

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

W. R. GRACE & CO. - CONN

AI # 1251

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

* Settlement Tracking No.
* SA-AE-16-0011
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* Enforcement Tracking No.
* AE-PP-12-00815
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SETTLEMENT

The following Settlement is hereby agreed to between W. R. Grace & Co. – Conn. (“Respondent”) and the Department of Environmental Quality (“DEQ” or “the Department”), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. (“the Act”).

I

Respondent is a corporation that owns and/or operates a fluid cracking catalysts manufacturing facility located in Calcasieu Parish, Louisiana (“the Facility”).

II

On September 26, 2013, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. **AE-PP-12-00815**, which was based upon the following findings of fact:

“On or about August 30, 2011, and June 11, 2012, inspections of Lake Charles Facility, a fluid cracking catalysts manufacturing facility, owned and/or operated by W. R. Grace & Co. – Conn. (RESPONDENT), were performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Air Quality Regulations. The facility is

located at 1800 Davison Road in Sulfur, Calcasieu Parish, Louisiana. The facility currently operates under Title V Permit No. 0520-00001-V12 issued on or about March 18, 2013, and Prevention of Significant Deterioration (PSD) permit PSD-LA-610 issued on or about April 3, 1997.

While the investigation by the Louisiana Department of Environmental Quality (the Department) is not yet complete, the following violations were noted during the course of the inspections and a subsequent file review conducted by the Department on or about June 17, 2013:

- A. During the course of the August 30, 2011, inspection, the inspector noted that the Respondent had an Unauthorized Discharge, LDEQ Incident No. T-129610, on February 10, 2011. According to the Respondent's Unauthorized Discharge Report dated March 9, 2011, and First Half 2011 Semiannual Monitoring Report dated August 12, 2011, 7767 Stack for 6769 SCR and 6764 Fugitive Baghouse (Emission Source No. RLP 0004) exceeded its maximum hourly nitrogen oxide (NO_x) permit limit by approximately 63 pounds. The duration of this event was five (5) hours. The exceedance of the maximum pounds per hour permit limit for NO_x from Emission Source No. RLP 0004 is a violation of Title V Permit No. 0520-00001-V11AA, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- B. According to the Respondent's Second Half 2011 Semiannual Monitoring Report dated February 29, 2012, the Respondent reported that on August 9, 2011, it discovered the NOMEX bags installed on 6730 Baghouse on Recycle Day Bin 1730 (Emission Point No. EQT 0077), 6751 Baghouse on Impregnator Surge Bin 1751 (Emission Point No. EQT 0113), and 7767 Stack for 6769 SCR & 6764 Fugitive Baghouse (Emission Point

No. RLP 0004) were not guaranteed for 99.9% control efficiency. Furthermore, the Respondent reported that these are the same type bags that had been installed in these baghouses since they were put into service in 1998 in its HPC plant. The Respondent reported the results of analysis indicated the overall baghouse efficiency had actually been 99.82%. The Respondent reported that on August 10, 2011, HPC operations were shut down, and new filter bags with a control efficiency of 99.9% were installed and the operations of the HPC were restarted on August 14, 2011. Additionally, the Respondent reported no permit limits for these emission points for any year since beginning their operation were exceeded. The failure to operate Emission Point Nos. EQT 0077, EQT 0113, and RLP 0004 with a control efficiency of 99.9% from nickel impregnated particles is a violation of LAC 33:III.5109, Title V Permit Nos. 0520-00001-V11AA, 0520-00001-V11, 0520-00001-V10, 0520-00001-V9, 0520-00001-V8, 0520-00001-V7, 0520-00001-V6, 0520-00001-V5, 0520-00001-V4, 0520-00001-V3, 0520-00001-V2, and 0520-00001-V1, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

- C. According to the Respondent's cover letter for 2011 Annual Compliance Certification dated February 29, 2012, the Respondent reported that it had been in continuous compliance with applicable regulations and permit terms and conditions listed in Title V Permit No. 0520-00001-V11AA for 2011. However, the Respondent reported deviations in its First Half 2011 Semiannual Monitoring Report dated August 12, 2011, and Second Half 2011 Semiannual Monitoring Report dated February 29, 2012. The Respondent's failure to include or clearly reference the communications or correspondences constituting the prior report, including the date the prior report was submitted, in the corresponding Annual Compliance Certification is a violation of Part 70 General

Condition M, Title V Permit No. 0520-00001-V11AA, LAC 33:III.507.H.5, LAC 33:III.501.C.4, and La. R.S.2057(A)(2).

- D. During the course of the June 11, 2012, inspection, the inspector noted that the Respondent had an Unauthorized Discharge, LDEQ Incident No. T-139658, on May 11 through 12, 2012. According to the Respondent's Unauthorized Discharge Report dated May 17, 2012, and the First Half 2012 Semiannual Monitoring Report dated August 29, 2012, the ammonia absorber did not have enough flow to recover ammonia from the gases entering the absorber system, and the interlock of the absorber system did not function. The Respondent reported that approximately 404 pounds of ammonia were released above the maximum pound per hour permit limit for 6233 Z-14 Ammonia Absorber (Emission Point No. EQT 0044) for 5.55 hours. The exceedance of the maximum pounds per hour permit limit for ammonia from Emission Source No. EQT 0044 is a violation of Title V Permit No. 0520-00001-V11AA, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2). During the course of the inspector's investigation, the inspector noted that this incident occurred due to operator inattention and the failure to follow established operating procedures, and therefore, the Respondent reported this unauthorized discharge as preventable. This is a violation of LAC 33:III.905 which states, "When facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities, even though the ambient air quality standards in affected areas are not exceeded." Control equipment as defined by LAC 33:III.111 is "any device or contrivance, operating procedure or abatement scheme used to prevent or reduce air pollution."

E. According to the Respondent's cover letter for 2012 Annual Compliance Certification dated March 21, 2013, the Respondent reported that it had been in continuous compliance with applicable regulations and permit terms and conditions listed in Title V Permit No. 0520-00001-V11AA for 2012. However, the Respondent reported deviations in its First Half 2012 Semiannual Monitoring Report dated August 29, 2012. The Respondent's failure to include or clearly reference the communications or correspondences constituting the prior report, including the date the prior report was submitted, in the corresponding Annual Compliance Certification is a violation Part 70 General Condition M, Title V Permit No. 0520-00001-V11AA, LAC 33:III.507.H.5, LAC 33:III.501.C.4, and La. R.S.2057(A)(2)."

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 SIX THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$6,500.00), of which Four Hundred Thirty-One and 39/100 Dollars (\$431.39) 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), 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 Calcasieu 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 electronic funds transfer (EFT) and/or 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.

W. R. GRACE & CO. - CONN.

BY: 
(Signature)

Hyun Brossett
(Printed)

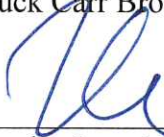
TITLE: Asst. Plant Manager

THUS DONE AND SIGNED in duplicate original before me this 6th day of January, 20 17, at Lake Charles, LA.



NOTARY PUBLIC (ID # 64664)

Jennifer D. Couderc
(stamped or printed)


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

BY: 
Lourdes Iturralde, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 5th day of April, 20 17, at Baton Rouge, Louisiana.


NOTARY PUBLIC (ID # 19181)

Perry Theriot
(stamped or printed)

Approved: 
Lourdes Iturralde, Assistant Secretary