

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

MEXICHEM FLUOR INC.

AI # 14535

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

* Settlement Tracking No.
* SA-AE-17-0060
*
* Enforcement Tracking No.
* AE-CN-15-00589
*
* Docket No. 2017-3284-EQ
*

SETTLEMENT

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

I

Respondent is a corporation that owns and/or operates a refrigerant gas manufacturing facility located in Iberville Parish, Louisiana (“the Facility”).

II

On January 4, 2016, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. AE-CN-15-00589 (Exhibit A).

The following violations, although not cited in the foregoing enforcement action(s), are included within the scope of this settlement.

A. According to correspondence from the Respondent dated February 19, 2016, the scrubber water recirculation flow was lower than the required minimum of 31,500 lb/hr for 71 minutes on June 5, 2015. According to Air Permit No. 1280-00040-09 and Specific Requirement 19

the Scrubber water section recirculation flow rate \geq 31,500 lb/hr. This is a violation of LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1), and 30:2057(A)(2).

- B. According to correspondence from the Respondent dated February 19, 2016, the scrubber water recirculation flow was lower than the required minimum of 31,500 lb/hr for 92 minutes on July 16, 2015. According to Air Permit No. 1280-00040-09 and Specific Requirement 19 the Scrubber water section recirculation flow rate \geq 31,500 lb/hr. This is a violation of LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1), and 30:2057(A)(2).

III

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

IV

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

V

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of FIVE THOUSAND FIVE HUNDRED AND NO/100 DOLLARS , of which Six Hundred Thirty-Six and 85/100 Dollars (\$636.85) 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).

VI

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

VII

This 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.

IIIV

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.

IX

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

X

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Iberville 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.

XI

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 B).

XII

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

XIII

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

Mexichem Fluor Inc.

BY: Robert E Holden
(Signature)

Robert E Holden
(Printed)

TITLE: Attorney in Merchen

THUS DONE AND SIGNED in duplicate original before me this 13th day of March, 20 18, at New Orleans, Louisiana.

Elise Henry
NOTARY PUBLIC (ID # 36118)

ELISE M. HENRY
Attorney/Notary Public
La. Bar Roll No. 36118
State of Louisiana
(stamped or printed)
My Commission is issued for Life

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

BY: [Signature]
Lourdes Iturralde, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 27th day of June, 20 18, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 19181)

Perry Theriot
(stamped or printed)

Approved: [Signature]
Lourdes Iturralde, Assistant Secretary

BOBBY JINDAL
GOVERNOR



PEGGY M. HATCH
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

January 4, 2016

CERTIFIED MAIL (7004 2510 0005 5763 2069)
RETURN RECEIPT REQUESTED

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

RE: **CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. AE-CN-15-00589
AGENCY INTEREST NO. 14535**

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 **MEXICHEM FLUOR INC. (RESPONDENT)** for the violations described therein.

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

Any questions concerning this action should be directed to Pascal Ojong at (225) 219-4468.

Sincerely,

Celena J. Cage
Administrator
Enforcement Division

CJC/PON/pon
Alt ID No. 1280-00040
Attachment



c: Mexichem Fluor Inc.
c/o Joel Hall
P.O. Box 30
St. Gabriel, LA 70776

STATE OF LOUISIANA
 DEPARTMENT OF ENVIRONMENTAL QUALITY
 OFFICE OF ENVIRONMENTAL COMPLIANCE

IN THE MATTER OF

MEXICHEM FLUOR INC.
 IBERVILLE PARISH
 ALT ID NO. 1280-00040

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

*	
*	
*	ENFORCEMENT TRACKING NO.
*	
*	AE-CN-15-00589
*	
*	AGENCY INTEREST NO.
*	
*	14535
*	

CONSOLIDATED
COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY

The following CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY is issued to MEXICHEM FLUOR 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 KLEA-134a Plant (the Facility), a refrigerant gas manufacturing plant, located at 4990B ICI road in St. Gabriel, Iberville Parish, Louisiana. The Facility operates or has operated under the authority of the following Air Permits:

PERMIT	ISSUE DATE
1280-00040-08	9/6/2007
1280-00040-09	12/14/2011

II.

On or about June 5, 2015, the Department conducted a file review to determine the Respondent's degree of compliance with the Act and the Air Quality Regulations.

While the Department's investigation is not yet complete, the following violations were found in paragraphs III-V of the Findings of Fact portion of this enforcement action:

III.

The Respondent reported the following violations from permitted operating parameters:

	REPORT (date)	PERMIT NUMBER	EMISSION POINT	INCIDENT DATE (duration)	OPERATING PARAMETER	REPORTED CAUSE	REGULATORY or PERMIT REQUIREMENTS
A.	2010 Annual Report for sources 8-90 and 14-90 3/28/2011	1280-00040-08	Relief Vent Scrubber EQT0006	4/1/2010- 12/31/2010 2.30hrs	Recirculation water flow rate shall be a minimum of 3,000gpm	The suction strainers for the relief vent scrubber recirculation pumps were plugged	Specific Requirement 10
				4/1/2010- 12/31/2010 0.06hrs	Make-up water flow rate 5gpm	The make-up flow rate was below the required minimum due to the time it took the DCS Operator to establish the required minimum make-up flow after receiving an alarm that the conductivity had reached 1500 μ s/cm	
B.	2012 Annual Report for sources 8-90 and 14-90 3/12/2013	1280-00040-09	Thermal Oxidizer EQT0002	(*Report incident date) 1.28hrs	Scrubber water section recirculation flow rate \geq 31,500 lb/hr	The suction strainers for the scrubber water section recirculation pumps were plugged	Specific Requirement 19

Each failure to operate according to permitted requirements is a violation of any applicable permit and associated requirement(s) listed above, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1), and 30:2057(A)(2).

IV.

In an Unauthorized Discharge Notification Report dated March 21, 2011, the Respondent reported that, on or about March 6, 2011, at approximately 12:00pm the Facility experienced a release of 15,500lbs of Chlorodifluoromethane (Refrigerant gas R-22) to the atmosphere due to a break in a piping connection on a process refrigeration compressor. The unauthorized discharge of Chlorodifluoromethane is a violation of Air Permit No. 1280-00040-08, LAC 33:III.501.C.2, La. R.S. 30:2057(A)(1), and 30:2057(A)(2).

V.

On or about July 8, 2014, through July 10, 2014, a Chemical Action Prevention Plan (CAPP) inspection of the Respondent's facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations.

While the Department's investigation is not yet complete, the following violation was noted during the course of the inspection:

The Facility's mechanical integrity inspection procedures and frequency of piping inspections failed to meet generally accepted good engineering practices. The Facility could not provide the INS 21 form that describes what type of pipe inspections and frequency of inspections the Facility has determined as appropriate. There was a radiograph inspection in August 2013 for pipe PR01 (1-10) but the Facility had not set acceptable criteria, therefore the Facility was not using good engineering practices. In addition, there was a lack of sufficient inspection points and no prior thickness monitoring. Pipe RP02 used a pit gauge to check some random locations which is not considered a good engineering practice as a primary method of monitoring corrosion. There was a limited radiograph of six points in August 2013 and a radiograph in October 2013 for a small area of the circuit. This left large areas with no evaluation resulting in insufficient data points. RP4002 is insulated and has no inspection ports. In November 2011, eleven points were radiographed, and this is insufficient to be considered a full monitoring inspection. Each failure to establish the inspection procedures and frequency of piping inspections that meet generally accepted good engineering practices is a violation of 40 CFR 68.73(d)(2) and (3), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A; La. R.S. 30:2057(A)(2). In correspondence dated July 30, 2014, and September 23, 2014, the Respondent reported appropriate actions taken to address the above violations.

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 sixty (30) days after receipt of this **COMPLIANCE ORDER**, a written report that includes required information as denoted by asterisk (*) in paragraph III of the Findings of Fact.

III.

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: Pascal Ojong
Re: Enforcement Tracking No. AE-CN-15-00589
Agency Interest No. 14535

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-15-00589
Agency Interest No. 14535

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 Pascal Ojong at (225) 219-4468 within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

III.

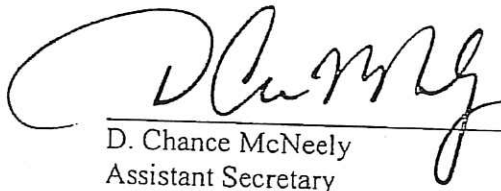
The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue statement 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 4 day of January, 2016


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: Pascal Ojong