

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

OUACHITA FERTILIZER COMPANY, LLC

AI # 12666

PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT

LA. R.S. 30:2001, ET SEQ.

* Settlement Tracking No.

* SA-AE-21-0007

* Enforcement Tracking No.

* AE-CN-16-00810

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SETTLEMENT

The following Settlement is hereby agreed to between Ouachita Fertilizer Company, LLC (“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 limited liability company that owns and/or operates a fertilizer production facility located in New Iberia, Iberia Parish, Louisiana (“the Facility”).

II

On December 16, 2016, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. AE-CN-16-00810 (Exhibit 1).

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 TEN THOUSAND AND NO/100 DOLLARS (\$10,000.00), of which One Thousand Sixteen and 72/100 Dollars (\$1,016.72) 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), 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.

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 Iberia 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.

**OUACHITA FERTILIZER COMPANY,
LLC**

BY: *Arthur Carter*
(Signature)

Arthur Carter
(Printed)

TITLE: Risk Manager

THUS DONE AND SIGNED in duplicate original before me this 12th day of May, 2021, at 9:23 Am.

Julie C. Cryder
NOTARY PUBLIC (ID # 666496)

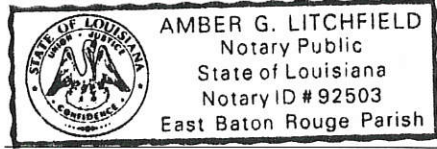
Julie C. Cryder
(stamped or printed)

**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 10th day of August, 2021, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 92503)



(stamped or printed)

Approved: *[Signature]*
Lourdes Iturralde, Assistant Secretary



JOHN BEL EDWARDS
GOVERNOR

CHUCK CARR BROWN, PH.D.
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

December 16, 2016



CERTIFIED MAIL (7004 2510 0006 3852 8182)
RETURN RECEIPT REQUESTED

OUACHITA FERTILIZER COMPANY, LLC
c/o Dixon W. Abell
Agent for Service of Process
2500 Sterlington Road
Monroe, LA 71203

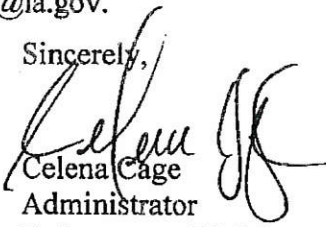
**RE: CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. AE-CN-16-00810
AGENCY INTEREST NO. 12666**

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 **OUACHITA FERTILIZER COMPANY, LLC (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 Dr. Jacqueline Prudente at (225) 219-3378 or via email at jackie.prudente@la.gov.

Sincerely,

Celena Cage
Administrator
Enforcement Division

CJC/JAP/jap
Alt ID No. n/a
Attachment

c: Ouchita Fertilizer Company, LLC
c/o Ross Miguess
3714 Old Spanish Trail E.
New Iberia, LA 70631

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

IN THE MATTER OF

**OUACHITA FERTILIZER COMPANY, LLC
IBERIA PARISH
ALT ID NO. N/A**

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ENFORCEMENT TRACKING NO.

AE-CN-16-00810

AGENCY INTEREST NO.

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

12666

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

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **OUACHITA FERTILIZER COMPANY, LLC (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 Portable T Reactor (the facility), a fertilizer production facility located at 3714 Old Spanish Trail E. in New Iberia, Iberia Parish, Louisiana. The facility does not currently operate under an air permit.

II.

On or about April 26, 2016 and April 27, 2016, a Chemical and Accident Prevention Program (CAPP) inspection was performed at the Respondent's facility 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 violations were noted during the course of the inspection:

- A. During the Process Hazard Analysis (PHA) portion of the inspection, it was observed that the Facility did not conduct a PHA revalidation five years prior to the 2014 PHA revalidation. The failure to conduct a PHA revalidation in 2009 is a violation of LAC 33:III.5901.A which incorporates by reference 40 CFR 68.67(f), and La. R.S. 30:2057(A)(2). In correspondence dated October 4, 2016, the Respondent stated that PHA was conducted on June 6, 2014, and September 22, 2016 for the facility's ammonia, and aqua loading systems, respectively. The correspondence also included the facility's five (5) year schedule for process safety management. According to the schedule, PHA will be conducted on the ammonia system in 2019.
- B. During the Operating Procedures portion of the inspection, it was observed that operating procedures had not been certified as current and accurate for at least the two most recent years. The failure to certify operating procedures annually is a violation of LAC 33:III.5901.A which incorporates by reference 40 CFR 68.69(c), and La. R.S. 30:2057(A)(2). The correspondence dated October 4, 2016 states operating procedures were reviewed and approved on July 13, 2016. According to the facility's schedule for process safety management, operating procedures will be reviewed annually.
- C. During the Mechanical Integrity portion of the inspection, it was observed that the facility had no written plan that identified what test or inspections the ammonia vessels or piping were subject to and the corresponding frequency. The failure to establish written procedures to maintain on-going integrity of process equipment is a violation of LAC 33:III.5901.A which incorporates by reference 40 CFR 68.73(b), and La. R.S. 30:2057(A)(2). The correspondence dated October 4, 2016 included the facility's mechanical integrity plan guide sheet developed by the Respondent on July 26, 2016. The guide sheet lists the type and frequency of tests on the ammonia vessels.
- D. During the Mechanical Integrity portion of the inspection, it was observed that the ammonia mixing vessels received no visual or integrity inspections. The failure to conduct inspections on the ammonia mixing vessels is a violation of LAC 33:III.5901.A which incorporates by reference 40 CFR 68.73(d)(1), and La. R.S. 30:2057(A)(2). In correspondence dated October 4, 2016, the Respondent stated that a third party inspection was conducted on May 26, 2016.
- E. During the Management of Change (MOC) portion of the inspection, it was observed that in 2015, the facility changed the ammonia piping material and added additional pipe. This requires a MOC, but none was performed. This is a violation of LAC 33:III.5901.A which incorporates by reference 40 CFR 68.75(a), and La. R.S. 30:2057(A)(2). In correspondence dated October 4, 2016, the Respondent stated that MOC was performed in 2015, but documentation was created after the fact on May 10, 2016.
- F. During the Pre-Startup Safety Review (PSSR) portion of the inspection, it was observed that in 2015 the facility changed the ammonia piping material and added additional pipe. This requires PSSR, but none was performed. The failure to conduct a PSSR for a

stationary source modification is a violation of LAC 33:III.5901.A which incorporates by reference 40 CFR 68.77(a), and La. R.S. 30:2057(A)(2). In correspondence dated October 4, 2016, the Respondent stated that PSSR was performed in 2015, but documentation was created after the fact on May 10, 2016.

- G. During the Compliance Audit portion of the inspection, it was observed that the facility had not been conducting the required compliance audits every three years. The failure to conduct internal compliance audit is a violation of LAC 33:III.5901.A which incorporates by reference 40 CFR 68.79(a), and La. R.S. 30:2057(A)(2). In correspondence dated October 4, 2016, the Respondent stated that an internal audit was conducted on September 23, 2016, and the next internal audit will be conducted in 2019.

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, and the Air Quality Regulations.

II.

The Respondent shall submit the following to the Enforcement Division, within thirty (30) days upon receipt of this **COMPLIANCE ORDER**:

- a) documentation of the visual or integrity inspection on the ammonia mixing vessels as mentioned in Paragraph II.D,
- b) summary or results of the internal compliance audit as mentioned in Paragraph II.G.

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: Dr. Jacqueline A. Prudente
Re: Enforcement Tracking No. AE-CN-16-00810
Agency Interest No. 12666

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-16-00810
Agency Interest No. 12666

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 Dr. Jacqueline A. Prudente at (225) 219-3378 or via email at jackie.prudente@la.gov 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. If the Respondent chooses not to submit the requested most current annual gross revenues statement within ten (10) days, it will be viewed by the Department as an admission that the Respondent has the ability to pay the statutory maximum penalty as outlined in La. R.S. 30:2025.

IV.

The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter7. To expedite closure of this **NOTICE OF POTENTIAL PENALTY** portion, the Respondent may offer a settlement amount to resolve any claim for civil penalties for the violation(s) described herein. The Respondent may offer a settlement amount, but the Department is under no obligation to enter into settlement negotiations. The decision to proceed with a settlement is at the discretion of the Department. The settlement offer amount may be entered on the attached "**CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY REQUEST TO CLOSE**" form. The Respondent must include a justification of the offer. **DO NOT** submit payment of the offer amount with the form. The Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.


V.

The **NOTICE OF POTENTIAL PENALTY** will not be closed if the Respondent owes outstanding fees to the Department. Please contact the Financial Services Division at 225-219-3865 or via email at _DEQ-WWWFinancialServices@la.gov to determine if you owe outstanding fees.

VI.

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

Baton Rouge, Louisiana, this 16th day of December, 2016.



Lourdes Iturralde
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: Dr. Jacqueline A. Prudente

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
 OFFICE OF ENVIRONMENTAL COMPLIANCE
 ENFORCEMENT DIVISION
 POST OFFICE BOX 4312
 BATON ROUGE, LOUISIANA 70821-4312

CONSOLIDATED COMPLIANCE ORDER &
 NOTICE OF POTENTIAL PENALTY
 REQUEST TO CLOSE



Enforcement Tracking No.	AE-CN-16-00810	Contact Name	Dr. Jacqueline A. Prudente
Agency Interest (AI) No.	12666	Contact Phone No.	(225) 219-3378
Alternate ID No.	N/A		
Respondent:	Ouachita Fertilizer Company, LLC	Facility Name:	Portable T Reactor
	c/o Dixon W. Abell	Physical Location:	3714 Old Spanish Trail E.
	Agent for Service of Process		
	2500 Sterlington Road	City, State, Zip:	New Iberia, LA 70631
	Monroe, LA 71203	Parish:	Iberia

STATEMENT OF COMPLIANCE

STATEMENT OF COMPLIANCE	Date Completed	Copy Attached?
A written report was submitted in accordance with Paragraph II of the "Order" portion of the COMPLIANCE ORDER.		
All necessary documents were submitted to the Department within 30 days of receipt of the COMPLIANCE ORDER in accordance with Paragraph(s) ? of the "Order" portion of the COMPLIANCE ORDER.		
All necessary documents were submitted to the Department within 45 days of receipt of the COMPLIANCE ORDER in accordance with Paragraph(s) ? of the "Order" portion of the COMPLIANCE ORDER.		
All necessary documents were submitted to the Department within 90 days of receipt of the COMPLIANCE ORDER in accordance with Paragraph(s) ? of the "Order" portion of the COMPLIANCE ORDER.		
All items in the "Findings of Fact" portion of the COMPLIANCE ORDER were addressed and the facility is being operated to meet and maintain the requirements of the "Order" portion of the COMPLIANCE ORDER. Final compliance was achieved as of:		

SETTLEMENT OFFER (OPTIONAL)

(check the applicable option)

<input type="checkbox"/>	The Respondent is not interested in entering into settlement negotiations with the Department with the understanding that the Department has the right to assess civil penalties based on LAC 33:1.Subpart1.Chapter7.
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY («Tracking_»), the Respondent is interested in entering into settlement negotiations with the Department and would like to set up a meeting to discuss settlement procedures.
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY («Tracking_»), the Respondent is interested in entering into settlement negotiations with the Department and offers to pay \$ _____ which shall include LDEQ enforcement costs and any monetary benefit of non-compliance. <ul style="list-style-type: none"> • Monetary component = \$ _____ • Beneficial Environmental Project (BEP) component (optional)= \$ _____ • DO NOT SUBMIT PAYMENT OF THE OFFER WITH THIS FORM- the Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.
<input type="checkbox"/>	The Respondent has reviewed the violations noted in NOTICE OF POTENTIAL PENALTY («Tracking_») and has attached a justification of its offer and a description of any BEPs if included in settlement offer.

CERTIFICATION STATEMENT

I certify, under provisions in Louisiana and United States law that provide criminal penalties for false statements, that based on information and belief formed after reasonable inquiry, the statements and information attached and the compliance statement above, are true, accurate, and complete. I also certify that I do not owe outstanding fees or penalties to the Department for this facility or any other facility I own or operate. I further certify that I am either the Respondent or an authorized representative of the Respondent.

Respondent's Signature	Respondent's Printed Name	Respondent's Title
Respondent's Physical Address	Respondent's Phone #	Date

MAIL COMPLETED DOCUMENT TO THE ADDRESS BELOW:

Louisiana Department of Environmental Quality
 Office of Environmental Compliance
 Enforcement Division
 P.O. Box 4312
 Baton Rouge, LA 70821
 Attn: Dr. Jacqueline A. Prudente