

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

MALKEM INTERNATIONAL
CORPORATION

AI # 98943

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

* Settlement Tracking No.
* SA-WE-23-0052
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* Enforcement Tracking No.
* WE-CN-14-00953
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SETTLEMENT AGREEMENT

The following Settlement Agreement is hereby agreed to between Malkem International 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 an industrial chemical product manufacturing facility located in Gretna, Jefferson Parish, Louisiana (“the Facility”).

II

On March 11, 2015, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. WE-CN-14-00953 (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 FOUR THOUSAND AND NO/100 DOLLARS (\$4,000.00), of which One Thousand One Hundred Thirty-Two and 90/100 Dollars (\$1,132.90) represents the Department's enforcement costs, in settlement of the claims set forth in this Settlement 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 Agreement 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 Settlement 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 Settlement Agreement in any action by the Department to enforce this Settlement Agreement.

VII

This Settlement Agreement 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 Agreement, 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 Jefferson Parish, Louisiana. The advertisement, in form and wording approved by the Department, announced the availability of this Settlement Agreement 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 Agreement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

X

An initial payment of \$520.00 is to be made within ten (10) days from notice of the Secretary's signature. The remaining \$3,480.00 is to be made over a period of twenty-four (24) consecutive months in the amount of \$145.00 per month due on the 15th of the month. If payment is not received within that time, this Settlement 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 attached hereto.

XI

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

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.

**MALKEM INTERNATIONAL
CORPORATION**

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**
Aurelia S. Giacometto, Secretary

BY: _____
Jerrie "Jerry" Lang, 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: 

Jerrie "Jerry" Lang, Assistant Secretary

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			
Enforcement Tracking No.	WE-CN-14-00953	Certified Mail No.	7004 2510 0006 3853 3803				
Agency Interest (AI) No.	98943	Contact Name	Richard Ober, Jr.				
Alternate ID No.	LAR05N464	Contact Phone No.	219-3135				
Respondent:	Malkem International Corporation	Facility Name:	Malkem International Corporation				
	c/o T. Michael Manning	Physical Location:	74 First Street				
	Agent for Service of Process	City, State, Zip:	Gretna, Louisiana 70053				
	74 First Street Gretna, Louisiana 70053	Parish:	Jefferson				

This CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY is issued 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

An authorized representative of the Department inspected the abovementioned facility or conducted a file review of the facility to determine the degree of compliance with regulations promulgated in the Louisiana Administrative Code, Title 33. The State regulatory citations for the violation(s) identified during the inspection and/or file review are indicated below.

I.	The Respondent owns and/or operates an industrial chemical product manufacturing facility located at 74 First Street in Gretna, Jefferson Parish, Louisiana. Louisiana Pollutant Discharge Elimination System (LPDES) Multi-Sector General Permit (MSGP) permit LAR05N464 was reissued to the Respondent's facility on June 3, 2011, with an effective date of June 6, 2011, and an expiration date of May 3, 2016. Under the terms and conditions of LPDES MSGP Permit LAR05N464, the Respondent is permitted to discharge storm water associated with industrial activities from its facility which flows to the City of Gretna's municipal storm water system, thence into Verret Canal, thence to the Intracoastal Waterway, waters of the state. The Respondent's Standard Industrial Classification (SIC) code is 2841.	
	Date of Violation	Description of Violation
II.	Inspection(s) June 6, 2014 & July 17, 2014	The Respondent caused and/or allowed the discharge of wastewater from a source or location not authorized by the permit. Specifically, cleaning of equipment used in the facility's production at a wash rack allows for chemical spills and spilled wash water to run off via storm water into the City of Gretna's municipal storm water system, thence into Verret Canal, thence to the Intracoastal Waterway, waters of the state. (La. R.S. 30:2076(A)(1)(a) and LAC 33:IX.501.D)
III.	Inspection(s) June 6, 2014 & July 17, 2014	The Respondent failed to comply with LPDES MSGP permit LAR05N464. Specifically, during the time period from issuance of the LPDES MSGP through July 2014, the Respondent failed to submit Discharge Monitoring Reports (DMRs) for the monitoring required to be conducted in accordance with Part 6.C.4, Table C-3 of LPDES MSGP Permit LAR05N464. (LPDES MSGP permit LAR05N464 (Parts 7.1 and 9.1.1), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.L.4.a)
IV.	Inspection(s) June 6, 2014 & July 17, 2014	The Respondent failed to prepare and implement a complete Storm Water Pollution Prevention Plan (SWPPP). Specifically, the inspector was only provided with a few available pages for review. (LPDES MSGP Permit LAR05N464 (Part 4), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.A) On or about August 21, 2014, the Respondent emailed to the Inspections Division a copy of the SWPPP prepared on or about August 6, 2014.
V.	Inspection(s) June 6, 2014 & July 17, 2014	The Respondent failed to conduct training in accordance with LPDES MSGP permit LAR05N464. Specifically, the Respondent failed to conduct employee pollution prevention training. (LPDES MSGP permit LAR05N464 (Parts 4.2.9.9 and 9.1.1), LAC 33:IX.501.A, and LAC 33:IX.2701.A.)
VI.	Inspection(s) June 6, 2014 & July 17, 2014	The Respondent failed to conduct inspections in accordance with LPDES MSGP permit LAR05N464. Specifically, the Respondent only provided documentation to demonstrate that three (3) quarterly inspections were conducted in January 2012, July 2011, and September 2011. The Respondent failed to conduct routine facility inspections, quarterly visual assessments, and annual comprehensive site inspections. (LPDES MSGP permit LAR05N464 (Parts 4.9.1, 5.1.1, and 4.10.1), LAC 33:IX.501.A and LAC 33:IX.2701.A.)
VII.	Inspection(s) June 6, 2014 & July 17, 2014	The Respondent failed to implement good housekeeping measures at the facility in accordance with LPDES MSGP Permit LAR05N464. Specifically, poor housekeeping was noted with numerous unlabeled, uncovered chemical storage containers; many containers in poor condition; rusted containers outside of the covered area; and spills on the ground which had not been properly cleaned. Etched concrete was also observed throughout the facility which appeared to be from chemical spills. (LPDES MSGP permit LAR05N464 (4.2.9.2 and 9.1.1), La. R.S. 30:2076(A)(3), LAC 33:IX.501.A, and LAC 33:IX.2701.A.)

ORDER

Based on the foregoing, the Respondent is hereby ordered to comply with the requirements that are indicated below:

I.	To take, immediately upon receipt of this COMPLIANCE ORDER, any and all steps necessary to meet and maintain compliance with the Water Quality Regulations. This shall include, but not be limited to; correcting <u>all</u> of the violations described in the "Findings of Fact" portion.
II.	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 violation(s) 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 the Department at the address specified in this document.
III.	To immediately cease, upon receipt of this COMPLIANCE ORDER, any unauthorized discharges from the Respondent's facility to waters of the state.

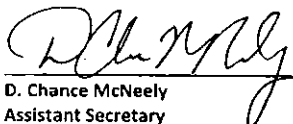


IV.	To submit to the Enforcement Division, within thirty (30) days after receipt of this COMPLIANCE ORDER , properly completed DMRs for the monitoring periods of the last three (3) years mentioned in Paragraph III of the "Findings of Fact" portion of this Order. If you are submitting copies of DMRs, please be advised that each copy of the DMR shall be signed and certified. If no sampling or monitoring was conducted during a monitoring period, the Respondent should indicate this in the space provided for "Comment and Explanation of Any Violations."
RIGHT TO APPEAL	
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 address specified in this document.
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.). 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 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 Richard Ober, Jr. at 219-3135 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.
CONTACTS AND SUBMITTAL OF INFORMATION	
Enforcement Division: Louisiana Department of Environmental Quality Office of Environmental Compliance Water Enforcement Division P.O. Box 4312 Baton Rouge, LA 70821 Attn: Richard Ober, Jr.	Hearing Requests: 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. WE-CN-14-00953 Agency Interest No. 98943
Permit Division (if necessary): Department of Environmental Quality Office of Environmental Services Post Office Box 4313 Baton Rouge, LA 70821-4313 Attn: Water Permits Division	Physical Address (if hand delivered): Department of Environmental Quality 602 N Fifth Street Baton Rouge, LA 70802
HOW TO REQUEST CLOSURE OF THIS CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY	
<ul style="list-style-type: none"> • To appeal the CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY, the Respondent must follow the guidelines set forth in the "Right to Appeal" portion of this CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY. • To request closure of the COMPLIANCE ORDER portion, the Respondent must demonstrate compliance with the "Order" portion of this COMPLIANCE ORDER by completing the attached "CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY REQUEST TO CLOSE" form and returning it to the address specified. <ul style="list-style-type: none"> ○ The COMPLIANCE ORDER will not be closed if the Respondent owes outstanding fees or penalties to the Department. 	

Please contact the Financial Services Division at 225-219-3865 or email them at _DEQ-WWWFinancialServices@la.gov to determine if you owe outstanding fees.

- To expedite closure of the **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 Department assesses civil penalties based on LAC 33:1.Subpart1.Chapter7.
 - The Respondent may offer a settlement amount but the Department is under no obligation to enter into settlement negotiations. It is decided upon on a discretionary basis.
 - 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.
 - 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 email them at _DEQ-WWWFinancialServices@la.gov to determine if you owe outstanding fees.

If you have questions or need more information, you may contact Richard Ober, Jr. at 219-3135 or richard.ober@la.gov.



D. Chance McNeely
Assistant Secretary
Office of Environmental Compliance

Date: 3/11/15

ecc: Belinda Constant
Mayor of the City of Gretna
bconstant@gretnala.com

Attachment(s)
- Request to Close

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.	WE-CN-14-00953	Contact Name	Richard Ober, Jr.	
Agency Interest (AI) No.	98943	Contact Phone No.	219-3135	
Alternate ID No.	LAR05N464			
Respondent:	Malkem International Corporation	Facility Name:	Malkem International Corporation	
	c/o T. Michael Manning	Physical Location:	74 First Street	
	Agent for Service of Process	City, State, Zip:	Gretna, Louisiana 70053	
	74 First Street Gretna, Louisiana 70053	Parish:	Jefferson	
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 IV 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)				
<i>(check the applicable option)</i>				
<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 (WE-CN-14-00953), 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 (WE-CN-14-00953), 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 (WE-CN-14-00953) 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: Richard Ober, Jr.				

If you have questions or need more information, you may contact Richard Ober, Jr. at 219-3135 or richard.ober@la.gov.