

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

EVONIK MATERIALS CORPORATION  
f/k/a AIR PRODUCTS PERFORMANCE  
MANUFACTURING, INC.  
AI # 13560

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

\* Settlement Tracking No.  
\* SA-AE-17-0029  
\*  
\*  
\* Enforcement Tracking No.  
\* AE-CN-14-00568  
\* AE-CN-14-00568A  
\*  
\*  
\*  
\*  
\*

SETTLEMENT

The following Settlement is hereby agreed to between Evonik Materials Corporation f/k/a Air Products Performance Manufacturing, Inc. (“Respondent”), and the Department of Environmental Quality (“DEQ” or “the Department”), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. (“the Act”).

I

Respondent is a corporation that owns and/or operates an alkoxyate alcohols production facility located in St. John the Baptist Parish, Louisiana (“the Facility”).

II

On July 23, 2015, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. **AE-CN-14-00568**, which is attached as Exhibit A.

On June 17, 2016, the Department issued to Respondent an Amended Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. **AE-CN-14-00568A**, which is attached as Exhibit B.

### III

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

### IV

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of SEVEN THOUSAND ONE HUNDRED AND NO/100 DOLLARS (\$7,100.00), of which One Thousand Two Hundred Seventy-Nine and 14/100 Dollars (\$1,279.14) represents the Department's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to the Department as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

### V

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

### VI

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

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

## VII

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

## VIII

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

## IX

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

## X

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

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

XI

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

XII

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

EVONIK MATERIALS CORPORATION F/K/A  
AIR PRODUCTS PERFORMANCE  
MANUFACTURING, INC.

BY:   
(Signature)

John Wnek  
(Printed)

TITLE: Vice President

THIS DONE AND SIGNED in duplicate original before me this 16<sup>th</sup> day of  
October, 20 17, at Parsippany, NJ.

  
NOTARY PUBLIC (ID # 2228335)

PATRICIA MALCOLM  
Commission # 2228335  
Notary Public, State of New Jersey  
My Commission Expires  
**February 11, 2020**  
(stamped or printed)

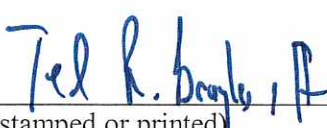


LOUISIANA DEPARTMENT OF  
ENVIRONMENTAL QUALITY  
Chuck Carr Brown, Ph.D., Secretary

BY:   
Lourdes Iturralde, Assistant Secretary  
Office of Environmental Compliance

THIS DONE AND SIGNED in duplicate original before me this 20<sup>th</sup> day of  
December, 20 17, at Baton Rouge, Louisiana.

  
NOTARY PUBLIC (ID # 20406)

  
(stamped or printed)

Approved:   
Lourdes Iturralde, Assistant Secretary

BOBBY JINDAL  
GOVERNOR



PEGGY M. HATCH  
SECRETARY

**State of Louisiana**  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OFFICE OF ENVIRONMENTAL COMPLIANCE

July 23, 2015

CERTIFIED MAIL 7004 2510 0006 3853 8051  
RETURN RECEIPT REQUESTED

**AIR PRODUCTS PERFORMANCE MANUFACTURING, INC.**  
c/o C T Corporation System  
Agent for Service of Process  
5615 Corporate Blvd, Suite 400B  
Baton Rouge, LA 70808

**RE: CONSOLIDATED COMPLIANCE ORDER  
& NOTICE OF POTENTIAL PENALTY  
ENFORCEMENT TRACKING NO. AE-CN-14-00568  
AGENCY INTEREST NO. 13560**


Dear Sir:

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

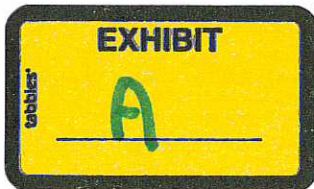
Compliance is expected within the maximum time period established by each part of the **COMPLIANCE ORDER**. The violation(s) cited in the **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** could result in the issuance of a civil penalty or other appropriate legal actions.

Any questions concerning this action should be directed to Antoinette Cobb at (225) 219-3072.

Sincerely,

  
Celena J. Cage  
Administrator  
Enforcement Division

CJC/AFC/afc  
Alt ID No. 2580-00023  
Attachment



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c: Air Products Performance Manufacturing, Inc.  
c/o Mr. William (Bill) Rosenzweig, Environmental Specialist  
474 West 19<sup>th</sup> Street  
Reserve, LA 70084

STATE OF LOUISIANA  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OFFICE OF ENVIRONMENTAL COMPLIANCE

IN THE MATTER OF	*	
	*	
AIR PRODUCTS PERFORMANCE	*	ENFORCEMENT TRACKING NO.
MANUFACTURING, INC.	*	
ST. JOHN THE BAPTIST PARISH	*	AE-CN-14-00568
ALT ID NO. 2580-00023	*	
	*	AGENCY INTEREST NO.
	*	
PROCEEDINGS UNDER THE LOUISIANA	*	13560
ENVIRONMENTAL QUALITY ACT,	*	
La. R.S. 30:2001, ET SEQ.	*	

**CONSOLIDATED**  
**COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY**

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

**FINDINGS OF FACT**

I.

The Respondent owns and/or operates the Reserve Plant (the facility), an alkoxyate alcohols production facility, located at 474 West 19<sup>th</sup> Street in Reserve, St. John the Baptist Parish, Louisiana. The facility operates or has operated under the authority of the following Air Permits:

PERMIT NO.	ISSUE DATE	EFFECTIVE EXPIRATION DATE
2580-00023-06AA	06/20/14	11/14/21
2580-00023-06	11/14/11	06/19/14
2580-00023-05AA	04/01/10	11/13/11
2580-00023-05	06/04/09	03/31/10



## II.

On or about August 1, 2012, a Risk Management Plan inspection was conducted at the facility to determine the Respondent's degree of compliance with the Act, the Air Quality Regulations, and all applicable permits.

While the Department's investigation is not complete, the following violations were noted during the course of the inspection:

- A. During the course of the inspection, the inspector noted that the Respondent failed to perform a pre-startup safety review (PSSR) required for new stationary sources or modified stationary sources when the modification is significant enough to require a change in the process safety information. The Respondent failed to perform a PSSR for Modification of Change (MOC) 0102416, the removal of a switch on number one (1) pump and installation of a blind flange, and MOC 00056041, the upgrade of Reactor 1 capacity from a 1" pipe to a 1.5" pipe. Each failure to perform a PSSR after a significant modification is a violation of 40 CFR 68.77(a), which language has been incorporated by reference as Louisiana regulation LAC 33:III.5901.A, Specific Requirement 53 of Permit No. 2580-00023-06, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2). In correspondence dated August 15, 2012, the facility confirmed that PSSRs were conducted on MOC 0102416 and 00056041.
  
- B. During the course of the inspection, the inspector noted that the Respondent failed to document each inspection and test that had been performed on process equipment. At the time of the inspection, documentation of vibration tests performed prior to April 2012 was unavailable for pumps P-R901 and P-R104. Each failure to provide documentation of monthly vibration tests for the pumps P-R901 and P-R104 is a violation of 40 CFR 68.73(d)(4), which language has been incorporated by reference as Louisiana regulation LAC 33:III.5901.A, Specific Requirement 53 of Permit No. 2580-00023-06, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

## III.

An Incident Investigation was conducted on or about November 22, 2013, following a November 4, 2013 incident with a subsequent file review conducted on March 26, 2015. The inspection

and file review were to determine the Respondent's degree of compliance with the Act, the Air Quality Regulations, and all applicable permits. While the review is not complete, the Department noted the violations found in Paragraphs IV-VI of the Findings of Fact portion of this enforcement action.

IV.

The Respondent reported the following unauthorized releases:

	REPORT (date)	PERMIT-NUMBER	INCIDENT DATE (duration)	POLLUTANTS RELEASED	REPORTABLE QUANTITY (lbs)	QUANTITY REPORTED (lbs)	REPORTED CAUSE	REGULATORY or PERMIT REQUIREMENTS
A.	Unauthorized Discharge Notification Report for Incident 144163 (09/17/12)	2580-00023-06	09/11/12 (~40 min)	Ethylene Oxide	10	between 52-1872	An open vent valve connected to the unloading system (human error) and gasket material failure	LAC 33:III.905
B.	Unauthorized Discharge Notification Report for Incident 148126 (04/22/13)	2580-00023-06	04/16/13 (1.5 hr)	Ethylene oxide	10	53.7	Poor assembly of dry break fitting by manufacturer	LAC 33:III.905
C.	Unauthorized Discharge Notification Report for Incident 152139 (11/08/13)	2580-00023-06	11/04/13 (5 sec)	Ethylene Oxide	10	31	Operator error; open valve	LAC 33:III.905

The September 11, 2012, and November 4, 2013 incidents were both reported as preventable. Each unauthorized release of emissions is a violation of any applicable permit and associated requirement(s) listed above, LAC 33:III.501.C.2, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

V.

- A. On or about June 20, 2009, the Respondent verbally notified the Department of a release at the facility. According to the Department's incident report (Incident 115840), an equipment malfunction caused the Ethane Unit to shut down and release approximately ten (10) pounds of ethane. The air monitors did not detect any combustibles. The Respondent did not submit a written notification report following the release. Failure to submit a written notification report within seven (7) days after the unauthorized release is a violation of LAC 33:I.3925.A, LAC 33:III.927.A, and La. R.S. 30:2057(A)(2).
- B. On or about June 13, 2013, the Respondent verbally notified the Department of a release at the facility. According to the Department's incident report (Incident 149093), propylene oxide was released to the air due to a pneumatic valve actuator malfunctioning.

did not submit a written notification report following the release. Failure to submit a written notification report within seven (7) days after the unauthorized release is a violation of LAC 33:I.3925.A, LAC 33:III.927.A, and La. R.S. 30:2057(A)(2).

VI.

The Respondent failed to meet the following reporting requirements:

	REPORT (date)	PERMIT NUMBER	REPORTING REQUIREMENT	DUE DATE	SUBMITTAL DATE/DESCRIPTION	REGULATORY or PERMIT REQUIREMENTS
A.	2009 Annual Vent Scrubber Report	2580-00023-05	Report due annually by the 31 <sup>st</sup> of March for the preceding calendar year	March 31, 2010	Not submitted	Specific Requirement 8
B.	2010 Annual Vent Scrubber Report (04/14/11)	2580-00023-05AA	Report due annually by the 31 <sup>st</sup> of March for the preceding calendar year	March 31, 2011	Postmarked 04/14/11	Specific Requirement 8
C.	2010 Annual Emissions Inventory Report	2580-00023-05AA	Emission Inventory(EI)/Annual Emissions Statement and Certification Statement due annually by April 30 for the previous year	April 30, 2011	Certification statement postmarked 05/16/11	LAC 33:III.919.F.1.d Specific Requirement 56
D.	2011 Annual Vent Scrubber Report (03/31/12)	2580-00023-06	Report due annually by the 31 <sup>st</sup> of March for the preceding calendar year	March 31, 2012	Postmarked 04/02/12	Specific Requirement 15
E.	2012 2 <sup>nd</sup> Semiannual LDAR report	2580-00023-06	Report due semiannually by the 31 <sup>st</sup> of January and July	January 31, 2013	Not submitted	LAC 33:III.2121.F Specific Requirement 44
F.	2012 Annual Vent Scrubber Report (03/31/13)	2580-00023-06	Report due annually by the 31 <sup>st</sup> of March for the preceding calendar year	March 31, 2013	Postmarked 04/01/13	Specific Requirement 15
G.	Inspection (11/22/13)	2580-00023-06	Written reports for any unauthorized discharge that requires notification shall be submitted within seven (7) calendar days after expiration of the time allowed for notification	November 11, 2013	Postmarked 11/12/13	LAC 33:I.3925.A LAC 33:III.927.A
H.	Inspection (11/22/13)	2580-00023-06	Written notification reports required to include but not limited to requirements in LAC 33:I.3925.B	November 11, 2013	Report lacks required information	LAC 33:I.3925.B LAC 33:III.927.A
I.	2013 Annual Vent Scrubber Report (03/24/14)	2580-00023-06	Report due annually by the 31 <sup>st</sup> of March for the preceding calendar year	March 31, 2014	Postmarked 04/10/14	Specific Requirement 15

Each failure to meet reporting requirements is a violation of any applicable permit and associated requirement(s) listed above, LAC 33:III.501.C.4 and La. R.S. 30:2057 (A)(2).

## COMPLIANCE ORDER

Based on the foregoing, the Respondent is hereby ordered:

### I.

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

### II.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, the 2012 Second Semiannual Leak Detection and Repair Report for the July 1, 2012-December 31, 2012 reporting period.

### III.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, a detailed Unauthorized Discharge Notification Report for the June 20, 2009, and June 13, 2013 releases. The report should include all the requirements outlined in LAC 33:I.3925.B.

### IV.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, a detailed Unauthorized Discharge Notification Report for the November 4, 2013 incident. The report should include all the requirements outlined in LAC 33:I.3925.B, specifically the cause of the event, the point source and equipment identification number (if applicable) for the release, and determination of whether or not the discharge was preventable.

### V.

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

Office of Environmental Compliance  
Post Office Box 4312  
Baton Rouge, Louisiana 70821-4312  
**Attn: Enforcement Writer**  
**Re: Enforcement Tracking No. AE-CN-14-00568**  
**Agency Interest No. 13560**

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

I.

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

II.

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

Department of Environmental Quality  
Office of the Secretary  
Post Office Box 4302  
Baton Rouge, Louisiana 70821-4302  
**Attn: Hearings Clerk, Legal Division**  
**Re: Enforcement Tracking No. AE-CN-14-00568**  
**Agency Interest No. 13560**

III.

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

IV.

This **COMPLIANCE ORDER** shall become a final enforcement action unless the request for hearing is timely filed. Failure to timely request a hearing constitutes a waiver of the Respondent's right

to a hearing on a disputed issue of material fact or of law under Section 2050.4 of the Act for the violation(s) described herein.

V.

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

VI.

Civil penalties of not more than twenty-seven thousand five hundred dollars (\$27,500) for each day of violation for the violation(s) described herein may be assessed. For violations which occurred on August 15, 2004, or after, civil penalties of not more than thirty-two thousand five hundred dollars (\$32,500) may be assessed for each day of violation. The Respondent's failure or refusal to comply with this **COMPLIANCE ORDER** and the provisions herein will subject the Respondent to possible enforcement procedures under La. R.S. 30:2025, which could result in the assessment of a civil penalty in an amount of not more than fifty thousand dollars (\$50,000) for each day of continued violation or noncompliance.

VII.

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

**NOTICE OF POTENTIAL PENALTY**

I.

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

II.

Prior to the issuance of additional appropriate enforcement action(s), you may request a meeting with the Department to present any mitigating circumstances concerning the violation(s). If you would

like to have such a meeting, please contact Antoinette Cobb at (225) 219-3072 within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

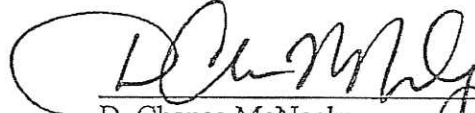
III.

The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue statement along with a statement of the monetary benefits of noncompliance for the cited violation(s) to the above named contact person within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**. Include with your statement of monetary benefits the method(s) you utilized to arrive at the sum. If you assert that no monetary benefits have been gained, you are to fully justify that statement.

IV.

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

Baton Rouge, Louisiana, this 13 day of July, 2015.

  
\_\_\_\_\_  
D. Chance McNeely  
Assistant Secretary  
Office of Environmental Compliance

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

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

JOHN BEL EDWARDS  
GOVERNOR



CHUCK CARR BROWN, Ph.D.  
SECRETARY

**State of Louisiana**  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OFFICE OF ENVIRONMENTAL COMPLIANCE

June 17, 2016

CERTIFIED MAIL (7004 2510 0005 5763 0461)  
RETURN RECEIPT REQUESTED

**AIR PRODUCTS PERFORMANCE MANUFACTURING, INC.**  
c/o C T Corporation System  
Agent for Service of Process  
3867 Plaza Tower Drive  
Baton Rouge, LA 70816

**RE: AMENDED CONSOLIDATED COMPLIANCE ORDER &  
NOTICE OF POTENTIAL PENALTY  
ENFORCEMENT TRACKING NO. AE-CN-14-00568A  
AGENCY INTEREST NO. 13560**

Dear Sir:

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

Any questions concerning this action should be directed to Antoinette Cobb at (225) 219-3072 or via email at [antoinette.cobb@la.gov](mailto:antoinette.cobb@la.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Celena J. Cage".

Celena J. Cage  
Administrator  
Enforcement Division

CJC/AFC/afc  
Alt ID No. 2580-00023  
Attachment





c: Air Products Performance Manufacturing, Inc.  
c/o Mr. Artis Williams, Plant Manager  
474 West 19<sup>th</sup> Street  
Reserve, LA 70084