than ninety (90) days of achieving compliance with the **COMPLIANCE ORDER** portion. 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.

V.

This **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is effective upon receipt.

Baton Rouge, Louisiana, this 2<sup>nd</sup> day of February, 2024.



Aurelia Giacometto  
Secretary  
Louisiana Department of Environmental Quality

Copies of a request for a hearing and/or related correspondence should be sent to:

Louisiana Department of Environmental Quality  
Office of Environmental Compliance  
Enforcement Division  
P.O. Box 4312  
Baton Rouge, LA 70821-4312  
Attention: Courtney Tolbert

## LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY

## OFFICE OF ENVIRONMENTAL COMPLIANCE

## ENFORCEMENT DIVISION

POST OFFICE BOX 4312

BATON ROUGE, LOUISIANA 70821-4312

CONSOLIDATED COMPLIANCE ORDER &  
NOTICE OF POTENTIAL PENALTY  
REQUEST TO CLOSE

Enforcement Tracking No.	AE-CN-22-00613	Contact Name	Courtney Tolbert
Agency Interest (AI) No.	170668	Contact Phone No.	225-219-3347
Alternate ID No.	2520-00160		
Respondent:	Air Products and Chemicals, Inc. c/o C T Corporation System Agent for Service of Process 3867 Plaza Tower Drive Baton Rouge, LA 70816	Facility Name: Physical Location: City, State, Zip: Parish:	Luling Hydrogen Plant Portion of 12501 River Road Luling, LA 70070 St. Charles Parish

## STATEMENT OF COMPLIANCE

STATEMENT OF COMPLIANCE	Date Completed	Copy Attached?
A written report was submitted in accordance with Paragraph IV of the "Order" portion of the COMPLIANCE ORDER.		
All necessary documents were submitted to the Department within 30 days of receipt of the COMPLIANCE ORDER in accordance with Paragraph II of the "Order" portion of the COMPLIANCE ORDER.		
All necessary documents were submitted to the Department within 90 days of receipt of the COMPLIANCE ORDER in accordance with Paragraph III of the "Order" portion of the COMPLIANCE ORDER.		
All items in the "Findings of Fact" portion of the COMPLIANCE ORDER were addressed and the facility is being operated to meet and maintain the requirements of the "Order" portion of the COMPLIANCE ORDER. Final compliance was achieved as of:		

## 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 33:1.Subpart1.Chapter7.
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (AE-CN-22-00613), 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 CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (AE-CN-22-00613), 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. The Respondent may submit the settlement offer within one hundred and eighty (180) days of receipt of this NOTICE OF POTENTIAL PENALTY portion but no later than ninety (90) days of achieving compliance with the COMPLIANCE ORDER portion. <ul style="list-style-type: none"> <li>• Monetary component = \$_____</li> <li>• Beneficial Environmental Project (BEP) component (optional) = \$_____</li> <li>• <i>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.</i></li> </ul>
<input type="checkbox"/>	The Respondent has reviewed the violations noted in CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (AE-CN-22-00613) 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: Courtney Tolbert		

# SETTLEMENT AGREEMENTS

## WHAT IS A SETTLEMENT AGREEMENT?

Once the Department has determined that a penalty is warranted for a violation, the Assistant Secretary of the Department, with the concurrence of the Attorney General, may enter into a settlement agreement with the Respondent as a means to resolve the Department's claim for a penalty.

## HOW DOES THE SETTLEMENT AGREEMENT PROCESS WORK?

To begin the settlement agreement process, the Department must receive a written settlement offer. Once this offer is submitted, it is sent for approval by the Assistant Secretary of the Office of Environmental Compliance. The formal Settlement Agreement is drafted and sent to the Attorney General's office where the Attorney General has a 90 day concurrence period. During this time, the Respondent is required to run a public notice in an official journal and/or newspaper of general circulation in each affected parish. After which, a 45 day public comment period is opened to allow the public to submit comments. Once the Department has received concurrence, the settlement agreement is signed by both parties. The Department then forwards a letter to the responsible party to establish a payment plan and/or beneficial environmental project (BEP).

## WHAT SHOULD I INCLUDE IN A SETTLEMENT AGREEMENT?

The Department uses the penalty determination method defined in LAC 33:1.705 as a guideline to accepting settlement offers. The penalty matrix is used to determine a penalty range for each violation based on the two violation specific factors, the nature and gravity of the violation and the degree of risk/impact to human health and property.

NATURE AND GRAVITY OF THE VIOLATION			
	MAJOR	MODERATE	MINOR
DEGREE OF RISK OR IMPACT TO HUMAN HEALTH OR PROPERTY			
MAJOR	\$32,500 to \$20,000	\$20,000 to \$15,000	\$15,000 to \$11,000
MODERATE	\$11,000 to \$8,000	\$8,000 to \$5,000	\$5,000 to \$3,000
MINOR	\$3,000 to \$1,500	\$1,500 to \$500	\$500 to \$100

### Degree of Risk to Human Health or Property

Major: (actual measurable harm or substantial risk of harm) A violation of major impact to an environmental resource or a hazard characterized by high volume and/or frequent occurrence and/or high pollutant concentration.

Moderate: (potential for measurable detrimental impact) A violation of moderate impact and hazard may be one characterized by occasional occurrence and/or pollutant concentration that may be expected to have a detrimental effect under certain conditions

Minor: (no harm or risk of harm) A violation of minor impact are isolated single incidences and that cause no measurable detrimental effect or are administrative in nature.

### Nature and Gravity of the Violation

Major: Violations of statutes, regulations, orders, permit limits, or permit requirements that result in negating the intent of the requirement to such an extent that little or no implementation of requirements occurred.

Moderate: Violations that result in substantially negating the intent of the requirements, but some implementation of the requirements occurred.

Minor: Violations that result in some deviation from the intent of the requirement; however, substantial implementation is demonstrated.

The range is adjusted using the following violator specific factors:

1. history of previous violations or repeated noncompliance;
2. gross revenues generated by the respondent;
3. degree of culpability, recalcitrance, defiance, or indifference to regulations or orders;
4. whether the Respondent has failed to mitigate or to make a reasonable attempt to mitigate the damages caused by the violation; and
5. whether the violation and the surrounding circumstances were immediately reported to the department, and whether the violation was concealed or there was an attempt to conceal by the Respondent.



# SETTLEMENT AGREEMENTS

Given the previous information, the following formula is used to obtain a penalty amount.

Penalty Event Total = Penalty Event Minimum + (Adjustment Percentage x [Penalty Event Maximum - Penalty Event Minimum])

After this, the Department adds any monetary benefit of noncompliance to the penalty event. In the event that a monetary benefit is gained due to the delay of a cost that is ultimately paid, the Department adds the applicable judicial interest. Finally, the Department adds all response costs including, but not limited to, the cost of conducting inspections, and the staff time devoted to the preparation of reports and issuing enforcement actions.

## WHAT IS A BEP?

A BEP is a project that provides for environmental mitigation which the respondent is not otherwise legally required to perform, but which the defendant/respondent agrees to undertake as a component of the settlement agreement.

Project categories for BEPs include public health, pollution prevention, pollution reduction, environmental restoration and protection, assessments and audits, environmental compliance promotion, and emergency planning, preparedness and response. Other projects may be considered if the Department determines that these projects have environmental merit and is otherwise fully consistent with the intent of the BEP regulations.

## WHAT HAPPENS IF MY OFFER IS REJECTED?

If an offer is rejected by the Assistant Secretary, the Legal Division will contact the responsible party, or anyone designated as an appropriate contact in the settlement offer, to discuss any discrepancies.

## WHERE CAN I FIND EXAMPLES AND MORE INFORMATION?

Settlement Offers .....	searchable in <a href="#">EDMS</a> using the following filters Media: Air Quality, Function: Enforcement, Description: Settlement
Settlement Agreements .....	<a href="#">Enforcement Division's website</a> specific examples can be provided upon request
Penalty Determination Method .....	<a href="#">LAC 33: Chapter 7</a>
Beneficial Environmental Projects .....	<a href="#">LAC 33: Chapter 25</a>
Judicial Interest.....	<a href="#">FAQs</a> <a href="#">provided by the Louisiana State Bar Association</a>

