

Executive Summary – Enforcement Matter – Case No. 50641

Air Products LLC

RN102041282

Docket No. 2015-0852-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 La Porte Plant, 10202 Strang Road, La Porte, Harris County

Type of Operation:

Industrial gas production plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: December 25, 2015

Comments Received: No

Penalty Information

Total Penalty Assessed: \$15,157

Amount Deferred for Expedited Settlement: \$3,031

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$6,063

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project ("SEP") Conditional Offset: \$6,063

Name of SEP: Railroad Commission of Texas (Third-Party Pre-Approved)

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: December 18, 2014

Date(s) of NOE(s): June 1, 2015

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Air Products LLC
RN102041282
Docket No. 2015-0852-AIR-E

Violation Information

1. Failed to properly operate the Cold Flare, Emission Point Number ("EPN") E. Specifically, the Respondent did not mix a supplemental natural gas feed at 30% of the nitrogen flow with the waste gas stream going to the Cold Flare, EPN E, during vessel degassing and nitrogen purging of the C204 gasifier, C205 syngas scrubber, and C209 knock out drum from June 8, 2014 to June 10, 2014 [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), Federal Operating Permit ("FOP") No. O1249, Special Terms and Conditions ("STC") No. 9, and New Source Review ("NSR") Permit No. 21878, Special Conditions No. 16(D)].
2. Failed to report all instances of deviations. Specifically, the deviation report for the April 1, 2013 through September 30, 2013 reporting period did not include a deviation for the failure to report the exceedances of nitrogen oxides ("NOx") and carbon monoxide ("CO") emissions from the Warm Flare. The deviation report for the April 1, 2014 through September 30, 2014 reporting period did not include deviation for the failure to shut down the Partial Oxidation Gasifiers within 24 hours after CO detection [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. O1249, General Terms and Conditions ("GTC")].
3. Failed to shut down the Partial Oxidation Gasifiers within 24 hours after CO is detected. Specifically, the Respondent did not initiate shut down of the Partial Oxidation Gasifiers within 24 hours of detecting CO on August 12, 2014, and the event lasted until August 24, 2014 [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. O1249, GTC and STC No. 8, and NSR Permit No. 21878, Special Conditions No. 18].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following corrective measures:

- a. On April 28, 2014, submitted a revised deviation report for the October 1, 2013 through March 31, 2014 reporting period to report the deviation for the failure to report the exceedances of NOx and CO emissions from the Warm Flare; and
- b. On August 26, 2013, submitted a permit application to amend NSR Permit No. 21878 to remove the requirement to supplement the Cold Flare with natural gas.

Technical Requirements:

1. The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).

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2. The Order will also require the Respondent to:

a. Within 30 days:

i. Submit a revised deviation report for the April 1, 2014 through September 30, 2014 reporting period to report the deviation for the failure to document the verification that no CO was detected in the burner water tanks in conjunction with the analyzer indicating the presence of CO; and

ii. Implement measures and/or procedures to ensure the Partial Oxidation Gasifiers are shut down within 24 hours of CO detection.

b. Within 45 days, submit written certification demonstrating compliance with a.

c. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit amendment application within 30 days after the date of such requests, or by any other deadline specified in writing.

d. Within 180 days, submit written certification to demonstrate that either the amendment to NSR Permit No. 21878 has been obtained or that operation has ceased until such time that appropriate authorization is obtained.

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: Jennifer Nguyen, Enforcement Division, Enforcement Team 5, MC 149, (512) 239-6160; Melissa Cordell, Enforcement Division, MC 219, (512) 239-2483

TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565

Respondent: Andrew Gutacker, La Porte Site Manager, Air Products LLC, 10202 Strang Road, La Porte, Texas 77571

Respondent's Attorney: N/A

Attachment A
Docket Number: 2015-0852-AIR-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Air Products LLC
Penalty Amount:	Twelve Thousand One Hundred Twenty-Six Dollars (\$12,126)
SEP Offset Amount:	Six Thousand Sixty-Three Dollars (\$6,063)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Railroad Commission of Texas
Project Name:	<i>Alternative Fuels Clean School Bus Replacement Program</i>
Location of SEP:	Statewide, Preference for Harris County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Railroad Commission of Texas** for the *Alternative Fuels Clean School Bus Replacement Program*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the contribution will be used to reduce nitrogen oxides, volatile organic compounds, carbon monoxide, and particulate matter emissions by replacing older diesel buses with newer buses that meet more stringent emission standards.

The Third-Party Administrator shall use the SEP Offset Amount for up to 100% of the purchase price of a propane or natural gas powered school bus that is model year 2010 or newer to public school districts and public charter schools to replace a diesel school bus that is model year 2002 or older. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used for the direct cost of implementing the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director (“ED”), be applied to another pre-approved SEP.

Air Products LLC
Agreed Order - Attachment A

The Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This SEP will directly benefit air quality by reducing harmful exhaust emissions which contribute to the formation of ozone and may cause or exacerbate a number of respiratory diseases, including asthma. In addition, by encouraging less school bus idling, this SEP contributes to public awareness of environmental matters.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Railroad Commission of Texas SEP** and shall mail the contribution with a copy of the Agreed Order to:

Alternative Energy Division
Railroad Commission of Texas
P.O. Box 12967
Austin, Texas 78711-2967

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount due to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. **Failure to Fully Perform**

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality"; and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. **Publicity**

Any public statements concerning this SEP made by or on behalf of the Respondent, must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. **Recognition**

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. **Other SEPs by TCEQ or Other Agencies**

The SEP Offset Amount identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	1-Jun-2015	Screening	2-Jun-2015	EPA Due	
	PCW	23-Sep-2015				

RESPONDENT/FACILITY INFORMATION	
Respondent	Air Products LLC
Reg. Ent. Ref. No.	RN102041282
Facility/Site Region	12-Houston
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	50641	No. of Violations	3
Docket No.	2015-0852-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Jennifer Nguyen
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$11,750**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **29.0%** Enhancement **Subtotals 2, 3, & 7** **\$3,407**

Notes: Enhancement for one NOV with same/similar violations, two NOVs with dissimilar violations, and one order with denial of liability.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts	\$728
Estimated Cost of Compliance	\$8,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$15,157**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$15,157**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$15,157**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$3,031**

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 **\$12,126**

Screening Date 2-Jun-2015

Docket No. 2015-0852-AIR-E

PCW

Respondent Air Products LLC

Policy Revision 4 (April 2014)

Case ID No. 50641

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102041282

Media [Statute] Air

Enf. Coordinator Jennifer Nguyen

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>)	1	5%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	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 judgments or consent decrees meeting criteria</i>)	0	0%
	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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same/similar violations, two NOVs with dissimilar violations, and one order with denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100%

Screening Date 2-Jun-2015

Docket No. 2015-0852-AIR-E

PCW

Respondent Air Products LLC

Policy Revision 4 (April 2014)

Case ID No. 50641

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102041282

Media [Statute] Air

Enf. Coordinator Jennifer Nguyen

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), Tex. Health & Safety Code § 382.085(b), Federal Operating Permit ("FOP") No. O1249, Special Terms and Conditions ("STC") No. 9, and New Source Review ("NSR") Permit No. 21878, Special Conditions No. 16(D)

Violation Description

Failed to properly operate the Cold Flare, Emission Point Number ("EPN") E. Specifically, the Respondent did not mix a supplemental natural gas feed at 30% of the nitrogen flow with the waste gas stream going to the Cold Flare, EPN E, during vessel degassing and nitrogen purging of the C204 gasifier, C205 syngas scrubber, and C209 knock out drum from June 8, 2014 to June 10, 2014.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

3 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$3,750

One quarterly event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

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

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$497

Violation Final Penalty Total \$4,838

This violation Final Assessed Penalty (adjusted for limits) \$4,838

Economic Benefit Worksheet

Respondent Air Products LLC
Case ID No. 50641
Reg. Ent. Reference No. RN102041282
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
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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	\$5,000	8-Jun-2014	3-Jun-2016	1.99	\$497	n/a	\$497
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain a permit amendment to remove the requirement to supplement the Cold Flare with natural gas. The Date Required is the initial date of non-compliance. The Final Date is the estimated 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

\$5,000

TOTAL

\$497

Screening Date 2-Jun-2015

Docket No. 2015-0852-AIR-E

PCW

Respondent Air Products LLC

Policy Revision 4 (April 2014)

Case ID No. 50641

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102041282

Media [Statute] Air

Enf. Coordinator Jennifer Nguyen

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4) and 122.145(2)(A), Tex. Health & Safety Code § 382.085(b), and FOP No. O1249, General Terms and Conditions ("GTC")

Violation Description Failed to report all instances of deviations. Specifically, the deviation report for the April 1, 2013 through September 30, 2013 reporting period did not include a deviation for the failure to report the exceedances of nitrogen oxides ("NOx") and carbon monoxide ("CO") emissions from the Warm Flare. The deviation report for the April 1, 2014 through September 30, 2014 reporting period did not include deviation for the failure to shut down the Partial Oxidation Gasifiers within 24 hours after CO detection.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
			X	1.0%

Matrix Notes Less than 30% of the rule requirement was not met.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 2 Number of violation days 609

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

Violation Base Penalty \$500

Two single events are recommended (one event for each incomplete deviation report).

Good Faith Efforts to Comply

0.0% Reduction \$0

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

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$57

Violation Final Penalty Total \$645

This violation Final Assessed Penalty (adjusted for limits) \$645

Economic Benefit Worksheet

Respondent Air Products LLC
Case ID No. 50641
Reg. Ent. Reference No. RN102041282
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

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	1-Oct-2013	5-Jan-2016	2.26	\$57	n/a	\$57

Notes for DELAYED costs

Estimated cost to submit revised deviation reports for the October 1, 2013 through March 31, 2014 reporting period to report the deviation for the failure to report the exceedances of NOx and CO emissions from the Warm Flare and for the April 1, 2014 through September 30, 2014 reporting period to report the deviation for the failure to document the verification that no CO was detected in the burner water tanks in conjunction with the analyzer indicating the presence of CO. The Date Required is the date the first deviation report was due. The Final Date is the estimated 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 \$500

TOTAL \$57

Screening Date 2-Jun-2015

Docket No. 2015-0852-AIR-E

PCW

Respondent Air Products LLC

Policy Revision 4 (April 2014)

Case ID No. 50641

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102041282

Media [Statute] Air

Enf. Coordinator Jennifer Nguyen

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), Tex. Health & Safety Code § 382.085(b), and FOP No. O1249, GTC and STC No. 8, and NSR Permit No. 21878, Special Conditions No. 18

Violation Description Failed to shut down the Partial Oxidation Gasifiers within 24 hours after CO is detected. Specifically, the Respondent did not initiate shut down of the Partial Oxidation Gasifiers within 24 hours of detecting CO on August 12, 2014, and the event lasted until August 24, 2014.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	15.0%
Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
	Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.				

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 2 12 Number of violation days

mark only one with an x	daily		Violation Base Penalty \$7,500
	weekly		
	monthly		
	quarterly	X	
	semiannual		
	annual		
	single event		

Two quarterly events are recommended (one quarter for each gasifier).

Good Faith Efforts to Comply

0.0% Reduction \$0

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

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$174 Violation Final Penalty Total \$9,675

This violation Final Assessed Penalty (adjusted for limits) \$9,675

Economic Benefit Worksheet

Respondent Air Products LLC
Case ID No. 50641
Reg. Ent. Reference No. RN102041282
Media Air
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description 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)	\$2,500	13-Aug-2014	3-Jan-2016	1.39	\$174	\$174

Notes for DELAYED costs

Estimated cost to implement measures and/or procedures to ensure the Partial Oxidation Gasifiers are shut down within 24 hours of CO detection. The Date Required is the first date of non-compliance. The Final Date is the estimated 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 \$2,500

TOTAL \$174

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN602299257, RN102041282, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN602299257, Air Products LLC **Classification:** SATISFACTORY **Rating:** 3.56

Regulated Entity: RN102041282, AIR PRODUCTS LA PORTE PLANT **Classification:** SATISFACTORY **Rating:** 2.45

Complexity Points: 16 **Repeat Violator:** NO

CH Group: 05 - Chemical Manufacturing

Location: 10202 STRANG RD LA PORTE, TX 77571-9721, HARRIS COUNTY

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

AIR OPERATING PERMITS ACCOUNT NUMBER HG0010N

INDUSTRIAL AND HAZARDOUS WASTE EPA ID

TXD059331637

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION
1011569

AIR NEW SOURCE PERMITS PERMIT 3575

AIR NEW SOURCE PERMITS REGISTRATION 10573

AIR NEW SOURCE PERMITS REGISTRATION 11664

AIR NEW SOURCE PERMITS REGISTRATION 23982

AIR NEW SOURCE PERMITS REGISTRATION 24258

AIR NEW SOURCE PERMITS REGISTRATION 30255

AIR NEW SOURCE PERMITS REGISTRATION 33806

AIR NEW SOURCE PERMITS AFS NUM 4820100282

AIR NEW SOURCE PERMITS REGISTRATION 87982

WASTEWATER EPA ID TX0084794

WASTEWATER EPA ID TX0004944

AIR OPERATING PERMITS PERMIT 1249

INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE

REGISTRATION # (SWR) 30776

AIR NEW SOURCE PERMITS PERMIT 771A

AIR NEW SOURCE PERMITS REGISTRATION 8937

AIR NEW SOURCE PERMITS REGISTRATION 11663

AIR NEW SOURCE PERMITS PERMIT 21878

AIR NEW SOURCE PERMITS REGISTRATION 24259

AIR NEW SOURCE PERMITS REGISTRATION 24786

AIR NEW SOURCE PERMITS REGISTRATION 32877

AIR NEW SOURCE PERMITS ACCOUNT NUMBER HG0010N

AIR NEW SOURCE PERMITS REGISTRATION 87564

AIR NEW SOURCE PERMITS REGISTRATION 108267

WASTEWATER PERMIT WQ0001280000

AIR EMISSIONS INVENTORY ACCOUNT NUMBER
HG0010N

Compliance History Period: September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

Date Compliance History Report Prepared: June 09, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: June 09, 2010 to June 09, 2015

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Jennifer Nguyen

Phone: (512) 239-6160

Site and Owner/Operator History:

- 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** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

1 Effective Date: 08/12/2012 ADMINORDER 2012-0567-AIR-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 30 TAC Chapter 117, SubChapter B 117.335(a)(1)
30 TAC Chapter 117, SubChapter B 117.335(e)
30 TAC Chapter 117, SubChapter G 117.8000(a)
30 TAC Chapter 117, SubChapter H 117.9020(2)(C)(i)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Term and Condition 1A OP

Description: Failed to conduct a stack test on Fired Gas Preheater A (Unit ID No. HYCO3-FGPA) prior to the March 31, 2007 deadline. Specifically, the stack test was not conducted until September 13 and 14, 2011.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	June 16, 2010	(846255)
Item 2	July 15, 2010	(860850)
Item 3	August 12, 2010	(866816)
Item 4	September 15, 2010	(873888)
Item 5	October 12, 2010	(881489)
Item 6	November 11, 2010	(888018)
Item 7	November 17, 2010	(843220)
Item 8	December 15, 2010	(896223)
Item 9	February 08, 2011	(909068)
Item 10	February 25, 2011	(891864)
Item 11	March 09, 2011	(916331)
Item 12	March 10, 2011	(891860)
Item 13	March 28, 2011	(900052)
Item 14	April 05, 2011	(924774)
Item 15	April 08, 2011	(899942)
Item 16	May 11, 2011	(938012)
Item 17	June 13, 2011	(945335)
Item 18	August 11, 2011	(959290)
Item 19	September 16, 2011	(965323)
Item 20	October 14, 2011	(971363)
Item 21	November 15, 2011	(977523)
Item 22	December 07, 2011	(984289)
Item 23	January 11, 2012	(990591)
Item 24	February 13, 2012	(997952)
Item 25	March 14, 2012	(1003476)
Item 26	April 17, 2012	(1010039)
Item 27	May 16, 2012	(1016434)
Item 28	June 14, 2012	(1024154)
Item 29	June 25, 2012	(1013786)
Item 30	July 06, 2012	(1031550)
Item 31	August 13, 2012	(1037926)
Item 32	September 11, 2012	(1046657)
Item 33	October 08, 2012	(1060828)
Item 34	November 01, 2012	(1060829)
Item 35	December 11, 2012	(1060830)
Item 36	February 14, 2013	(1078936)
Item 37	March 18, 2013	(1089291)
Item 38	April 09, 2013	(1095687)
Item 39	May 09, 2013	(1106610)
Item 40	June 11, 2013	(1095154)
Item 41	July 11, 2013	(1117171)
Item 42	August 13, 2013	(1124927)
Item 43	August 15, 2013	(1102335)

30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
FOP, Special Term and Condition 8 OP

Description: Failure to limit Gas Turbine (GT-1) NOx emissions, during routine maintenance,
below the 24-hour reportable quantity.(B14)

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
RN102041282**

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§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2015-0852-AIR-E**

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Air Products LLC ("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 together stipulate that:

1. The Respondent owns and operates a industrial gas production plant located at 10202 Strang Road in La Porte, 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 Executive Director 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 notice of the violations alleged in Section II ("Allegations") on or about June 6, 2015.
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 Fifteen Thousand One Hundred Fifty-Seven Dollars (\$15,157) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Six Thousand Sixty-Three Dollars (\$6,063) of the administrative penalty and Three Thousand Thirty-One Dollars (\$3,031)

- 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. Six Thousand Sixty-Three Dollars (\$6,063) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").
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 and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
 9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
 - a. On April 28, 2014, submitted a revised deviation report for the October 1, 2013 through March 31, 2014 reporting period to report the deviation for the failure to report the exceedances of nitrogen oxides ("NOx") and carbon monoxide ("CO") emissions from the Warm Flare; and
 - b. On August 26, 2013, submitted a permit application to amend New Source Review ("NSR") Permit No. 21878 to remove the requirement to supplement the Cold Flare with natural gas.
 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 properly operate the Cold Flare, Emission Point Number ("EPN") E, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), Federal Operating Permit ("FOP") No. O1249, Special Terms and Conditions ("STC") No. 9, and NSR Permit No. 21878, Special Conditions No. 16(D), as documented during an investigation conducted on December 18, 2014. Specifically, the

Respondent did not mix a supplemental natural gas feed at 30% of the nitrogen flow with the waste gas stream going to the Cold Flare, EPN E, during vessel degassing and nitrogen purging of the C204 gasifier, C205 syngas scrubber, and C209 knock out drum from June 8, 2014 to June 10, 2014.

2. Failed to report all instances of deviations, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. O1249, General Terms and Conditions ("GTC"), as documented during an investigation conducted on December 18, 2014. Specifically, the deviation report for the April 1, 2013 through September 30, 2013 reporting period did not include a deviation for the failure to report the exceedances of NOx and CO emissions from the Warm Flare. The deviation report for the April 1, 2014 through September 30, 2014 reporting period did not include deviation for the failure to shut down the Partial Oxidation Gasifiers within 24 hours after CO detection.
3. Failed to shut down the Partial Oxidation Gasifiers within 24 hours after CO is detected, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. O1249, GTC and STC No. 8, and NSR Permit No. 21878, Special Conditions No. 18, as documented during an investigation conducted on December 18, 2014. Specifically, the Respondent did not initiate shut down of the Partial Oxidation Gasifiers within 24 hours of detecting CO on August 12, 2014, and the event lasted until August 24, 2014.

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. 2015-0852-AIR-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Six Thousand Sixty-Three Dollars (\$6,063) of the assessed administrative penalty shall be offset with the condition

that the SEP defined in Attachment A, incorporated herein by reference, is implemented by the Respondent. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

3. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Submit a revised deviation report for the April 1, 2014 through September 30, 2014 reporting period to report the deviation for the failure to document the verification that no CO was detected in the burner water tanks in conjunction with the analyzer indicating the presence of CO; and
 - ii. Implement measures and/or procedures to ensure the Partial Oxidation Gasifiers are shut down within 24 hours of CO detection.
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification demonstrating compliance with Ordering Provision No. 3.a., as described in Ordering Provision No. 3.d.;
 - c. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit amendment application within 30 days after the date of such requests, or by any other deadline specified in writing; and
 - d. Within 180 days after the effective date of this Agreed Order, submit written certification as described below to demonstrate that either the amendment to NSR Permit No. 21878 has been obtained or that operation has ceased until such time that appropriate authorization is obtained. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Air Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

4. 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.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. 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.
8. 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.

9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



For the Executive Director

2/18/16

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

Date

10/10/2015

Andrew Cotaaker

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

La Porte Site Manager

Title

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

Attachment A
Docket Number: 2015-0852-AIR-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Air Products LLC
Penalty Amount:	Twelve Thousand One Hundred Twenty-Six Dollars (\$12,126)
SEP Offset Amount:	Six Thousand Sixty-Three Dollars (\$6,063)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Railroad Commission of Texas
Project Name:	<i>Alternative Fuels Clean School Bus Replacement Program</i>
Location of SEP:	Statewide, Preference for Harris County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Railroad Commission of Texas** for the *Alternative Fuels Clean School Bus Replacement Program*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the contribution will be used to reduce nitrogen oxides, volatile organic compounds, carbon monoxide, and particulate matter emissions by replacing older diesel buses with newer buses that meet more stringent emission standards.

The Third-Party Administrator shall use the SEP Offset Amount for up to 100% of the purchase price of a propane or natural gas powered school bus that is model year 2010 or newer to public school districts and public charter schools to replace a diesel school bus that is model year 2002 or older. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used for the direct cost of implementing the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director (“ED”), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This SEP will directly benefit air quality by reducing harmful exhaust emissions which contribute to the formation of ozone and may cause or exacerbate a number of respiratory diseases, including asthma. In addition, by encouraging less school bus idling, this SEP contributes to public awareness of environmental matters.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Railroad Commission of Texas SEP** and shall mail the contribution with a copy of the Agreed Order to:

Alternative Energy Division
Railroad Commission of Texas
P.O. Box 12967
Austin, Texas 78711-2967

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount due to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. **Failure to Fully Perform**

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality"; and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. **Publicity**

Any public statements concerning this SEP made by or on behalf of the Respondent, must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. **Recognition**

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. **Other SEPs by TCEQ or Other Agencies**

The SEP Offset Amount identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.