

Executive Summary – Enforcement Matter – Case No. 42742
Air Products LLC
RN100221324
Docket No. 2011-1886-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Air Products Pasadena Plant, 1423 Pasadena Freeway, Pasadena, Harris County

Type of Operation:

Chemical manufacturing plant

Other Significant Matters:

Additional Pending Enforcement Actions: Yes, 2010-0959-AIR-E

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: February 3, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$7,930

Amount Deferred for Expedited Settlement: \$1,586

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$6,344

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Executive Summary – Enforcement Matter – Case No. 42742

Air Products LLC

RN100221324

Docket No. 2011-1886-AIR-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: July 8, 2011 and August 16, 2011

Date(s) of NOE(s): September 1, 2011 and September 7, 2011

Violation Information

1. Failed to submit an annual compliance certification for the period of July 1, 2009 through June 30, 2010 by July 30, 2010 [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.146(2), Federal Operating Permit (“FOP”) No. O-02309 General Terms and Conditions (“GTC”), and TEX. HEALTH & SAFETY CODE § 382.085(b)].
2. Failed to certify the deviation report dated January 21, 2010 for the period of July 1, 2009 through December 31, 2009 [30 TEX. ADMIN. CODE §§ 122.143(4), 122.143(15), and 122.165(a)(7), FOP No. O-02309 GTC, and TEX. HEALTH & SAFETY CODE § 382.085(b)].
3. Failed to submit the notification 15 days prior to the compliance emissions stack test conducted on May 21, 2009 for Boiler 15.20 (Emission Point No. (“EPN”) 801) [30 TEX. ADMIN. CODE §§ 117.345(b)(1) and 122.143(4), FOP No. O-01675 Special Terms and Conditions (“STC”) 1.A., and TEX. HEALTH & SAFETY CODE § 382.085(b)].
4. Failed to conduct an initial stack test on Boiler 15.20 (EPN 801) by the March 31, 2007 deadline [30 TEX. ADMIN. CODE §§ 117.9020(2)(C)(i) and 122.143(4), FOP No. O-01675 STC 1.A., and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following corrective measures at the Plant:

- a. On December 16, 2010, submitted the annual certification for the period of July 1, 2009 through June 30, 2010;
- b. On July 28, 2010, certified the deviation report for the period of July 1, 2009 through December 31, 2009;
- c. On May 21, 2009, conducted a stack test on Boiler 15.20 (EPN) 801, and on June 16, 2009, submitted the stack test report; and
- d. By August 31, 2009, modified procedures to ensure that when new air permits, rules and regulatory requirements are issued or effective, that they are added to the existing environmental management system to prevent the recurrence of the stack testing violations.

Executive Summary – Enforcement Matter – Case No. 42742

Air Products LLC

RN100221324

Docket No. 2011-1886-AIR-E

Technical Requirements:

N/A

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Miriam Hall, Enforcement Division,
Enforcement Team 4, MC 149, (512) 239-1044; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: Jacques Joseph, Plant Manager, Air Products LLC, P.O. Box 3326,
Pasadena, Texas 77501

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	6-Sep-2011	Screening	11-Oct-2011	EPA Due	28-May-2012
	PCW	13-Oct-2011				

RESPONDENT/FACILITY INFORMATION	
Respondent	Air Products LLC
Reg. Ent. Ref. No.	RN100221324
Facility/Site Region	12-Houston
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	42742	No. of Violations	4
Docket No.	2011-1886-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Miriam Hall
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History Enhancement **Subtotals 2, 3, & 7**

Notes: Enhancement for three NOVs with the same/similar violations, five NOVs with dissimilar violations, and one final court judgment with denial of liability.

Culpability Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit Enhancement* **Subtotal 6**

Total EB Amounts	\$1,084
Approx. Cost of Compliance	\$10,750

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

Screening Date 11-Oct-2011

Docket No. 2011-1886-AIR-E

PCW

Respondent Air Products LLC

Policy Revision 2 (September 2002)

Case ID No. 42742

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100221324

Media [Statute] Air

Enf. Coordinator Miriam Hall

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	3	15%
	Other written NOVs	5	10%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	1	30%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 55%

>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement for three NOVs with the same/similar violations, five NOVs with dissimilar violations, and one final court judgment with denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 55%

Screening Date 11-Oct-2011
Respondent Air Products LLC
Case ID No. 42742
Reg. Ent. Reference No. RN100221324
Media [Statute] Air
Enf. Coordinator Miriam Hall

Docket No. 2011-1886-AIR-E

PCW

Policy Revision 2 (September 2002)
 PCW Revision October 30, 2008

Violation Number

Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4) and 122.146(2), Federal Operating Permit ("FOP") No. O-02309 General Terms and Conditions ("GTC"), and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to submit an annual compliance certification for the period of July 1, 2009 through June 30, 2010 by July 30, 2010.

Base Penalty

>> **Environmental, Property and Human Health Matrix**

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text" value="25%"/>

Matrix Notes

The Respondent failed to comply with 100% of the rule requirement.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="checkbox"/>

Violation Base Penalty

One single event is recommended for one delinquent certification.

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input checked="" type="checkbox"/>	<input type="text"/>
N/A	<input type="text"/>	(mark with x)

Notes The Respondent came into compliance on December 16, 2010, and the NOE was issued on September 7, 2011.

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Air Products LLC
Case ID No. 42742
Reg. Ent. Reference No. RN100221324
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$200	30-Jul-2010	16-Dec-2010	0.38	\$4	n/a	\$4

Notes for DELAYED costs

The estimated cost of submitting the annual certification. The Date Required is the date the certification was due, and the Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$200

TOTAL

\$4

Screening Date 11-Oct-2011
Respondent Air Products LLC
Case ID No. 42742
Reg. Ent. Reference No. RN100221324
Media [Statute] Air
Enf. Coordinator Miriam Hall

Docket No. 2011-1886-AIR-E

PCW

Policy Revision 2 (September 2002)
 PCW Revision October 30, 2008

Violation Number

Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4), 122.143(15), and 122.165(a)(7), FOP No. O-02309 GTC, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to certify the deviation report dated January 21, 2010 for the period of July 1, 2009 through December 31, 2009.

Base Penalty

>> **Environmental, Property and Human Health Matrix**

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>

Percent

Matrix Notes

The Respondent complied with more than 70% of the rule requirement.

Adjustment

Violation Events

Number of Violation Events

Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="checkbox"/>

Violation Base Penalty

One single event is recommended for one report.

Good Faith Efforts to Comply

Reduction

Before NOV NOV to EDRP/Settlement Offer

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input checked="" type="checkbox"/>	<input type="text"/>
N/A	<input type="text"/>	(mark with x)

Notes

The report was submitted on July 28, 2010, and the NOE was issued on September 7, 2011.

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Air Products LLC
Case ID No. 42742
Reg. Ent. Reference No. RN100221324
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$50	30-Jan-2010	28-Jul-2010	0.49	\$1	n/a	\$1

Notes for DELAYED costs

The estimated cost of submitting a certified report. The Date Required is the date the certified report was due, and the Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$50

TOTAL

\$1

Screening Date 11-Oct-2011
Respondent Air Products LLC
Case ID No. 42742
Reg. Ent. Reference No. RN100221324
Media [Statute] Air
Enf. Coordinator Miriam Hall

Docket No. 2011-1886-AIR-E

PCW

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Violation Number

Rule Cite(s)
 30 Tex. Admin. Code §§ 117.345(b)(1) and 122.143(4), FOP No. O-01675 Special Terms and Conditions ("STC") 1.A., and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to submit the notification 15 days prior to the compliance emissions stack test conducted on May 21, 2009 for Boiler 15.20 [Emission Point No. ("EPN") 801].

Base Penalty

>> **Environmental, Property and Human Health Matrix**

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor
<input type="text"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Percent

Matrix Notes

The Respondent failed to meet 100% of the rule requirement.

Adjustment

Violation Events

Number of Violation Events

Number of violation days

mark only one with an x

daily	<input type="checkbox"/>
weekly	<input type="checkbox"/>
monthly	<input type="checkbox"/>
quarterly	<input type="checkbox"/>
semiannual	<input type="checkbox"/>
annual	<input type="checkbox"/>
single event	<input checked="" type="checkbox"/>

Violation Base Penalty

One single event is recommended for the delinquent notification.

Good Faith Efforts to Comply

Reduction

	Reduction	
	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input checked="" type="checkbox"/>	<input type="text"/>
N/A	<input type="text"/>	(mark with x)

Notes: Corrective actions were completed by August 31, 2009, and the NOE was issued on September 1, 2011.

Violation Subtotal

Economic Benefit (EB) for this violation

Estimated EB Amount

Statutory Limit Test

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Air Products LLC
Case ID No. 42742
Reg. Ent. Reference No. RN100221324
Media Air
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	6-May-2009	31-Aug-2009	0.32	\$8	n/a	\$8

Notes for DELAYED costs

The estimated cost for modifying procedures to ensure when new air permits, rules, and regulatory requirements are issued or effective that they are reviewed and added to the existing environmental management system to prevent the recurrence of this violation. The Date Required is the due date of the notification, and the Final Date is the date that corrective actions were completed.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$8

Screening Date 11-Oct-2011
Respondent Air Products LLC
Case ID No. 42742
Reg. Ent. Reference No. RN100221324
Media [Statute] Air
Enf. Coordinator Miriam Hall

Docket No. 2011-1886-AIR-E

PCW

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Violation Number 4
Rule Cite(s)

30 Tex. Admin. Code §§ 117.9020(2)(C)(i) and 122.143(4), FOP No. O-01675 STC 1.A., and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to conduct an initial stack test on Boiler 15.20 (EPN 801) by the March 31, 2007 deadline.

Base Penalty \$10,000

>> **Environmental, Property and Human Health Matrix**

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			x

Percent 10%

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment could have been exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events

Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$1,000

One single event is recommended for one stack test.

Good Faith Efforts to Comply

Reduction

\$250

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes Corrective actions were completed by May 21, 2009, and the NOE was issued on September 1, 2011.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,071

Violation Final Penalty Total \$1,300

This violation Final Assessed Penalty (adjusted for limits) \$1,300

Economic Benefit Worksheet

Respondent Air Products LLC
Case ID No. 42742
Reg. Ent. Reference No. RN100221324
Media Air
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	31-Mar-2007	21-May-2009	2.14	\$1,071	n/a	\$1,071

Notes for DELAYED costs

The approximate cost of the stack test. The Date Required is the date the stack test was required, and the Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$1,071

Compliance History

Customer/Respondent/Owner-Operator: CN602299257 Air Products LLC Classification: AVERAGE Rating: 3.34

Regulated Entity: RN100221324 AIR PRODUCTS PASADENA PLANT Classification: AVERAGE Site Rating: 3.87

ID Number(s):	AIR OPERATING PERMITS	PERMIT	2308
	AIR OPERATING PERMITS	PERMIT	2309
	AIR OPERATING PERMITS	ACCOUNT NUMBER	HG0011L
	AIR OPERATING PERMITS	PERMIT	1675
	POLLUTION PREVENTION PLANNING	ID NUMBER	P03121
	WASTEWATER	PERMIT	WQ0002382000
	WASTEWATER	EPA ID	TX0084581
	AIR NEW SOURCE PERMITS	PERMIT	105
	AIR NEW SOURCE PERMITS	PERMIT	1323
	AIR NEW SOURCE PERMITS	PERMIT	1372
	AIR NEW SOURCE PERMITS	PERMIT	1499B
	AIR NEW SOURCE PERMITS	PERMIT	1778
	AIR NEW SOURCE PERMITS	PERMIT	2113
	AIR NEW SOURCE PERMITS	PERMIT	7937
	AIR NEW SOURCE PERMITS	PERMIT	9359
	AIR NEW SOURCE PERMITS	PERMIT	9559
	AIR NEW SOURCE PERMITS	REGISTRATION	10693
	AIR NEW SOURCE PERMITS	PERMIT	10780
	AIR NEW SOURCE PERMITS	PERMIT	19681
	AIR NEW SOURCE PERMITS	PERMIT	20659
	AIR NEW SOURCE PERMITS	PERMIT	27773
	AIR NEW SOURCE PERMITS	REGISTRATION	32591
	AIR NEW SOURCE PERMITS	REGISTRATION	24943
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG0011L
	AIR NEW SOURCE PERMITS	AFS NUM	4820100176
	AIR NEW SOURCE PERMITS	EPA ID	PSDTX615
	AIR NEW SOURCE PERMITS	EPA ID	PSDTX648
	AIR NEW SOURCE PERMITS	PERMIT	54271
	AIR NEW SOURCE PERMITS	REGISTRATION	71424
	AIR NEW SOURCE PERMITS	REGISTRATION	81486
	AIR NEW SOURCE PERMITS	REGISTRATION	94673
	AIR NEW SOURCE PERMITS	REGISTRATION	87698
	AIR NEW SOURCE PERMITS	REGISTRATION	83991
	AIR NEW SOURCE PERMITS	REGISTRATION	84135
	INDUSTRIAL AND HAZARDOUS WASTE	EPA ID	TXD990757486
	INDUSTRIAL AND HAZARDOUS WASTE	SOLID WASTE REGISTRATION # (SWR)	30317
	UNDERGROUND INJECTION CONTROL	PERMIT	WDW284
	UNDERGROUND INJECTION CONTROL	PERMIT	WDW285
	IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	30317
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	HG0011L

Location: 1423 PASADENA FWY, PASADENA, TX, 77506

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: October 11, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: October 11, 2006 to October 11, 2011

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Miriam Hall Phone: (512) 239-1044

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A

4. If Yes, who was/were the prior owner(s)/operator(s)?

N/A

5. When did the change(s) in owner or operator occur?

N/A

6. Rating Date: 9/1/2011 Repeat Violator: NO

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 08/02/2011

COURTORDER

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.4

5C THSC Chapter 382 382.085(a)

Description: No person may discharge from any source whatsoever one or more air contaminants or combinations thereof, in such concentration and of such duration as are or may tend to be injurious to or to adversely affect human health or welfare, animal life, vegetation, or property, or as to interfere with the normal use and enjoyment animal life, vegetation, or property.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.5

5C THSC Chapter 382 382.085(a)

Description: No person may discharge from any source whatsoever such quantities of air contaminants, uncombined water, or other materials which cause or have a tendency to cause a traffic hazard or an interference with normal road use.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)

30 TAC Chapter 116, SubChapter B 116.115(b)(2)(H)(i)

30 TAC Chapter 116, SubChapter B 116.115(c)

5C THSC Chapter 382 382.085(a)

5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition 1 of NSR Permit 9359 PERMIT

Description: Defendant was and is not authorized to discharge NOx and nitric acid in the quantities in question from the point of discharge during the emission event from the Pasadena plant.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	02/01/2007	(480159)
2	02/14/2007	(488210)
3	02/14/2007	(488376)
4	10/19/2006	(511393)
5	11/10/2006	(511438)
6	12/14/2006	(518093)
7	02/27/2007	(537314)
8	10/19/2006	(550388)
9	11/21/2006	(550389)
10	12/12/2006	(550390)
11	05/11/2007	(558674)
12	11/30/2007	(562190)
13	09/26/2007	(562221)
14	11/26/2007	(570009)
15	11/27/2007	(570099)
16	08/29/2007	(573254)
17	02/26/2007	(586374)
18	03/21/2007	(586375)

19	04/20/2007	(586376)
20	05/17/2007	(586377)
21	01/22/2007	(586378)
22	07/23/2007	(604689)
23	08/21/2007	(604690)
24	09/20/2007	(604691)
25	04/17/2008	(618656)
26	10/22/2007	(624360)
27	11/19/2007	(624361)
28	12/27/2007	(624362)
29	08/04/2008	(651915)
30	03/24/2008	(675290)
31	01/17/2008	(675291)
32	11/14/2008	(684261)
33	07/09/2008	(685571)
34	11/14/2008	(685774)
35	11/10/2008	(686224)
36	02/21/2008	(693604)
37	04/18/2008	(693605)
38	05/16/2008	(693606)
39	08/24/2009	(703597)
40	07/10/2009	(703600)
41	06/20/2008	(714903)
42	07/21/2008	(714904)
43	08/14/2008	(714905)
44	09/19/2008	(714906)
45	09/30/2008	(730797)
46	10/08/2008	(730798)
47	11/18/2008	(730799)
48	12/10/2008	(730800)
49	02/11/2009	(754034)
50	01/14/2009	(754035)
51	10/12/2009	(764598)
52	08/19/2009	(764615)
53	10/05/2009	(765933)
54	01/15/2010	(767312)
55	11/23/2009	(767510)
56	03/16/2009	(771361)
57	04/14/2009	(771362)
58	05/19/2009	(771363)
59	09/29/2009	(776715)
60	12/21/2009	(783097)
61	05/19/2010	(795061)
62	05/20/2010	(800632)
63	02/15/2010	(814095)
64	06/10/2009	(814096)
65	07/09/2009	(814097)
66	08/14/2009	(814098)

67 09/15/2009 (814099)
 68 10/19/2009 (814100)
 69 11/12/2009 (814101)
 70 12/16/2009 (814102)
 71 01/14/2010 (814103)
 72 07/09/2010 (830390)
 73 03/15/2010 (834173)
 74 04/13/2010 (834174)
 75 05/12/2010 (834175)
 76 09/09/2010 (844104)
 77 06/04/2010 (847279)
 78 05/26/2011 (858279)
 79 12/14/2010 (860203)
 80 07/02/2010 (861728)
 81 08/02/2010 (868119)
 82 09/09/2010 (875047)
 83 10/04/2010 (882656)
 84 01/07/2011 (887245)
 85 11/30/2010 (897446)
 86 09/07/2011 (899769)
 87 01/05/2011 (903331)
 88 03/17/2011 (905163)
 89 02/03/2011 (910252)
 90 09/01/2011 (913026)
 91 03/08/2011 (917466)
 92 04/07/2011 (928444)
 93 07/13/2011 (937101)
 94 08/04/2011 (953827)
 95 08/04/2011 (953828)
 96 08/04/2011 (953829)
 97 08/04/2011 (960434)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 10/19/2006 (511393) CN602299257
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(1)(A)
 30 TAC Chapter 335, SubChapter E 335.112(a)(8)
 40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(a)(1)(i)
 40 CFR Chapter 265, SubChapter I, PT 265, SubPT I 265.174
 Description: Weekly container storage areas inspection logs were missing for June 30, 2005. Also a number of inspection records from July 25, 2005 through June 15, 2006 were missing. Thee facility was aware of missing weekly inspections for the container storage areas, and had taken corrective action prior to the investigation.

Date: 02/01/2007 (480159) CN602299257
 Self Report? NO Classification: Minor
 Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.13(d)
 Description: Failure to calibrate daily, NOx and CO CEMS.
 Self Report? NO Classification: Minor
 Citation: 40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.174(b)(1)
 Description: Failure to include and monitor 12 connectors less than 2" in size in the LDAR monitoring program.
 Self Report? NO Classification: Minor
 Citation: 40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.152(d)(1)

Description: Failure to submit on time, HON Semi-Annual report that was due May 30, 2006.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.116(b)(1)(C)
5C THC Chapter 382, SubChapter D 382.085(b)
9359 PERMIT

Description: Failure to obtain a permit amendment prior to varying from any representations or permit conditions...
Self Report? NO Classification: Minor
Citation: 2113 PERMIT
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(B)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter D 382.085(b)
O-01675, Special Terms and Conditions 15 OP

Description: Failure to provide report of construction progress and start-up notification for Unit ID PROTDA.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 117, SubChapter B 117.214(a)(1)
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failure to conduct daily stain tube testing for NH3 measurement for the first 60 days of operation.
Self Report? NO Classification: Moderate
Citation: 19681SC 3A PERMIT
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter D 382.085(b)
O-01675 Special Terms and Conditions 15 OP

Description: Failure to maintain the concentration of NOx emissions from Unit ID 800-B15.5 below 42 ppmvd as allowed in the permit 19681.
Date: 07/10/2009 (703600) CN602299257
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
General Conditions OP
Special Conditions No. 1 PERMIT
Special Terms & Conditions No. 6 OP

Description: Failure to control NOx and CO emissions from the SMR-2 flare. [Cat B19g(1)]
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 117, SubChapter G 117.8130(1)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
General Conditions OP
Special Conditions No. 9 PERMIT
Special Terms & Conditions No. 6 OP

Description: Failure to use correct variables in calculating ammonia slip on SMR-1. [Cat C1]
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 117, SubChapter B 117.340(c)(3)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 75, SubChapter C, PT 75, SubPT D 75.33(a)
5C THSC Chapter 382 382.085(b)
General Conditions OP
Special Condition No. 8 PERMIT
Special Terms & Conditions No. 6 OP

Description: Failure to use correct CEMS data substitution while monitoring NOx on SMR-1. [Cat C1]
Date: 08/21/2009 (764615) CN602299257
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(B)
5C THSC Chapter 382 382.085(b)

Description: Air Products failed to prevent unauthorized emissions due to poor maintenance practices on a natural gas pressure controller.
Date: 08/24/2009 (703597) CN602299257
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 NSR Permit 105, SC 5 PERMIT
 O-01675, SC 15 OP

Description: Failure to maintain the furnace temperature at or above the permitted minimum
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 NSR Permit 105, SC 11 PERMIT
 O-01675, SC 15 OP

Description: Failure to capture all CO data with the CEMS
 Date: 01/15/2010 (767312) CN602299257
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.13(d)(1)
 5C THSC Chapter 382 382.085(b)
 Special Condition 2 PERMIT
 Special Term and Condition 11 OP
 Special Term and Condition 5E OP

Description: Failure to complete the daily calibration for the Nitric Acid Process CEMS on August 10, 2008. (Category C1 violation)
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.13(d)(1)
 5C THSC Chapter 382 382.085(b)
 Special Condition 2 PERMIT
 Special Condition 7B PERMIT
 Special Term and Condition 11 OP
 Special Term and Condition 5E OP

Description: Failure to take corrective action when calibration drifts exceeded two times the specification. (Category C1 violation)
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)
 5C THSC Chapter 382 382.085(b)
 Special Condition 14 PERMIT
 Special Condition 15D PERMIT
 Special Term and Condition 11 OP
 Special Term and Condition 1A OP
 Special Term and Condition 6 OP

Description: Failure to maintain a cap, blind flange, plug or second valve on four (4) open ended lines. (Category C10 violation)
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Special Condition 11B PERMIT
 Special Term and Condition 11 OP

Description: Failure to conduct a quarterly cylinder gas audit for October 2008 through December 2008. (Category C1 violation)
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Special Condition 1 PERMIT
 Special Term and Condition 11 OP

Description: Failure to maintain NOx emissions below the permitted limit for the NOx Reduction Unit (EPN 113). (Category B18 violation)
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Special Condition 16B PERMIT
 Special Term and Condition 11 OP
 Description: Failure to maintain scrubber temperature data. (Category C3 violation)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 122, SubChapter B 122.132(e)(1)
 5C THSC Chapter 382 382.085(b)

Description: Failure to include all sources of emission in Federal Operating Permit O-01675.
 (Category C3 violation)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Special Condition 6 PERMIT
 Special Term and Condition 11 OP
 Description: Failure to demonstrate a 98% destruction and reduction efficiency for the NOx
 Reduction Unit (EPN 113; FIN 100JZU). (Category B19(g)(1) violation)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Special Condition 1 PERMIT
 Special Term and Condition 11 OP
 Description: Failure to maintain CO start-up emissions below the permitted limit for flare 200FLARE
 (EPN 210). (Category B19(g)(1) violation)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
 5C THSC Chapter 382 382.085(b)
 General Terms and Conditions OP
 Description: Failure to report all instances of deviations in report dated January 26, 2009. (Category
 B3)
 Date: 06/30/2010 (861728) CN602299257
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 05/26/2011 (858279) CN602299257
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 FOP O-01675 Special Term & Condition 11 OP
 NSR Permit 20659 SC 3 PERMIT
 Description: Failure to maintain the minimum permitted standard temperature for the catalyst vent
 gas incinerator (800-ARI) on September 27, 2009 from 6:00-7:00 AM. (Category B19
 (g)(1))
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 117, SubChapter G 117.8100(a)(1)(A)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.13(d)(1)
 5C THSC Chapter 382 382.085(b)
 FOP O-01675 Special Term & Condition 1A OP
 FOP O-01675 Special Term & Condition 11 OP
 FOP O-01675 Special Term & Condition 5E OP
 NSR Permit 105 SC 11B PERMIT
 NSR Permit 19681 SC 7B PERMIT
 Description: Failure to take corrective action when the calibration drift for the nitric acid plant
 (PRONITRIC) on May 5, 2010; cogeneration turbine (500-TURBN) between March
 1-June 3, 2010; boiler (800-B15.50) between April 25-June 12, 2010; and Dinitrotoluene
 process (PRODNT) unit on June 10, 2010 were two times greater than the specification.
 (Category B19 (g)(1))
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(B)(i)

30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
FOP O-01675 Special Term & Condition 11 OP
NSR Permit 84135 General Condition 4 PERMIT
Description: Failure to submit start-up notification for the sulfuric acid unit (450) before commencing operation. (Category C3)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
FOP O-01675 Special Term & Condition 11 OP
NSR Permit 105 SC 1 PERMIT

Description: Failure to maintain NOx emissions below the permitted limit for the Dinitrotoluene process (PRODNT) unit. (Category B19 (g) (1))

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
FOP O-01675 Special Term & Condition 11 OP
NSR Permit 105 SC 11 PERMIT

Description: Failure to calibrate the NOx Reduction unit (113) from October 29, 2009-November 1, 2009. (Category C1)

F. Environmental audits.
N/A

G. Type of environmental management systems (EMSs).
N/A

H. Voluntary on-site compliance assessment dates.
N/A

I. Participation in a voluntary pollution reduction program.
N/A

J. Early compliance.
N/A

Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
AIR PRODUCTS LLC
RN100221324**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2011-1886-AIR-E**

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Air Products LLC ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a chemical manufacturing plant at 1423 Pasadena Freeway in Pasadena, Harris County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notices of the violations alleged in Section II ("Allegations") on or about September 6 and 12, 2011.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Seven Thousand Nine Hundred Thirty Dollars (\$7,930) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Six Thousand Three Hundred Forty-

Four Dollars (\$6,344) of the administrative penalty and One Thousand Five Hundred Eighty-Six Dollars (\$1,586) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
 - a. On December 16, 2010, submitted the annual certification for the period of July 1, 2009 through June 30, 2010;
 - b. On July 28, 2010, certified the deviation report for the period of July 1, 2009 through December 31, 2009;
 - c. On May 21, 2009, conducted a stack test on Boiler 15.20 [Emission Point No. ("EPN") 801], and on June 16, 2009, submitted the stack test report; and
 - d. By August 31, 2009, modified procedures to ensure that when new air permits, rules and regulatory requirements are issued or effective, that they are added to the existing environmental management system to prevent the recurrence of the stack testing violations.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have:

1. Failed to submit an annual compliance certification for the period of July 1, 2009 through June 30, 2010 by July 30, 2010, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.146(2), Federal Operating Permit ("FOP") No. O-02309 General Terms and Conditions ("GTC"), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on August 16, 2011.
2. Failed to certify the deviation report dated January 21, 2010 for the period of July 1, 2009 through December 31, 2009, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4), 122.143(15), and 122.165(a)(7), FOP No. O-02309 GTC, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on August 16, 2011.
3. Failed to submit the notification 15 days prior to the compliance emissions stack test conducted on May 21, 2009 for Boiler 15.20 (EPN 801), in violation of 30 TEX. ADMIN. CODE §§ 117.345(b)(1) and 122.143(4), FOP No. O-01675 Special Terms and Conditions ("STC") 1.A., and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on July 8, 2011.
4. Failed to conduct an initial stack test on Boiler 15.20 (EPN 801) by the March 31, 2007 deadline, in violation of 30 TEX. ADMIN. CODE §§ 117.9020(2)(C)(i) and 122.143(4), FOP No. O-01675 STC 1.A., and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on July 8, 2011.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Air Products LLC, Docket No. 2011-1886-AIR-E" to:

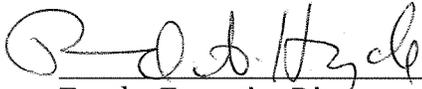
Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.

3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

2/2/12

Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

12/06/2011

Date

JACQUES JOSEPH

Name (Printed or typed)
Authorized Representative of
Air Products LLC

Plant Manager

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.