

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

SYNGENTA CROP PROTECTION, LLC

AI # 2367

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

* Settlement Tracking No.
* SA-MM-19-0084
*
* Enforcement Tracking No.
* MM-PP-17-01116
* MM-PP-17-01116A
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SETTLEMENT

The following Settlement is hereby agreed to between Syngenta Crop Protection, 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 owned and/or operated a facility located in St. Gabriel, Iberville Parish, Louisiana (“the Facility”).

II

On July 6, 2018, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. MM-PP-17-01116 (Exhibit 1).

On April 30, 2020, the Department issued to Respondent an Amended Notice of Potential Penalty, Enforcement No. MM-PP-17-01116A (Exhibit 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 ONE THOUSAND SEVEN HUNDRED AND NO/100 DOLLARS (\$1,700.00), of which Eight Hundred Sixty-One and 34/100 Dollars (\$861.34) 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 Notice of Potential Penalty, Amended 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 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.

X

Payment is to be made within thirty (30) 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.

SYNGENTA CROP PROTECTION, LLC

BY: _____
(Signature)

(Printed)

TITLE: _____

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

NOTARY PUBLIC (ID # _____)

(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 _____ day of _____, 20 _____, at Baton Rouge, Louisiana.

NOTARY PUBLIC (ID # _____)

(stamped or printed)

Approved: 

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

July 6, 2018

CERTIFIED MAIL (7014 1200 0000 7864 2154/2161)
RETURN RECEIPT REQUESTED

SYNGENTA CROP PROTECTION, LLC
c/o CT Corporation System
Agent for Service of Process
3867 Plaza Tower Drive
Baton Rouge, LA 70816

**RE: NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. MM-PP-17-01116
AGENCY INTEREST NO. 2367**

Dear Sir/Madam:

On or about August 22, 2017 through August 24, 2017, October 18, 2017, October 27, 2017, and October 30, 2017 through October 31, 2017, inspections of **SYNGENTA CROP PROTECTION – ST. GABRIEL PLANT**, a manufacturer of agricultural and industrial pesticides and other specialty chemicals, owned and/or operated by **SYNGENTA CROP PROTECTION, LLC (RESPONDENT)**, were performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Hazardous Waste and Solid Waste Regulations. The facility is located at 3905 Highway 75, in St. Gabriel, Iberville Parish, Louisiana.

The facility notified the Department as a Large Quantity Generator of hazardous waste and operates under EPA identification number LAD053783445. The facility operates under hazardous waste permit LA053783445-OP-RM-MO-3, which became effective on April 8, 2016 and expires on April 8, 2026.

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:

- A. The Respondent failed to clearly mark or label an aboveground container used to store used oil with the words "Used Oil," in violation of LAC 33:V.4013.D.1. Specifically, two (2) three (3) gallon containers, located in the vehicle maintenance shop, storing used oil were not labeled. This violation was noted during the August 22, 2017 inspection. On or about October 18, 2017, the Respondent provided a photograph demonstrating that the used oil containers are now labeled.

EXHIBIT

1

~~SYNGENTA CROP PROTECTION, LLC~~

MM-PP-17-01116

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- B. The Respondent failed to label or mark clearly universal waste batteries or a container in which the batteries are contained with any one of the following phrases: "Universal Waste—Battery(ies)," or "Waste Battery(ies)," or "Used Battery(ies)," in violation of LAC 33:V.3845.A.1. Specifically, one (1) pallet of universal waste batteries, located in the vehicle maintenance shop, were labeled "Spent Acid Batteries for Recycle." This violation was noted during the August 22, 2017 inspection. On or about January 4, 2018, the Respondent provided a photograph demonstrating universal waste batteries were labeled as "Universal Waste-Batteries."
- C. The Respondent failed to keep hazardous waste containers closed during storage, except when necessary to add or remove hazardous waste, as specified in LAC 33:V.2107.A, in violation of LAC 33:V.1109.E.4. Specifically, one (1) fifty-five (55) gallon drum, located in the MPF Hazardous Waste Satellite Accumulation Area #3, labeled "Malononitrile Contaminated PPE," was not properly closed. The lid was open slightly and the ring clamp was not secured. During the inspection, a representative of the Respondent closed the lid and secured the ring clamp on the drum. Also, located in the HPF Building 101K Laboratory, the Department observed one (1) half gallon bucket and one (1) one (1) quart container labeled "Spent," both of which were open. These containers housed used pipettes throughout the work day and were emptied into the lab's satellite accumulation container at the end of each day. On or about October 18, 2017, a representative of the Respondent provided photographs showing these two (2) containers were removed from the lab. Also, according to correspondence from the Respondent, the lab has put in place a new standard operating procedure instructing the lab employees to place all used pipettes directly into the satellite accumulation container. This violation was discovered during the August 24, 2017 inspection.
- D. The Respondent stored solid waste on-site for greater than one (1) year without approval from the Office of Environmental Compliance, in violation of LAC 33:VII.315.B. Specifically, located in the Permitted Container Storage Area, the Department discovered one (1) twenty (20) gallon container housing T-914A Sump Sludge, which was generated on September 25, 2016. This violation was discovered during the October 27, 2017 inspection. On or about January 4, 2018, the Respondent provided documentation that the solid waste was sent for disposal on November 2, 2017.
- E. The Respondent failed to amend the facility's contingency plan to reflect changes to its design, construction, operation, or maintenance, in violation of LAC 33:V.1513.D.4. Specifically, the facility failed to update its contingency plan to reflect changes made to a hazardous waste storage tank. Tank 4403-FB, made of Furan, was replaced with 316 Stainless Steel. The facility has updated its contingency to reflect the current and accurate material of construction for hazardous waste storage tank 4403-FB, as verified by documents received by the Department on or about December 1, 2017.

~~SYNGENTA CROP PROTECTION, LLC~~

MM-PP-17-01116

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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.

Prior to the issuance of any additional appropriate enforcement action, 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 Adrienne Landry at (225) 219-3805 within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

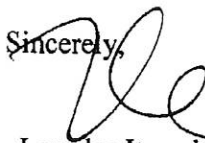
The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance in order to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue statement along with a statement of the monetary benefits of noncompliance for the cited violations 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 this 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.

For each violation described herein, the Department reserves the right to seek civil penalties and the right to seek compliance with its rules and regulations in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties and compliance.

The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter 7. To expedite closure of this **NOTICE OF POTENTIAL PENALTY**, 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 "**NOTICE OF POTENTIAL PENALTY REQUEST TO SETTLE**" 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.

To reduce document handling, please refer to the Enforcement Tracking Number and Agency Interest Number on the front of this document on all correspondence in response to this action.

Sincerely,



Lourdes Iturralde
Assistant Secretary
Office of Environmental Compliance

~~SYNGENTA CROP PROTECTION, LLC~~

MM-PP-17-01116

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LI/ARL/arl

Alt ID No. LAD053783445

c: SYNGENTA CROP PROTECTION, LLC
c/o Richard Boudreau – Principle Environmental Engineer
3905 Highway 75
St. Gabriel, LA 70776

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY

~~OFFICE OF ENVIRONMENTAL COMPLIANCE~~

ENFORCEMENT DIVISION

POST OFFICE BOX 4312

BATON ROUGE, LOUISIANA 70821-4312

NOTICE OF POTENTIAL PENALTY

REQUEST TO SETTLE (OPTIONAL)



Enforcement Tracking No.	MM-PP-17-01116	Contact Name	Adrienne Landry
Agency Interest (AI) No.	2367	Contact Phone No.	225-219-3805
Alternate ID No.	LAD053783445		
Respondent:	Syngenta Crop Protection, LLC	Facility Name:	Syngenta Crop protection – St. Gabriel, LA Plant
	c/o CT Corporation System	Physical Location:	3905 Highway 75
	Agent for Service of Process		
	3867 Plaza Tower Drive	City, State, Zip:	St. Gabriel, LA 70776
Baton Rouge, LA 70816	Parish:	Iberville	

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 MM-CN-17-01116 , 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 MM-CN-17-01116 , 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 MM-CN-17-01116 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: Adrienne Landry

SETTLEMENT AGREEMENTS

WHAT IS A SETTLEMENT AGREEMENT?

Once the Department has determined that a penalty is warranted for a violation, the Assistant Secretary of the Department, with the concurrence of the Attorney General, may enter into a settlement agreement with the Respondent as a means to resolve the Department's claim for a penalty.

HOW DOES THE SETTLEMENT AGREEMENT PROCESS WORK?

To begin the settlement agreement process, the Department must receive a written settlement offer. Once this offer is submitted, it is sent for approval by the Assistant Secretary of the Office of Environmental Compliance. The formal Settlement Agreement is drafted and sent to the Attorney General's office where the Attorney General has a 90 day concurrence period. During this time, the Respondent is required to run a public notice in an official journal and/or newspaper of general circulation in each affected parish. After which, a 45 day public comment period is opened to allow the public to submit comments. Once the Department has received concurrence, the settlement agreement is signed by both parties. The Department then forwards a letter to the responsible party to establish a payment plan and/or beneficial environmental project (BEP).

WHAT SHOULD I INCLUDE IN A SETTLEMENT AGREEMENT?

The Department uses the penalty determination method defined in LAC 33:1.705 as a guideline to accepting settlement offers. The penalty matrix is used to determine a penalty range for each violation based on the two violation specific factors, the nature and gravity of the violation and the degree of risk/impact to human health and property.

		NATURE AND GRAVITY OF THE VIOLATION		
		MAJOR	MODERATE	MINOR
DEGREE OF RISK OR IMPACT TO HUMAN HEALTH OR PROPERTY	MAJOR	\$32,500 to \$20,000	\$20,000 to \$15,000	\$15,000 to \$11,000
	MODERATE	\$11,000 to \$8,000	\$8,000 to \$5,000	\$5,000 to \$3,000
	MINOR	\$3,000 to \$1,500	\$1,500 to \$500	\$500 to \$100

Degree of Risk to Human Health or Property

Major: (actual measurable harm or substantial risk of harm) A violation of major impact to an environmental resource or a hazard characterized by high volume and/or frequent occurrence and/or high pollutant concentration.

Moderate: (potential for measurable detrimental impact) A violation of moderate impact and hazard may be one characterized by occasional occurrence and/or pollutant concentration that may be expected to have a detrimental effect under certain conditions

Minor: (no harm or risk of harm) A violation of minor impact are isolated single incidences and that cause no measurable detrimental effect or are administrative in nature.

Nature and Gravity of the Violation

Major: Violations of statutes, regulations, orders, permit limits, or permit requirements that result in negating the intent of the requirement to such an extent that little or no implementation of requirements occurred.

Moderate: Violations that result in substantially negating the intent of the requirements, but some implementation of the requirements occurred.

Minor: Violations that result in some deviation from the intent of the requirement; however, substantial implementation is demonstrated.

The range is adjusted using the following violator specific factors:

1. history of previous violations or repeated noncompliance;
2. gross revenues generated by the respondent;
3. degree of culpability, recalcitrance, defiance, or indifference to regulations or orders;
4. whether the Respondent has failed to mitigate or to make a reasonable attempt to mitigate the damages caused by the violation; and
5. whether the violation and the surrounding circumstances were immediately reported to the department, and whether the violation was concealed or there was an attempt to conceal by the Respondent.



SETTLEMENT AGREEMENTS

Given the previous information, the following formula is used to obtain a penalty amount.

$$\text{Penalty Event Total} = \text{Penalty Event Minimum} + (\text{Adjustment Percentage} \times [\text{Penalty Event Maximum} - \text{Penalty Event Minimum}])$$

After this, the Department adds any monetary benefit of noncompliance to the penalty event. In the event that a monetary benefit is gained due to the delay of a cost that is ultimately paid, the Department adds the applicable judicial interest. Finally, the Department adds all response costs including, but not limited to, the cost of conducting inspections, and the staff time devoted to the preparation of reports and issuing enforcement actions.

WHAT IS A BEP?

A BEP is a project that provides for environmental mitigation which the respondent is not otherwise legally required to perform, but which the defendant/respondent agrees to undertake as a component of the settlement agreement.

Project categories for BEPs include public health, pollution prevention, pollution reduction, environmental restoration and protection, assessments and audits, environmental compliance promotion, and emergency planning, preparedness and response. Other projects may be considered if the Department determines that these projects have environmental merit and is otherwise fully consistent with the intent of the BEP regulations.

WHAT HAPPENS IF MY OFFER IS REJECTED?

If an offer is rejected by the Assistant Secretary, the Legal Division will contact the responsible party, or anyone designated as an appropriate contact in the settlement offer, to discuss any discrepancies.

WHERE CAN I FIND EXAMPLES AND MORE INFORMATION?

Settlement Offers	searchable in EDMS using the following filters Media: Air Quality, Function: Enforcement; Description: Settlement
Settlement Agreements	Enforcement Division's website
Penalty Determination Method	specific examples can be provided upon request
Beneficial Environmental Projects	LAC 33:1 Chapter 7
	LAC 33:1 Chapter 25
	FAQs
Judicial Interest.....	provided by the Louisiana State Bar Association



JOHN BEL EDWARDS
GOVERNOR



CHUCK CARR BROWN, Ph.D.
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

APR 30 2020

CERTIFIED MAIL (7018 0360 0001 5039 1925)
RETURN RECEIPT REQUESTED

SYNGENTA CROP PROTECTION, LLC
c/o CT Corporation System
Agent for Service of Process
3867 Plaza Tower Drive
Baton Rouge, LA 70816

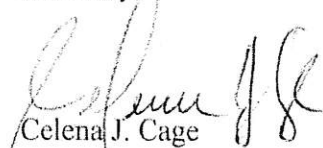
**RE: AMENDED NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. MM-PP-17-01116A
AGENCY INTEREST NO. 2367**

Dear Sir/Madam:

Pursuant to the Louisiana Environmental Quality Act (La. R.S. 30:2001, et seq.), the attached **AMENDED NOTICE OF POTENTIAL PENALTY** is hereby served on **SYNGENTA CROP PROTECTION, LLC (RESPONDENT)** for the violation described therein.

Any questions concerning this action should be directed to Adrienne Landry at (225) 219-3805.

Sincerely,


Celena J. Cage
Administrator
Enforcement Division

CJC/ARL/arl
Alt ID No. LAD053783445
Attachment



STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

IN THE MATTER OF

SYNGENTA CROP PROTECTION, LLC
IBERVILLE PARISH
ALT ID NO. LAD053786445

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

*	
*	
*	ENFORCEMENT TRACKING NO.
*	
*	MM-PP-17-01116A
*	
*	AGENCY INTEREST NO.
*	
*	2367
*	
*	

AMENDED NOTICE OF POTENTIAL PENALTY

The Louisiana Department of Environmental Quality (the Department) hereby amends the **NOTICE OF POTENTIAL PENALTY, ENFORCEMENT TRACKING NO. MM-PP-17-01116** issued to **SYNGENTA CROP PROTECTION, LLC (RESPONDENT)** on July 6, 2018 in the above-captioned matter as follows:

I.

The Department hereby removes paragraph E in its entirety.


II.

The Department incorporates all of the remainder of the original **NOTICE OF POTENTIAL PENALTY, ENFORCEMENT TRACKING NO. MM-PP-17-01116** and **AGENCY INTEREST NO. 2367** as if reiterated herein.

III.

This **AMENDED NOTICE OF POTENTIAL PENALTY** is effective upon receipt.

Baton Rouge, Louisiana, this 30th day of April, 2020.



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
Post Office Box 4312
Baton Rouge, LA 70821-4312
Attention: Adrienne Landry