

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

DELTA TERMINAL SERVICES LLC

AI # 2612

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

* **Settlement Tracking No.**
* **SA-AE-25-0022**
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* **Enforcement Tracking No.**
* **AE-CN-23-00092**
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SETTLEMENT AGREEMENT

The following Settlement Agreement is hereby agreed to between Delta Terminal Services 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 bulk liquid storage and transfer facility located in Harvey, Jefferson Parish, Louisiana (“the Facility”).

II

On July 3, 2024, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-23-00092 (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 NINETEEN THOUSAND NINE HUNDRED AND NO/100 DOLLARS (\$19,900.00), of which Two Thousand Five Hundred Fifty-Eight and 43/100 Dollars (\$2,558.43) 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), permit record(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

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 Settlement Agreement is voidable at the option of the Department. The Respondent shall provide its tax identification number when submitting payment. 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.

DELTA TERMINAL SERVICES 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)

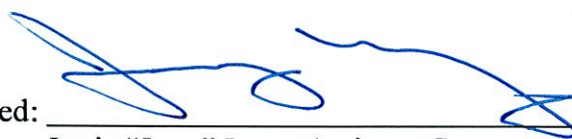
**LOUISIANA DEPARTMENT OF
ENVIRONMENTAL QUALITY**
Aurelia S. Giacometto, Secretary

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

JEFF LANDRY
GOVERNOR



AURELIA S. GIACOMETTO
SECRETARY

STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

JUL 09 2023

EXHIBIT

1

CERTIFIED MAIL (7021 2720 0002 7447 1653)
RETURN RECEIPT REQUESTED

DELTA TERMINAL SERVICES LLC
c/o Capitol Corporate Services, Inc.
Agent for Service of Process
8550 United Plaza Building II, Suite 305
Baton Rouge, LA 70809

**RE: CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. AE-CN-23-00092
AGENCY INTEREST NO. 2612**

Dear Sir/Madam:

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 **DELTA TERMINAL SERVICES 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 Stephanie Cernich at 225-219-3165 or Stephanie.Cernich2@la.gov.

Sincerely,

A handwritten signature in black ink that reads "Angela Marse".

Angela Marse
Administrator
Enforcement Division

AM/sac
Alt ID No. LA0000002205100141
Attachment

c: DELTA TERMINAL SERVICES LLC
c/o KMBT LLC
1001 Louisiana Street Suite 1000
Houston, TX 77002

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

IN THE MATTER OF

**DELTA TERMINAL SERVICES LLC
JEFFERSON PARISH
ALT ID NO. LA0000002205100141**

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

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ENFORCEMENT TRACKING NO.

AE-CN-23-00092

AGENCY INTEREST NO.

2612

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

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **DELTA TERMINAL SERVICES 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 **HARVEY TERMINAL (FACILITY)**, a bulk liquid storage and transfer facility, located at 3540 River Road in Harvey, Jefferson Parish, Louisiana. The Facility operates or has operated under the following Air Quality Permits:

TABLE A		
PERMIT NO.	ISSUE DATE	EXPIRATION DATE
Synthetic Minor Source Air Permit No. 1340-00141-14	5/4/2022	5/4/2032
Synthetic Minor Source Air Permit No. 1340-00141-13	7/14/2020	7/14/2030
Minor Source Air Permit No. 1340-00141-12AA	9/25/2018	2/26/2026

TABLE A		
PERMIT NO.	ISSUE DATE	EXPIRATION DATE
Minor Source Air Permit No. 1340-00141-12AA	11/14/2016	2/26/2026
Minor Source Air Permit No. 1340-00141-12	2/26/2016	2/26/2026
Minor Source Air Permit No. 1340-00141-11AA	5/27/2014	3/7/2024
Minor Source Air Permit No. 1340-00141-11	3/7/2014	3/7/2024
Minor Source Air Permit No. 1340-00141-10	7/31/2013	7/31/2023
Minor Source Air Permit No. 1340-00141-09	11/16/2012	11/16/2022
Synthetic Minor Source Air Permit No. 1340-00141-08	10/25/2010	10/25/2020

II.

On or about November 1, 2021 and November 8, 2021, the Department conducted a full compliance evaluation inspection to determine the Respondent's degree of compliance with the Louisiana Environmental Quality Act (the Act), the Air Quality Regulations, and all applicable permits. While the investigation by the Department is not yet complete, the following violations were noted during the course of the inspection and subsequent file review conducted on March 18, 2024.

- A. The Respondent failed to keep each record for five (5) years following the date of maintenance for Diesel Engine 2 in the Fina Yard, a 72 horsepower emergency diesel fired fire water booster pump (EQT 0302). Pursuant to 40 CFR 63 NESHAP Subpart ZZZZ, the Respondent is required to change the oil and inspect all hoses and belts every 500 hours of operation or annually, and inspect the air cleaner every 1,000 hours of operation or annually. Specifically, at the time of the inspection, the Department requested the EQT 0302 maintenance records from 2017 through 2021. The Respondent provided the EQT 0302 maintenance records for 2019 and 2020 for the Department to review during the site visit. In electronic correspondence dated November 18, 2021, a representative of the Respondent provided the EQT 0302 maintenance records for 2018 and 2021. However, he stated the 2017 maintenance records could not be found. In correspondence dated March 21, 2023, a representative of the Respondent mistakenly provided the maintenance records for Diesel Generator #2 (EQT 0329) instead of EQT 0302. In electronic correspondence dated January 18, 2024, a representative

of the Respondent stated their maintenance management system changed in 2018, and the 2017 EQT 0302 maintenance record was lost in the transition. The failure to maintain the 2017 engine maintenance records for EQT 0302 is a violation of Specific Requirement No. 51 of Minor Source Air Permit No. 1340-00141-12, 40 CFR 63.6655, 40 CFR 63.6660(b) which language has been adopted as a Louisiana regulation in LAC 33:III.5311, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2). In correspondence dated March 21, 2023, a representative of the Respondent reported a system was implemented to issue maintenance work orders, track their completion, and serve as a repository for the documents.

- B. The Respondent failed to timely complete the annual visual inspections of the internal floating roof and the primary seal, or secondary seal if one is in service, through manholes and roof hatches on the fixed roof at least once every twelve (12) months after the tanks were initially filled. Specifically, the Respondent failed to timely complete three (3) annual visual inspections on Internal Floating Roof (IFR) Storage Tank 150-38 (EQT 0016). At the time of the Department's inspection, EQT 0016 was storing Diethyl Ketone. The details for the annual visual inspections for EQT 0016 are listed in Table B.

1.	Annual Visual Inspection	Once every 12 months	Minor Source Air Permit No. 1340-00141-12	Specific Requirement 112	6/15/2018	7/20/2018
2.	Annual Visual Inspection	Once every 12 months	Minor Source Air Permit No. 1340-00141-12AA	Specific Requirement 112	7/20/2019	12/9/2019
3.	Annual Visual Inspection	Once every 12 months	Synthetic Minor Source Air Permit No. 1340-00141-13	Specific Requirement 152	12/9/2020	1/4/2021

Each failure to timely complete the annual visual inspections is a violation of the applicable permit and associated requirement listed above, 40 CFR 60.113b(a)(2), which language has been adopted as a Louisiana regulation in LAC 33:III.3003, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2). In correspondence dated March 21, 2023, a representative of the Respondent reported an electronic maintenance system was implemented to issue work orders to perform the necessary inspections at the appropriate intervals.

C. The Respondent failed to submit notifications which include the information required in 40 CFR 60.48c(a)(1-4). Pursuant to 40 CFR 60.7(a)(1), a notification of the date construction or reconstruction of an affected facility is commenced is due no later than thirty (30) days after such date. Pursuant to 40 CFR 60.7(a)(3), a notification of the date of initial startup of an affected facility is due no later than fifteen (15) days after such date. The Respondent is permitted to operate the four (4) steam boilers listed in Table C. Steam boilers for which construction, modification, or reconstruction is commenced after June 9, 1989 with a heat capacity greater than or equal to 10 MMBtu/hr and less than 100 MMBtu/hr are subject to New Source Performance Standards (NSPS) Subpart Dc per 40 CFR 60.40c(a). Each of the four (4) boilers have a heat capacity in this range; therefore, each are affected facilities subject to Subpart Dc. All of the steam boilers in the permit burn only natural gas and are not subject to NSPS Subpart Dc sulfur dioxide, particulate matter, or opacity standards. However, each boiler is an affected facility under NSPS Subpart Dc and subject to recordkeeping and reporting requirements. Steam Boiler No. 4 (EQT 0305) was added to the facility with the issuance of Synthetic Minor Source Air Permit No. 1340-00141-08 on October 25, 2010. During the inspection, a representative of the Respondent stated Steam Boiler No. 5 (EQT 0308) replaced Steam Boiler No. 1 in March 2014, and Steam Boiler No. 6 (EQT 0334) replaced Steam Boiler No. 3 in April 2020. During the inspection, the 40 CFR 60 NSPS Subpart Dc notifications were requested for Steam Boiler No. 4 (EQT 0305), Steam Boiler No. 5 (EQT 0308), and Steam Boiler No. 6 (EQT 0334). A representative of the Respondent stated the Subpart Dc notifications were not submitted. In electronic correspondence dated March 22, 2024, a representative of the Respondent stated construction of Steam Boiler No. 7 (EQT 0335) commenced on January 19, 2023, and the startup date was July 18, 2023. The Department did not receive a Subpart Dc notification for EQT 0335.

TABLE C				
	EQUIPMENT ID NUMBER	MAXIMUM OPERATING RATE/HEAT CAPACITY	BOILER ADDED TO PERMIT	REGULATORY OR PERMIT REQUIREMENTS
1.	Steam Boiler No. 4 EQT 0305	41.84 MMBTU/hr	Minor Source Air Permit No. 1340-00141-08	Specific Requirement 81
2.	Steam Boiler No. 5 EQT 0308	23.44 MMBTU/hr	Minor Source Air Permit No. 1340-00141-09	Specific Requirement 112

TABLE C				
	Facility Name	Estimated Annual Emissions (MMBTU/hr)	Permit No.	Specific Requirement
3.	Steam Boiler No. 6 EQT 0334	40.43 MMBTU/hr	Synthetic Minor Source Air Permit No. 1340-00141-13	Specific Requirement 179
4.	Steam Boiler No. 7 EQT 0335	40.43 MMBTU/hr	Synthetic Minor Source Air Permit No. 1340-00141-14	Specific Requirement 189

Each failure to timely submit the NSPS Subpart Dc notification is a violation of the applicable permit and associated requirement listed above, 40 CFR 60.48c(a), 40 CFR 60.7(a), which language has been adopted as a Louisiana regulation in LAC 33:III.3003, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

D. The Respondent failed to timely submit Tanks and Loading Emissions CAP (GRP 0022) annual Total Volatile Organic Compound (VOC) emissions reports by the 31st of March for the preceding calendar year to the Office of Environmental Compliance. Specifically, the Respondent failed to timely submit the GRP 0022 annual Total VOC emissions reports for reporting years 2019 through 2022. The Respondent previously submitted UNF 0001 annual Total VOC emissions reports for reporting years 2013 through 2023 documenting emissions for the entire facility instead of emissions for only GRP 0022. In electronic correspondence dated March 6, 2024, the Department notified the Respondent of the error and requested the Respondent to submit the 2013 through 2023 GRP 0022 VOC emissions reports. The Respondent submitted the requested VOC emissions reports via electronic correspondence dated March 12, 2024. The details for the GRP 0022 annual Total VOC emissions reports are listed in Table D.

TABLE D						
	Report Title	Permit No.	Requirement	Due Date	Report Date	Specific Requirement
1.	2019 GRP 0022 Total Volatile Organic Compound Report (3/12/2024)	Minor Source Air Permit No. 1340-00141-12AA	Submit a Total VOC emissions report annually by the 31st of March for the preceding calendar year to the Office of Environmental Compliance.	3/31/2020	3/12/2024	Specific Requirement 137
2.	2020 GRP 0022 Total Volatile Organic Compound Report (3/12/2024)	Synthetic Minor Source Air Permit No. 1340-00141-13	Submit a Total VOC emissions report annually by the 31st of March for the preceding calendar year to the Office of Environmental Compliance.	3/31/2021	3/12/2024	Specific Requirement 184

3.	2021 GRP 0022 Total Volatile Organic Compound Report (3/12/2024)	Synthetic Minor Source Air Permit No. 1340-00141-13	Submit a Total VOC emissions report annually by the 31 st of March for the preceding calendar year to the Office of Environmental Compliance.	3/31/2022	3/12/2024	Specific Requirement 184
4.	2022 GRP 0022 Total Volatile Organic Compound Report (3/12/2024)	Synthetic Minor Source Air Permit No. 1340-00141-14	Submit a Total VOC emissions report annually by the 31 st of March for the preceding calendar year to the Office of Environmental Compliance.	3/31/2023	3/12/2024	Specific Requirement 194

Each failure to timely submit a report is a violation of the applicable permit and associated requirement listed above, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

- E. The Respondent failed to timely submit Tanks and Loading Emissions CAP (GRP 0022) annual Total Toxic Air Pollutant (TAP) and total of each individual TAP emissions reports by the 31st of March for the preceding calendar year to the Office of Environmental Compliance. Specifically, the Respondent failed to timely submit the GRP 0022 annual Total TAP emissions reports and total of each individual TAP emissions reports for reporting years 2019 through 2021. The Respondent submitted the Entire Facility – Harvey Terminal (UNF 0001) annual Total TAP and total of each individual TAP emissions reports for reporting years 2013 through 2021, omitting the separate report of GRP 0022 TAP emissions. According to electronic correspondence dated March 22, 2024 from a representative of the Respondent, the previously submitted UNF 0001 TAP reports were not reporting all emission sources thus not reporting for the entire facility. In electronic correspondence dated March 14, 2024, the Department requested the Respondent to submit the 2019, 2020, and 2021 GRP 0022 TAP emissions reports. The Respondent submitted the requested GRP 0022 TAP emissions reports via electronic correspondence dated March 22, 2024. The requirement to report TAP emissions for GRP 0022 was removed with the issuance of Synthetic Minor Source Air Permit No. 1340-00141-14 on May 4, 2022. The details for the GRP 0022 annual Total TAP emissions reports are listed in Table E.

1.	2019 GRP 0022 Total and Individual Toxic Air Pollutant Report (3/22/2024)	Minor Source Air Permit No. 1340-00141-12AA	Submit a Total TAP emissions report and individual TAP emissions report annually by the 31st of March for the preceding calendar year to the Office of Environmental Compliance.	3/31/2020	3/22/2024	Specific Requirement 137
2.	2020 GRP 0022 Total and Individual Toxic Air Pollutant Report (3/22/2024)	Synthetic Minor Source Air Permit No. 1340-00141-13	Submit a Total TAP emissions report and individual TAP emissions report annually by the 31st of March for the preceding calendar year to the Office of Environmental Compliance.	3/31/2021	3/22/2024	Specific Requirement 184
3.	2021 GRP 0022 Total and Individual Toxic Air Pollutant Report (3/22/2024)	Synthetic Minor Source Air Permit No. 1340-00141-13	Submit a Total TAP emissions report and individual TAP emissions report annually by the 31st of March for the preceding calendar year to the Office of Environmental Compliance.	3/31/2022	3/22/2024	Specific Requirement 184

Each failure to timely submit a report is a violation of the applicable permit and associated requirement listed above, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

F. The Respondent failed to accurately report annual Total Toxic Air Pollutant (TAP) and total of each individual TAP emissions reports for the entire facility (UNF 0001). In electronic correspondence dated March 22, 2024, a representative of the Respondent stated the previously submitted TAP reports only reflected emissions from GRP 0022 and did not include other emission sources outside of GRP 0022. In electronic correspondence dated March 27, 2024, the Department requested the Respondent to provide UNF 0001 TAP emissions reports for reporting years 2019 through 2023, to include all emission sources. The Respondent provided the corrected UNF 0001 TAP emissions reports on April 8, 2024.

1.	2019 UNF 0001 Total and Individual Toxic Air Pollutant Report (4/8/2024)	Minor Source Air Permit No. 1340-00141-12AA	Submit a Total TAP emissions report and individual TAP emissions report annually by the 31st of March for the preceding calendar year to the Office of Environmental Compliance.	3/31/2020	4/8/2024	Specific Requirement 154
2.	2020 UNF 0001 Total and Individual Toxic Air Pollutant Report (4/8/2024)	Synthetic Minor Source Air Permit No. 1340-00141-13	Submit a Total TAP emissions report and individual TAP emissions report annually by the 31st of March for the preceding calendar year to the Office of Environmental Compliance.	3/31/2021	4/8/2024	Specific Requirement 206
3.	2021 UNF 0001 Total and Individual Toxic Air Pollutant Report (4/8/2024)	Synthetic Minor Source Air Permit No. 1340-00141-13	Submit a Total TAP emissions report and individual TAP emissions report annually by the 31st of March for the preceding calendar year to the Office of Environmental Compliance.	3/31/2022	4/8/2024	Specific Requirement 206

4.	2022 UNF 0001 Total and Individual Toxic Air Pollutant Report (4/8/2024)	Synthetic Minor Source Air Permit No. 1340-00141-14	Submit a Total TAP emissions report and individual TAP emissions report annually by the 31st of March for the preceding calendar year to the Office of Environmental Compliance.	3/31/2023	4/8/2024	Specific Requirement 216
5.	2023 UNF 0001 Total and Individual Toxic Air Pollutant Report (4/8/2024)	Synthetic Minor Source Air Permit No. 1340-00141-14	Submit a Total TAP emissions report and individual TAP emissions report annually by the 31st of March for the preceding calendar year to the Office of Environmental Compliance.	3/31/2024	4/8/2024	Specific Requirement 216

Each failure to accurately report TAP emissions is a violation of the applicable permit and associated requirement listed above, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

- G. The Respondent failed to notify the Department in writing at least thirty (30) days prior to the filling or refilling of a storage vessel for which an inspection is required to afford the Department an opportunity to have an observer present. In correspondence dated January 30, 2020, a representative of the Respondent reported installing an IFR on the Vertical Fixed Roof (VFR) Storage Tank 150-35 (EQT 0095) in December 2019 with a subsequent post-repair inspection performed in January 2020. Tank 150-35 was filled with ethanol on January 22, 2020. The Respondent self-reported its failure to notify the Department at least thirty (30) days prior to the planned filling. This is a violation of Specific Requirement No. 111 of Minor Source Air Permit No. 1340-00141-12AA, 40 CFR 60.113b(a)(5), which language has been adopted as a Louisiana regulation in LAC 33:III.3003, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).
- H. The Respondent failed to timely submit a permit application to the Department prior to the construction, reconstruction, or modification of a source. Specifically, the Respondent modified EQT 0095 by installing an IFR in December 2019. A permit modification application requesting approval to reclassify EQT 0095 from GRP 0017 (Subpart Kb VFR Tanks) to GRP 0018 (Subpart Kb IFR Tanks) was submitted on February 27, 2020. The Department issued Synthetic Minor Source Air Permit No. 1340-00141-13 on July 14, 2020. The unauthorized modification and/or operation of the facility prior to the issuance of an air permit by the permitting authority is a violation of LAC 33:III.501.C.1, La. R.S. 30:2057(A)(1), and La. R.S. 30:2057(A)(2).

- I. The Respondent failed to notify the Department in writing at least thirty (30) days prior to the filling or refilling of a storage vessel for which an inspection is required to afford the Department an opportunity to have an observer present. In correspondence dated March 21, 2023, a representative of the Respondent reported IFR Storage Tank 350-4 (EQT 0060) was emptied of beverage grade alcohol in June 2020 and filled with industrial grade ethanol in March 2021. The Respondent failed to notify the Department at least thirty (30) days prior to the planned filling. This is a violation of Specific Requirement No. 156 of Synthetic Minor Source Air Permit No. 1340-00141-13, 40 CFR 60.113b(a)(5), which language has been adopted as a Louisiana regulation in LAC 33:III.3003, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

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, the Air Quality Regulations, and all applicable permits.

II.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, the NSPS Subpart Dc notifications for the steam boilers, as referenced in Paragraph II.C of the **FINDINGS OF FACT** portion of this action.

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: Stephanie Cernich
Re: Enforcement Tracking No. AE-CN-23-00092
Agency Interest No. 2612

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-23-00092
Agency Interest No. 2612

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 Division of Administrative Law (DAL) Procedural Rules. 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) for each day of violation for the violation(s) described herein may be assessed. 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 Stephanie Cernich at 225-219-3165 or Stephanie.Cernich2@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 may submit the settlement offer within one hundred and eighty (180) days of receipt of this **NOTICE OF POTENTIAL PENALTY** portion but no later than ninety (90) days of achieving compliance with the **COMPLIANCE ORDER** portion. 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.

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

Baton Rouge, Louisiana, this 3rd day of July, 2024.


Jerry Lang
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: Stephanie Cernich**



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-PP-23-00092	Contact Name	Stephanie Cernich
Agency Interest (AI) No.	2612	Contact Phone No.	(225) 219-3165
Alternate ID No.	LA0000002205100141		
Respondent:	Delta Terminal Services LLC	Facility Name:	Harvey Terminal
	c/o Capitol Corporate Services, Inc.	Physical Location:	3540 River Road
	Agent for Service of Process		
	8550 United Plaza Building II	City, State, Zip:	Harvey, LA 70058
	Suite 305		
	Baton Rouge, LA 70809	Parish:	Jefferson

STATEMENT OF COMPLIANCE

STATEMENT OF COMPLIANCE	Date Completed	Copy Attached?
A written report was submitted in accordance with Paragraph III 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 II 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.Subpart 1.Chapter 7.
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (AE-CN-23-00092) , 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"/>	<p>In order to resolve any claim for civil penalties for the violations in CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (AE-CN-23-00092), 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. The Respondent may submit the settlement offer within one hundred and eighty (180) days of receipt of this NOTICE OF POTENTIAL PENALTY portion but no later than ninety (90) days of achieving compliance with the COMPLIANCE ORDER portion.</p> <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. <p>The Respondent has reviewed the violations noted in CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (AE-CN-23-00092) and has attached a justification of its offer and a description of any BEPs if included in settlement offer.</p>

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: Stephanie Cernich		

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:I.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			
	\$32,500 to \$20,000	\$20,000 to \$15,000	\$15,000 to \$11,000
	\$11,000 to \$8,000	\$8,000 to \$5,000	\$5,000 to \$3,000
	\$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.

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	<u>Enforcement Division's website</u> specific examples can be provided upon request
Penalty Determination Method	<u>LAC 33:1 Chapter 7</u>
Beneficial Environmental Projects	<u>LAC 33:1 Chapter 25</u> <u>FAQs</u>
Judicial Interest.....	<u>provided by the Louisiana State Bar Association</u>

