

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

OCCIDENTAL CHEMICAL
CORPORATION

AI # 3400

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

* Settlement Tracking No.
* SA-HE-19-0072
*
*
* Enforcement Tracking No.
* HE-CN-13-00728
*
*
* Docket No. 2015-4910-EQ
*

SETTLEMENT

The following Settlement is hereby agreed to between Occidental Chemical Corporation (“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 facility located in Geismar, Ascension Parish, Louisiana.

II

On January 6, 2014, the Department issued to Respondent a Consolidate Compliance Order & Notice of Potential Penalty, Enforcement No. HE-CN-13-00728 (Exhibit 1).

III

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

IV

The Department issued an "Enforcement Division Memo to the File" dated November 25, 2019, with respect to the violations alleged in paragraph II.A of the Consolidated Compliance Order & Notice of Potential Penalty, wherein the Department concurs with the Respondent's position that the secondary containment for Respondent's <90-day hazardous waste tank designated as DR-2227 was being operated in full compliance with LAC 33:V.B.2 at the time of the June 23, 2013 inspection, and the Department will not pursue any civil penalties for the violations cited in the Consolidated Compliance Order & Notice of Potential Penalty relating to DR-2227 and its associated secondary containment systems.

V

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

VI

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 TWO THOUSAND FIVE HUNDRED SEVENTEEN AND 78/100 DOLLARS (\$2,517.78), of which One Thousand Five Hundred Seventeen and 78/100 Dollars (\$1,517.78) 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).

VII

Respondent further agrees that the Department may consider the inspection report(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. It is expressly understood and agreed, however, neither paragraph II.A of the Consolidated Compliance Order & Notice of Potential Penalty, nor portions of the inspection reports related thereto, shall be considered for purposes of determining Respondent's compliance history.

VIII

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.

IX

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.

X

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.

XI

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

XII

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).

XIII

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

XIV

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.

OCCIDENTAL CHEMICAL CORPORATION

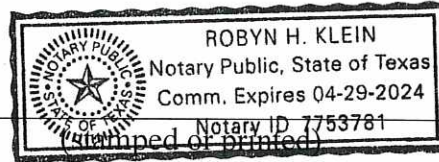
BY: *Neil R. Ackerman*
Neil R. Ackerman

NEIL R. ACKERMAN
(Printed)

TITLE: Senior Vice President
Manufacturing & Licensing

THUS DONE AND SIGNED in duplicate original before me this 26th day of August, 2020, at _____.

Robyn H. Klein
NOTARY PUBLIC (ID # 7753781)

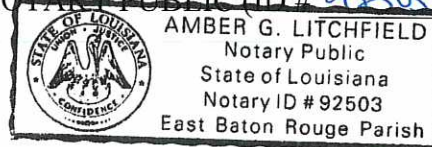


LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Chuck Carr Brown, Ph.D., Secretary

BY: *Lourdes Iturralde*
Lourdes Iturralde, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 30th day of November, 2020, at Baton Rouge, Louisiana.

Amber G. Litchfield
NOTARY PUBLIC (ID # 92503)



(stamped or printed)

Approved: *Lourdes Iturralde*
Lourdes Iturralde, Assistant Secretary



BOBBY JINDAL
GOVERNOR

PEGGY M. HATCH
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

January 6, 2014

CERTIFIED MAIL (7004 1160 0000 3803 3806)
RETURN RECEIPT REQUESTED

OCCIDENTAL CHEMICAL CORPORATION

c/o C T Corporation System
Agent for Service of Process
5615 Corporate Blvd., Ste. 400B
Baton Rouge, Louisiana 70808

**RE: CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. HE-CN-13-00728
AGENCY INTEREST NO. 3400**

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 **OCCIDENTAL CHEMICAL CORPORATION (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 Alissa Cockerham at (225) 219-1423.

Sincerely,

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

Celena J. Cage
Administrator
Enforcement Division

CJC/ARC/arc
Alt ID No. LAD092681824
Attachment



**STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE**

IN THE MATTER OF	*	
	*	
OCCIDENTAL CHEMICAL CORPORATION	*	ENFORCEMENT TRACKING NO.
ASCENSION PARISH	*	
ALT ID NO. LAD092681824	*	HE-CN-13-00728
	*	
	*	AGENCY INTEREST NO.
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT,	*	3400
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 **OCCIDENTAL CHEMICAL CORPORATION (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 Occidental Chemical Corporation located at 8318 Ashland Road in Geismar, Ascension Parish, Louisiana. The facility is a large quantity generator and a permitted TSD facility, which operates under EPA facility identification number LAD092681824. Hazardous Waste Permit LAD092681824 was effective on or about October 10, 2009. The facility's post closure permit was effective on or about December 27, 2012.

II.

On or about June 27, 2013, an inspection was conducted by a representative of the Department which revealed the following violations:

- A. The Respondent failed to operate secondary containment systems to be capable of detecting and collecting releases and accumulated liquids until the collected material

is removed in accordance with LAC 33:V.1907.B.2, in violation of LAC 33:V.1109.E.1.a.ii. Specifically, the secondary containment dike for <90-day Tank DR-2227, and the shared secondary containment dike for <90-day Tank DR-0073A and Tank DR-0073B pumps automatically into the wastewater treatment system and therefore, are not capable of detecting and collecting releases and accumulated liquids until the collected material is removed.

- B. The Respondent failed to take precautions to prevent accidental ignition of ignitable waste, in violation of LAC 33:V.1517.A and Hazardous Waste Operating Permit Condition III.A.1. Specifically, there was no grounding device for a 55-gallon steel satellite accumulation drum storing ignitable spent paint thinner (D001/D008/F002/F003/F005).
- C. The Respondent failed to at all times properly operate and maintain all facilities and systems of treatment and control which are installed or used by the permittee to achieve compliance with the conditions of the permit, in violation of LAC 33:V.309.E.1 and Post-Closure Permit Condition II.E.6. Specifically, the security fence on the south boundary of the inactive landfill (SWMU 22 in the RMP) had a broken top rail, was leaning and missing a line post.
- D. The Respondent failed to update the hazardous waste contingency plan to include the names, addresses, and phone numbers of all persons qualified to act as emergency coordinator, in violation of LAC 33:V.1513.B.4. Specifically, the hazardous waste contingency plan had not been updated to remove an employee (emergency coordinator) who had left the facility. This violation was corrected when the plan was amended on July 10, 2013.

COMPLIANCE ORDER

Based on the foregoing, the Respondent is **hereby ordered**:

I.

To provide, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, secondary containment systems for all hazardous waste tanks which are capable of detecting and collecting releases and accumulated liquids until the collected material is removed in accordance with LAC 33:V.1907.B.2.

II.

To immediately provide, upon receipt of this **COMPLIANCE ORDER**, a grounding device for the 55-gallon steel satellite accumulation drum storing ignitable spent paint thinner, in accordance with LAC 33:V.1517.A.

III.

To replace or repair, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, the security fence on the south boundary of the inactive landfill.

IV.

To take, immediately upon receipt of this **COMPLIANCE ORDER**, any and all steps necessary to meet and maintain compliance with the Hazardous Waste Regulations and the effective Hazardous Waste Operating and Post Closure Permits.

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: Alissa Cockerham
Re: Enforcement Tracking No. HE-CN-13-00728
Agency Interest No. 3400

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. HE-CN-13-00728
Agency Interest No. 3400

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 Alissa Cockerham at (225) 219-1423 within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

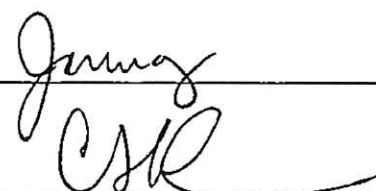
III.

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 06 day of January, 201~~2~~⁴.


Cheryl Sonnier Nolan
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: Alissa Cockerham