

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

DELTECH CORPORATION

AI # 248

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

* **Settlement Tracking No.**
* **SA-AE-09-0037**
*
* **Enforcement Tracking No.**
* **AE-CN-07-0095**
*
* **Docket No. 2008-9943-EQ**
*

SETTLEMENT

The following Settlement is hereby agreed to between Deltech 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 chemical manufacturing plant facility located in Baton Rouge, East Baton Rouge Parish, Louisiana ("the Facility").

II

On August 11, 2008, the Department issued to Respondent a Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. AE-CN-07-0095, which was based upon the following findings of fact:

The Respondent owns and/or operates the Deltech Facility, a chemical manufacturing plant located at 11911 Scenic Highway in Baton Rouge, East Baton Rouge Parish, Louisiana. The facility currently operates under Title V Permit No. 0840-00006-V4, issued on May 1, 2008.

On or about June 15 and June 26, 2006, an inspection and file review of the Respondent's facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations.

The following violations were noted during the course of the inspection and file review:

- A. Under cover letter dated May 26, 2005, the Respondent submitted the report for stack testing of Emission Point HB-512 that was conducted on or about March 30, 2005. According to this report, Emission Point HB-512 emitted an average of 18.742 pounds of nitrogen oxides (NO_x) per hour during the test. This exceeds the maximum pound per hour limit set forth in Title V Permit No. 0840-00006-V2, or 17.22 pounds of NO_x per hour. The exceedance of the maximum pound per hour limit is a violation of Title V Permit No. 0840-00006-V2, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- B. Under cover letter dated September 14, 2005, the Respondent submitted the report for stack testing of Emission Points HB-512 and HB-513 that was conducted on or about June 14, 2005. According to this report, Emission Point HB-512 emitted an average of 23.696 pounds of carbon monoxide (CO) per hour during the test. This exceeds the maximum pound per hour limit set forth in Title V Permit No. 0840-00006-V2, or 15.12 pounds of CO per hour. The exceedance of the maximum pound per hour limit is a violation of Title V Permit No. 0840-00006-V2, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- C. Under cover letter dated February 16, 2006, the Respondent submitted the report for stack testing of Emission Point HB-512 that was conducted on or about May 19, 2005. According to this report, Emission Point HB-512 emitted an average of 18.913 pounds of NO_x per hour during the test. This exceeds the maximum pound per hour limit set forth in Title V Permit No. 0840-00006-V2, or 17.22 pounds of NO_x per hour. The exceedance of the maximum pound per hour limit is a violation of Title V Permit No. 0840-00006-V2, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- D. According to the Respondent's Part 70 Annual Compliance Certification for the period encompassing January through December 2005, dated March 23, 2006, visible emissions were observed from the Flare System (Emission Point GQ-001) for periods exceeding five (5) minutes in a twenty-four (24) hour period on April 6, April 7, August 8, October 7, December 27, December 28, and December 29, 2005. By letter dated May 28, 2008, the Respondent clarified that, on each of the abovementioned dates, visible emissions were observed from the Flare System for periods exceeding five (5) minutes in a two (2) hour period. Each two (2) hour period during which there were visible emissions from the Flare System for five (5) or more

minutes is a violation of 40 CFR 60.18(c)(1) which language has been adopted as a Louisiana regulation in LAC 33:III.3003; 40 CFR 63.11(b)(4) as required by 40 CFR 63.113(a)(1)(i) and which language has been adopted as a Louisiana regulation in LAC 33:III.5122; Part 70 Specific Condition Nos. 1 and 4 of Title V Permit No. 0840-00006-V2; LAC 33:III.501.C.4; LAC 33:III.5109.A; La. R.S. 30:2057(A)(1); and 30:2057(A)(2).

On or about May 15, May 18, and May 30, 2007, an inspection of the Respondent's facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations.

The following violations were noted during the course of the inspection:

- A. At the time of the inspection, the Respondent was not monitoring the presence of a flare pilot flame in the Flare System (Emission Point GQ-001), at all times, using a thermocouple or any other equivalent device. This is a violation of 40 CFR 60.18(f)(2) which language has been adopted as a Louisiana regulation in LAC 33:III.3003; 40 CFR 60.663(b)(1) which language has been adopted as a Louisiana regulation in LAC 33:III.3003; 40 CFR 63.987(c) as required by 40 CFR 63.2450(e)(2) and which language has been adopted as a Louisiana regulation in LAC 33:III.5122; 40 CFR 63.11(b)(5) as required by 40 CFR 63.113(a)(1)(i) and which language has been adopted as a Louisiana regulation in LAC 33:III.5122; Part 70 Specific Condition Nos. 1 and 4 of Title V Permit No. 0840-00006-V3; LAC 33:III.501.C.4; LAC 33:III.5109.A; and La. R.S. 30:2057(A)(2).
- B. At the time of the inspection, the Respondent had not determined the actual exit velocity of the Flare System (Emission Point GQ-001) using the Reference Methods of New Source Performance Standards, 40 CFR 60, Appendix A. This is a violation of 40 CFR 60.8(a) which language has been adopted as a Louisiana regulation in LAC 33:III.3003; 40 CFR 63.7(a)(2) as required by 40 CFR 63.2540 and which language has been adopted as a Louisiana regulation in LAC 33:III.5122; Part 70 Specific Condition Nos. 1 and 4 of Title V Permit No. 0840-00006-V3; LAC 33:III.501.C.4; and La. R.S. 30:2057(A)(2).

The Department received the Respondent's Part 70 Annual Compliance Certification for the period encompassing January through December 2007 on or about April 2, 2008. According to this report, the Respondent has, "installed an Ultra Violet sensor and chart recorder to replace the thermocouple in order to meet the monitoring requirements specified in 40 CFR 60.18," for its Flare System (Emission Point GQ-001).

On or about May 8, 2008, a file review of the Respondent's facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations.

The following violations were noted during the course of the file review:

- A. According to the Respondent's Part 70 Annual Compliance Certification for the period encompassing January through December 2005, dated March 23, 2006, "On September 28, 2005, Light Aromatic Byproduct; which contains benzene, toluene, ethylbenzene, styrene, and xylenes; was put into [monomer storage] tank MV-340." According to Table 2 of Title V Permit No. 0840-00006-V2, LAC 33:III.5109 is not applicable to tank MV-340 because this tank does not store any Toxic Air Pollutants (TAPs). However, benzene, toluene, ethylbenzene, and xylene (mixed isomers) are TAPs as defined in LAC 33:III.5103. Additionally, Title V Permit No. 0840-00006-V2 permitted the Respondent's facility to emit benzene and styrene, a Class I and a Class II TAP, at a rate equal to or greater than the minimum emission rate listed for each pollutant in LAC 33:III.5112, Table 51.1. Accordingly, the Respondent was required to control emissions of benzene and styrene to a degree that constitutes Maximum Achievable Control Technology (MACT) as defined in LAC 33:III.5103 and as approved by the administrative authority. By putting Light Aromatic Byproduct into tank MV-340, the Respondent has failed to control emissions of benzene and styrene to a degree that constitutes MACT and therefore is in violation of State Only Specific Condition No. 1 of Title V Permit No. 0840-00006-V2, LAC 33:III.501.C.4, LAC 33:III.5109.A, and La. R.S. 30:2057(A)(2). On January 4, 2006, the Department issued a temporary change of tank service that allowed the Respondent to store Light Aromatic Byproduct in tank MV-340.
- B. According to the Respondent's Part 70 Annual Compliance Certification for the period encompassing January through December 2005, dated March 23, 2006, "On May 6 and July 26, [2005] Aromatic Light Byproduct was loaded into barges." As stated in Paragraph V.A above, Light Aromatic Byproduct contains benzene, toluene, ethylbenzene, styrene, and xylenes. Title V Permit No. 0840-00006-V2 did not include the loading of this product into barges. On August 24, 2005, the Department approved a variance that allowed the Respondent to load Light Aromatic Byproduct into barges in response to a variance request dated August 18, 2005. The failure of the Respondent to obtain a variance before loading Light Aromatic Byproduct into barges is a violation of Part 70 General Condition C of Title V Permit No. 0840-00006-V2, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).
- C. According to the Respondent's Part 70 Annual Compliance Certification for the period encompassing January through December 2005, dated March 23, 2006, the Respondent has discovered that there are two (2) sulfuric acid tanks on site which are not in the permit. There are also three (3) diesel driven fire

pumps and one (1) diesel emergency generator which are not in the permit. Each emission point that was not permitted is a violation of Part 70 General Condition C of Title V Permit Nos. 0840-00006-V2 and 0840-00006-V3, LAC 33:III.501.C.2, and La. R.S. 30:2057(A)(2). Title V Permit No. 0840-00006-V4, which was issued on May 1, 2008, includes these emission points. These violations were also reported in the Respondent's Part 70 Annual Compliance Certification for calendar years 2006 and 2007.

- D. According to the Respondent's Part 70 Annual Compliance Certification for the period encompassing January through December 2006, dated March 22, 2007, visible emissions were observed from the Flare System (Emission Point GQ-001) for periods exceeding five (5) minutes in a twenty-four (24) hour period on January 6, January 7, January 8, and January 9, 2006. By letter dated May 28, 2008, the Respondent clarified that, on each of the abovementioned dates, visible emissions were observed from the Flare System for periods exceeding five (5) minutes in a two (2) hour period. Each two (2) hour period during which there were visible emissions from the Flare System for five (5) or more minutes is a violation of 40 CFR 60.18(c)(1) which language has been adopted as a Louisiana regulation in LAC 33:III.3003; 40 CFR 63.11(b)(4) as required by 40 CFR 63.113(a)(1)(i) and which language has been adopted as a Louisiana regulation in LAC 33:III.5122; Part 70 Specific Condition Nos. 1 and 4 of Title V Permit No. 0840-00006-V2; LAC 33:III.501.C.4; LAC 33:III.5109.A; La. R.S. 30:2057(A)(1); and 30:2057(A)(2). According to the report, "Deltech has recently routed a vent stream that used to go to the flare to the boilers. This change is expected to minimize the visible emissions from the flare."
- E. According to the HON Subpart G Periodic Report for the period encompassing September 19, 2006 through March 18, 2007, "[Light Aromatic Byproduct Storage] Tank MV-808, an internal floating roof tank, was left with the roof sitting on its legs from the beginning of the reporting period through January 12, 2007 when the remaining material was removed. The new AP-42 equations for landed roof emission estimated [*sic*] were used to calculate the emission from the tank during that time. Annual emissions from tank MV-808 were below the permitted limits." By letter dated May 28, 2008, the Respondent clarified that, "The roof was landed on 2 occasions. First on February 5, 2006 until February 25, 2006 and again on March 24, 2006 until January 12, 2007." The failure to keep the internal floating roof floating on the liquid surface at all times, except during the periods specified in paragraphs (b)(1)(i) through (b)(1)(iii) of 40 CFR 63.119, is a violation of Part 70 General Condition C of Title V Permit Nos. 0840-00006-V2 and 0840-00006-V3; 40 CFR 63.119(b)(1) which language has been adopted as a Louisiana regulation in LAC 33:III.5122; LAC 33:III.501.C.4; LAC 33:III.5109.A; La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

- F. According to the Respondent's Part 70 Semiannual Monitoring Report for the period encompassing January through June 2006, dated September 24, 2007, "the annual fugitive emissions monitoring conducted during the last quarter of 2006 was reviewed and it was discovered that leaks found during that monitoring period were not tagged as required by 40 CFR 63.181(b)(10)." For each leak that was found and not tagged as required by 40 CFR 63.181(b)(10), this is a violation of 40 CFR 63.181(b)(10) which language has been adopted as a Louisiana regulation in LAC 33:III.5122. It is also a violation of the Part 70 Specific Condition No. 1 of Title V Permit No. 0840-00006-V2 (before October 31, 2006) or 0840-00006-V3 (on or after October 31, 2006), LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2). According to the report, "The leaks that were found were repaired in the required time periods."
- G. According to the Respondent's Part 70 Annual Compliance Certification for the period encompassing January through December 2007, dated March 25, 2008, "our fugitive emissions program was under review as part of compliance order No. AE-C-06-0112 received in September 2006. Deltech contracted with TEAM Industrial Services Inc. to implement and administer our fugitive emissions program. Documentation and monitoring was started in October 2007 and was completed on December 31, 2007. As a result of this effort, TEAM identified 7,635 total components subject to fugitive emission monitoring under 40 CFR 63 Subpart H, LAC 33:III.2122, or LA Non-HON (40 CFR 63 Subpart FFFF). However, upon analysis of the leak data collected during this monitoring period it was determined that the leak rate (1.43 TPY) for this monitoring event exceeded the maximum allowed by our current permit (0.34 TPY)." This exceedance is a violation of Part 70 General Condition C of Title V Permit No. 0840-00006-V3, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1) and 30:2057(A)(2). Title V Permit No. 0840-00006-V4, which was issued May 1, 2008, did not increase the permitted emission limit for Fugitives (FUG001).

III

In response to the Consolidated Compliance Order and 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 THIRTY-TWO THOUSAND AND NO/100 DOLLARS (\$32,000), of which One Thousand Six Hundred Sixteen and 93/100 Dollars (\$1,616.93) represents 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), the Consolidated Compliance Order and 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.

VIII

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 LSA- R. S. 30:2025(E) of the Act

IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in East Baton Rouge Parish, Louisiana. The advertisement, in form, wording, and size 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.

DELTECH CORPORATION

BY: _____
(Signature)

(Print)

TITLE: _____

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20 _____, at _____.

NOTARY PUBLIC (ID # _____)

(Print)

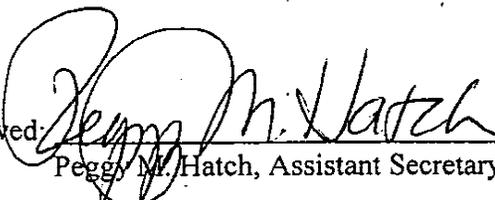
LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Harold Leggett, Ph.D., Secretary

BY: _____
Peggy M. Hatch, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20 _____, at Baton Rouge, Louisiana.

NOTARY PUBLIC (ID # _____)

(Print)

Approved:  _____
Peggy M. Hatch, Assistant Secretary