

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

MOSAIC FERTILIZER, LLC

AI # 2425, 2532

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

\* Settlement Tracking No.  
\* SA-MM-23-0085  
\*  
\* Enforcement Tracking No.  
\* MM-CN-21-00329  
\*  
\*  
\* Docket No. 2023-1538-DEQ  
\*

SETTLEMENT AGREEMENT

The following Settlement Agreement is hereby agreed to between Mosaic Fertilizer, 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 plants located in St. James Parish, Louisiana (“the Facilities”).

II

On November 4, 2021, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. MM-CN-21-00329 (Exhibit 1).

III

In response to the Consolidated Compliance Order & Notice of Potential Penalty, Respondent made a timely request for a hearing.

IV

Respondent denies it committed any violations or that it is liable for any fines, forfeitures

and/or penalties.

V

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of SEVENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$75,000.00), of which Three Thousand Nine Hundred Eighty and 99/100 Dollars (\$3,980.99) 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).

VI

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.

VII

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.

## VIII

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.

## IX

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.

## X

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in St. James 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.

## XI

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. 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,

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70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form attached hereto.

XII

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

XIII

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.



**MOSAIC FERTILIZER, 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**

BY: \_\_\_\_\_  
Aurelia S. Giacometto, Secretary

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

\_\_\_\_\_  
NOTARY PUBLIC (ID # \_\_\_\_\_)

\_\_\_\_\_  
(stamped or printed)

Approved:   
Aurelia S. Giacometto, Secretary



JOHN BEL EDWARDS  
GOVERNOR

CHUCK CARR BROWN, PH.D.  
SECRETARY

**State of Louisiana**  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OFFICE OF ENVIRONMENTAL COMPLIANCE

NOV 04 2021

CERTIFIED MAIL (7019 2970 0000 6032 9494)  
RETURN RECEIPT REQUESTED

**MOSAIC FERTILIZER, LLC**  
c/o C T Corporation  
Agent for Service of Process  
3867 Plaza Tower Dr.  
Baton Rouge, LA 70816

**RE: CONSOLIDATED COMPLIANCE ORDER  
& NOTICE OF POTENTIAL PENALTY  
ENFORCEMENT TRACKING NO. MM-CN-21-00329  
AGENCY INTEREST NOS. 2425 & 2532**

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 **MOSAIC FERTILIZER, 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 Madison Kirkland at (225) 219-3165 or [Madison.Kirkland@la.gov](mailto:Madison.Kirkland@la.gov).

Sincerely,

Angela Marse  
Administrator  
Enforcement Division

AM/MLK/kwf  
Alt ID Nos. 2560-00021, 2560-00004, LA0029769  
Attachment





c: Mosaic Fertilizer, LLC  
c/o Ron Yasurek, General Manager  
7520 Hwy 44  
Uncle Sam, LA 70792



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

<b>IN THE MATTER OF</b>	*	
	*	
<b>MOSAIC FERTILIZER, LLC</b>	*	<b>ENFORCEMENT TRACKING NO.</b>
<b>ST. JAMES PARISH</b>	*	
<b>ALT ID NOS. 2560-00021, 2560-00002,</b>	*	<b>MM-CN-21-00329</b>
<b>LA0029769</b>	*	
	*	<b>AGENCY INTEREST NOS.</b>
<b>PROCEEDINGS UNDER THE LOUISIANA</b>	*	
<b>ENVIRONMENTAL QUALITY ACT,</b>	*	<b>2425 and 2532</b>
<b>La. R.S. 30:2001, ET SEQ.</b>	*	

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

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **MOSAIC FERTILIZER, 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 the Faustina Plant (the facility, Agency Interest No. 2425), an ammonia and granular ammonium phosphate fertilizer producing plant, located at 9959 Louisiana Highway 18 in St. James, St. James Parish, Louisiana. The Respondent was issued Louisiana Pollutant Discharge Elimination System (LPDES) Permit LA0029769 on September 16, 2016, with an effective date of November 1, 2016. LPDES Permit LA0029769 expired on October 31, 2021, but has been administratively continued as the Department received a renewal application from the Respondent on March 4, 2021. Under the terms and conditions of LPDES Permit LA0029769, the Respondent is permitted to discharge from Final Outfalls 001 and 002 into the Mississippi River (Subsegment 070301) and from Final Outfalls 006, 007, 008, and 009 into Bayou Verret (Subsegment 020101), all waters of the state. The facility is subject to the Chemical Accident Prevention Provisions (CAPP) program level 3



requirements. The Respondent operates or has operated under the authority of the following Title V Air and PSD Permit(s):

PERMIT	PERMIT NUMBER	ISSUE DATE	PERMIT EXPIRATION DATE
Title V Permit	2560-00021-V7	January 26, 2018	**March 22, 2021
	2560-00021-V6	March 22, 2016	March 22, 2021
	2560-00021-V5	June 21, 2013	December 17, 2015
	2560-00021-V4	December 17, 2010	December 17, 2015
	2560-00021-V3	January 22, 2010	June 28, 2011
PSD-LA-602	PSD-LA-602 (M-2)	January 22, 2010	-
	PSD-LA-602 (M-1)	October 6, 2008	-

\*\* On September 22, 2020, the Respondent submitted a timely and complete Title V Permit renewal application to the Department and Title V Permit No. 2560-00021-V7 has been administratively continued.

## II.

On April 24, 2019, October 31, 2019, and March 25, 2021, the Department conducted inspections of the facility to determine compliance with the Act, Water Quality Regulations, and Air Quality Regulations. While the investigation by the Department is not yet complete, the violations below were noted during the course of the inspections and subsequent file review performed on October 6, 2021.

- A. On or about October 4, 2016, the Respondent conducted a stack test on the Granulation B Train Tail Gas Scrubber (EQT0098), and a stack test on Granulation A Train Tail Gas Scrubber (EQT0097) on October 6, 2016. The stack tests revealed exceedances of the particulate matter permit limits set forth in Title V Permit No. 2560-00021-V6. Specifically, in the Unauthorized Discharge Notification Reports (T-174130 and T-174132) dated November 22, 2016, the Respondent reported the test results on EQT0098 was 7.94 lbs/hr of particulate matter, which is greater than the permit limit of 7.75, and the test results on EQT0097 was 8.56 lbs/hr of particulate matter, which is greater than the permit limit of 6.95 lbs/hr. On June 14, 2017, the Respondent submitted a permit modification application and on January 26, 2018, the Department issued Title V Permit No. 2560-00021-V7, which updated the particulate emissions to 15.62 maximum lbs/hr. Each exceedance of the permitted emission limit is a violation of Title V Permit No. 2560-00021-V6, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1), and La. R.S. 30:2057(A)(2). Additionally, the Respondent's 2016 Title V 2<sup>nd</sup> Semiannual Monitoring Report and 2016 Title V Annual Compliance Certification dated March 30, 2017, failed to clearly identify these instances of deviation from the permitted emission limits. Specifically, the aforementioned emission exceedances were not included in the Title V reports. Each failure to identify deviations in the aforementioned reports is a violation of Specific Requirement No. 432 of Title V Permit No. 2560-00021-V6, LAC 33:III.535 General Condition K and M, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).



- B. The Respondent failed to submit a permit modification within forty-five (45) days after receipt of stack test results, if such testing demonstrates that the terms and conditions of the existing permit are inappropriate or inaccurate. Specifically, the Respondent conducted the performance tests on EQT0098 and EQT0097 on or about October 4, 2016, and October 6, 2016. The Respondent received the results of the test on or about November 11, 2016; therefore, a permit application was due on December 26, 2016. However, the Respondent submitted a Title V Air Permit Renewal Application on or about June 14, 2017, which was approximately five (5) months and nineteen (19) days late to incorporate stack test results for the performance test. The Respondent's failure to submit the permit modification application within 45 days after conducting a stack test is a violation of LAC 33:III.523.A, La. R.S. 30:2057(A)(1), and La. R.S. 30:2057(A)(2).
- C. On March 25, 2019, and October 8, 2019, the Department received citizen's complaints about a strong Sulphur smell near the facility. The Department's inspector conducted the following inspections of the facility to investigate the odor complaints:
1. On April 24, 2019, the Department's inspector conducted an inspection of the facility to investigate the odor complaint received on March 25, 2019. During the inspection, a sulfur smell and a trail of sulfur under the Conveyor System Transfer Points (EQT0118) was observed going offsite and into a water drain on the side of Louisiana Highway 18. In electronic correspondence dated July 18, 2019, and July 24, 2019, a representative of the Respondent stated that the Respondent is responsible for conveyor operations and a spill pan is utilized under EQT0118 to minimize spillage of sulfur particles offsite and to prevent particulate matter emissions from becoming airborne. Additionally, the representative of the Respondent stated that the Respondent is responsible for cleanup if the prilled sulfur escapes from EQT0118 crossing the road and/or from ship loading operations. In correspondence dated December 18, 2020, the Respondent's representative stated cleanup activities are conducted as needed during and after each loading event. Any sulfur that may be sitting on belt structure, rollers, or the pan over the road are cleaned up as often as needed. According to the representative, a loading event started on April 23, 2019, at 1435 hours and was completed on April 28, 2019, at 0900 hours. In electronic correspondence dated August 19, 2020, the Respondent stated that when sulfur ship loading is complete, they begin the clean-up process right away to prevent contamination and to begin the loading of fertilizer. The clean-up process started on April 28, 2019.
  2. On October 31, 2019, the Department's inspector conducted an inspection of the facility to investigate the odor complaint received on October 8, 2019.



During the inspection, a pile of Sulphur was observed under the conveyor system offsite and into the water in the drainage ditch on the side of Highway 18. In correspondence dated December 18, 2020, a representative of the Respondent stated that loading activities occurred twice in 2019, and the second loading started on September 28, 2019, at 1020 hours and loading was completed on October 3, 2019, at 1050 hours. In electronic correspondence dated August 19, 2020, the Respondent's representative stated that when sulfur ship loading is complete, they begin the clean-up process right away to prevent contamination and to begin the loading of fertilizer. The clean-up process occurred on October 3, 2019, through October 4, 2019. However, sulfur was observed offsite during the October 31, 2019 inspection.

Each failure to take all reasonable precautions to prevent sulfur particles from becoming airborne and going offsite is a violation of Specific Requirement 190 of Title V Permit No. 2560-00021-V7, LAC 33:III.1305.A, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1), and La. R.S. 30:2057(A)(2). In correspondence dated December 18, 2020, the Respondent stated that new cleaning procedures have been implemented. Specifically, during the most recent loading event, sweeping was conducted twice daily, and additional measures were taken including placing plastic sheeting on the ground to collect any sulfur dust or prills. Additionally, in May of 2020, the Respondent installed two (2) new feeder conveyors that feed a more consistent flow to the belts. Consistent flow to the belts causes the belt to be evenly loaded and does not over load the transfer points and belts, which reduces the risk of spilling.

- D. In the 2019 Title V 1<sup>st</sup> Semiannual Monitoring Report dated September 30, 2019, the Respondent reported the failure to have employees at the facility trained and certified to conduct Method 9 opacity readings and trained to conduct Method 22 visible emissions readings. Specifically, during January 1, 2019, through June 30, 2019, the Respondent did not have trained employees who were conducting opacity and visible emission monitoring at the MES Day Bin A (EQT0135), MES Silo A (EQT0137), and MES Silo B (EQT0138). According to the report, during this period between January 1, 2019 and June 30, 2019, there were no detected visible emissions from the aforementioned point sources, and the Respondent provided training for the operators in the 3<sup>rd</sup> quarter of 2019. This is a violation of Specific Requirements 207, 208, 221, 222, 235, and 236 of Title V Permit No. 2560-00021-V7, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).
- E. In the 2019 Title V 1<sup>st</sup> Semiannual Monitoring Report dated September 30, 2019, the Respondent reported the failure to monitor the Continuous Parametric Monitoring System (CPMS) continuously. Specifically, on or about May 5, 2019, for approximately five (5) hours, the flow meter failed to monitor the flow rate of the scrubbing influent liquid in fifteen-minute block averages for the Granulation B Train Tail Gas Scrubber (EQT0098).



This is a violation of Specific Requirements 42 and 56 of Title V Permit No. 2560-00021-V7, 40 CFR 63.625(d)(2), 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).

F. In the 2019 Title V 2<sup>nd</sup> Semiannual Monitoring Report dated April 30, 2020, the Respondent reported the failure to submit a permit application prior to construction, reconstruction, or modification of two (2) Granulation Plant Holding Tanks as emission sources. Specifically, on or about October 22, 2019, the Respondent submitted two (2) Regulatory Permit Notification Forms to the Department in accordance with LAC 33:III.321. The regulatory permit notifications noted that construction of the vessels was complete in July 2019. This is a violation of LAC 33:III.501.C.1, and La. R.S. 30:2057(A)(2). The Respondent failed to permit the 2 Granulation Plant Holding Tanks at the facility as emission sources prior to the commencement of operation. The unauthorized operation of the tanks for approximately four (4) months is a violation of LAC 33:III.501.C.2, La. R.S. 30:2057(A)(1), and 30:2057(A)(2). On November 18, 2019, the Department issued regulatory permits authorizing operation of the Granulation Plant Holding Tank No. 1 (GPHT-1) and Granulation Plant Holding Tank No. 2 (GPHT-2).

G. In the 2020 Title V 1<sup>st</sup> Semiannual Monitoring Report dated September 30, 2020, the Respondent reported the failure to maintain the Granulation C Train Tail Gas Scrubber (EQT0099) at a pH level of less than or equal to 8.0 on the following dates:

	INCIDENT DATE (duration)	REPORTED CAUSE	CORRECTIVE ACTIONS
1.	1/2/2020-1/3/2020 (4.25 hours)	The pH value was less than 8 due to low acid flow to the scrubber.	The Respondent increased the flow of sulfuric acid to the scrubber to return to normal operating parameters.
2.	4/27/2020 (3.75 hours)	The slurry strainer was plugged causing the ammonia flow to increase thus increasing the pH in the scrubber.	The Respondent shut down the unit and the slurry strainer was cleaned and returned to service.
3.	5/10/2020-5/11/2020 (4.5 hours)	A missing slurry nozzle cause the pH to increase in the scrubber.	The Respondent shut down the unit to replace the slurry nozzle. The unit was returned to service.

Each failure to maintain a pH level of less than or equal to 8.0 is a violation of Specific Requirement 151 Title V Permit No. 2560-00021-V7, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

H. The Respondent reported the following exceedances of the 0.40 lbs/hr permit limit of ammonia in the 2020 Title V 2<sup>nd</sup> Semiannual Report dated March 31, 2021:

	EMISSION POINT	INCIDENT DATE (duration)	AMOUNT RELEASED	REPORTED CAUSE
1.	Granulation Plant Fugitives (FUG0008)	7/4/2020 (1 minute)	10 lbs	Ammonia leaked from the northeast/southeast ammonia spargers valve packing.
2.		7/15/2020 (1 minute)	5 lbs	Ammonia leaked from the northeast NH3 sparger valve packing.
3.		7/31/2020 (4 minutes)	37 lbs	Ammonia was released from a relief valve release on the C-Train.



	EMISSION POINT	INCIDENT DATE (duration)	AMOUNT RELEASED	REPORTED CAUSE
4.	Granulation Plant Fugitives (FUG0008)	8/13/2020 (4 minutes)	38 lbs	Ammonia was released from a southeast relief valve release was on the ammonia sparger of A- Train.
5.		10/6/2020 (4 minutes)	40 lbs	Ammonia was released from a relief valve release on C-Train.
6.		12/22/2020 (3 minutes)	31 lbs	Ammonia was released from a relief valve release on the main ammonia line to C-Train.

Each emission exceedance is a violation of Title V Permit No. 2560-00021-V7, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1), and La. R.S. 30:2057(A)(2).

- I. In the 2020 Title V 2<sup>nd</sup> Semiannual Report dated March 31, 2021, the Respondent reported the failure to submit the following performance test results electronically to the Environmental Protection Agency (EPA) within sixty (60) days after the date of completing a performance test required by 40 CFR 63 Subpart BB:

	EMISSION POINT	TEST DATE	DUE DATE	SUBMITTAL DATE	REPORTING REQUIREMENT
1.	Granulation A Train Cooler Scrubber (EQT0008)	5/7/2020	7/6/2020	12/31/2020	Within sixty (60) days after the date of completing a performance test required by 40 CFR 63 Subpart BB, submit the results of the performance test following the procedure specified in either 40 CFR 63.627(e)(1) and 40 CFR 63.627(e)(2).
2.	Granulation A Train Fumes Scrubber (EQT0095)				
3.	Granulation A Train Tail Gas Scrubber (EQT0097)				
4.	Granulation B Train Cooler Scrubber (EQT0009)	4/23/2020	6/22/2020		
5.	Granulation B Train Fumes Scrubber (EQT0096)				
6.	Granulation B Train Tail Gas Scrubber (EQT0098)				
7.	Granulation C Train Tail Gas Scrubber (EQT0099)				

Each failure to timely submit the performance test results electronically to EPA's electronic reporting tool and CDX is a violation of Specific Requirement 72 of Title V Permit No. 2560-00021-V7, 40 CFR 63.627(e)(1), which language has been adopted as a Louisiana regulation in LAC 33:III.5122, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

- J. On or about March 25, 2021, at approximately 05:00 hours, the facility experienced an unauthorized discharge (Incident No. T201848). Specifically, a bleed valve was left open on the line while the Respondent was placing a main ammonia valve to the C-Train in service. In correspondence dated June 30, 2021, the Respondent stated the bleed valve was not on the Lock Out-Tag Out Safety Permit Form and was missed when operations opened up the main ammonia valve to the C-Train. The incident resulted in a release of approximately 130 pounds of ammonia, which was greater than the reportable quantity of 100 pounds, to the atmosphere from the bleed valve. The root cause analysis (RCA) determined that the Respondent needs to conduct additional training and install interlocks on the main ammonia line. The Department determined the following violations occurred during and/or as a result of the unauthorized discharge:



1. The Respondent failed to use and maintain air pollution control facilities, any device or contrivance, operating procedure, or abatement scheme used to prevent or reduce air pollution, whenever emissions are being made which can be controlled by the facility. This is a violation of LAC 33:III.905.A, La. R.S. 30:2057(A)(1), and La. R.S. 30:2057(A)(2).
2. The Respondent failed to develop and implement safe work practices to provide for the control of hazards during operations such as lockout/tagout. This is a violation of Specific Requirement 318 of Title V Permit No. 2560-00021-V7, 40 CFR 68.69(d), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, La. R.S. 30:2057(A)(1), and La. R.S. 30:2057(A)(2).
3. The Respondent failed to submit updates every sixty (60) days about the status of the ongoing investigation until the investigation was completed and the results of investigation were submitted. According to the seven (7) day written notification report dated March 31, 2021, the Respondent reported that the incident investigation was ongoing for the release. On June 30, 2021, the Respondent submitted the follow-up report, which reported the completion of the incident investigation; however, the follow-up report was submitted ninety-one (91) days after the submittal of the seven (7) day written notification report. The failure to submit updates every sixty (60) days about the status of the ongoing investigation of the unauthorized discharge until the investigation has been completed and the results of investigation have been submitted is a violation of Specific Requirement 323 of Title V Permit No. 2560-00021-V7, LAC 33:III.927, LAC 33:I.3925.A.3, and La. R.S. 30:2057(A)(2).

K. The Respondent failed to operate within the permitted flow rate during normal operations for the following scrubbers:

	REPORT (date)	EMISSION POINT	PERMITTED FLOW RATE (gallons/min)	OUT-OF-RANGE DAYS	OUT-OF-RANGE DAYS	REGULATORY or PERMIT REQUIREMENTS
				Differential pressure (dp)	liquor	
1.	2017 1 <sup>st</sup> Quarter NESHAP 40 CFR 63 Subpart BB Report (4/26/2017)	Granulation A Train Fumes Scrubber (EQT0095)	≥889.7	4	10	Specific Requirement No. 154
2.	2017 3 <sup>rd</sup> Quarter NESHAP 40 CFR 63 Subpart BB Report (10/30/2017)			1	1	
3.	2017 1 <sup>st</sup> Quarter NESHAP 40 CFR 63 Subpart BB Report (4/26/2017)	Granulation A Train Tail Gas Scrubber (EQT0097)	≥761	4	34	Specific Requirement No. 174
4.	2017 3 <sup>rd</sup> Quarter NESHAP 40 CFR 63 Subpart BB Report (10/30/2017)			1	1	
5.	2017 1 <sup>st</sup> Quarter NESHAP 40 CFR 63 Subpart BB Report (4/26/2017)	Granulation A Train Cooler Scrubber (EQT0008)	≥603.1	5	3	Specific Requirement No. 82
6.	2017 2 <sup>nd</sup> Quarter NESHAP 40 CFR 63 Subpart BB Report (7/28/2017)			1	-	
7.	2017 3 <sup>rd</sup> Quarter NESHAP 40 CFR 63 Subpart BB Report (10/30/2017)			1	1	



	REPORT (date)	EMISSION POINT	PERMITTED FLOW RATE (gallons/min)	OUT-OF-RANGE DAYS	OUT-OF-RANGE DAYS	REGULATORY or PERMIT REQUIREMENTS
				Differential pressure (dp)	liquor	
8.	2017 1 <sup>st</sup> Quarter NESHAP 40 CFR 63 Subpart BB Report (4/26/2017)	Granulation A Train Dust Scrubber (EQT0112)	≥293.6	9	2	Specific Requirement No. 231
9.	2017 3 <sup>rd</sup> Quarter NESHAP 40 CFR 63 Subpart BB Report (10/30/2017)			2	-	
10.	2017 1 <sup>st</sup> Quarter NESHAP 40 CFR 63 Subpart BB Report (4/26/2017)	Granulation B Train Fumes Scrubber (EQT0096)	≥884.1	2	5	Specific Requirement No. 164
11.	2017 2 <sup>nd</sup> Quarter NESHAP 40 CFR 63 Subpart BB Report (7/28/2017)			1	1	
12.	2017 3 <sup>rd</sup> Quarter NESHAP 40 CFR 63 Subpart BB Report (10/30/2017)			2	3	
13.	2017 1 <sup>st</sup> Quarter NESHAP 40 CFR 63 Subpart BB Report (4/26/2017)	Granulation B Train Tail Gas Scrubber (EQT0098)	≥691.1	10	1	Specific Requirement No. 180
14.	2017 2 <sup>nd</sup> Quarter NESHAP 40 CFR 63 Subpart BB Report (7/28/2017)			1	-	
15.	2017 3 <sup>rd</sup> Quarter NESHAP 40 CFR 63 Subpart BB Report (10/30/2017)			4	3	
16.	2017 1 <sup>st</sup> Quarter NESHAP 40 CFR 63 Subpart BB Report (4/26/2017)	Granulation B Train Cooler Scrubber (EQT0009)	≥645.3	6	14	Specific Requirement No. 85
17.	2017 2 <sup>nd</sup> Quarter NESHAP 40 CFR 63 Subpart BB Report (7/28/2017)			1	1	
18.	2017 3 <sup>rd</sup> Quarter NESHAP 40 CFR 63 Subpart BB Report (10/30/2017)			1	5	
19.	2017 1 <sup>st</sup> Quarter NESHAP 40 CFR 63 Subpart BB Report (4/26/2017)	Granulation B Train Dust Scrubber (EQT0115)	≥297.4	16	3	Specific Requirement No. 244
20.	2017 2 <sup>nd</sup> Quarter NESHAP 40 CFR 63 Subpart BB Report (7/28/2017)			1	1	
21.	2017 3 <sup>rd</sup> Quarter NESHAP 40 CFR 63 Subpart BB Report (10/30/2017)			1	-	
22.	2017 1 <sup>st</sup> Quarter NESHAP 40 CFR 63 Subpart BB Report (4/26/2017)	Granulation C Train Tail Gas Scrubber (EQT0099)	≥761	35**	35**	Specific Requirement No. 202
23.	2017 2 <sup>nd</sup> Quarter NESHAP 40 CFR 63 Subpart BB Report (7/28/2017)			78**	91**	
24.	2017 3 <sup>rd</sup> Quarter NESHAP 40 CFR 63 Subpart BB Report (10/30/2017)			15	11	
25.	2017 1 <sup>st</sup> Quarter NESHAP 40 CFR 63 Subpart BB Report (4/26/2017)	Granulation C Train Cooler Scrubber (EQT0116)	≥1922.2	7	3	Specific Requirement No. 247
26.	2017 2 <sup>nd</sup> Quarter NESHAP 40 CFR 63 Subpart BB Report (7/28/2017)			1	-	
27.	2017 1 <sup>st</sup> Quarter NESHAP 40 CFR 63 Subpart BB Report (4/26/2017)	Granulation C Train Dust Scrubber (EQT0142)	≥600.58	1	4	Specific Requirement No. 348
28.	2017 2 <sup>nd</sup> Quarter NESHAP 40 CFR 63 Subpart BB Report (7/28/2017)			1	2	
29.	2017 3 <sup>rd</sup> Quarter NESHAP 40 CFR 63 Subpart BB Report (10/30/2017)			2	3	

\*\* The reported daily average events that the C-Train Tailgas Scrubber operated outside of the pressure and flow rate ranges are a results of the replacement scrubber on February 25, 2017. Per 40 CF 63.626(a), the Respondent has 180 days to conduct an initial performance test to demonstrate compliance and to establish new operating ranges.

The operation of these scrubbers outside of their permitted flow rates during normal operations is a violation of all applicable requirements listed above, Title V Permit No. 2560-00021-V6, 40 CFR 63.625(d)(1), which language has been adopted as a Louisiana regulation in LAC 33:III.5122, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(2).



L. The Respondent caused and/or allowed the discharge of pollutants from the following sources or locations which are not authorized by the permit:

1. On November 28, 2018, the Respondent notified the Department of a release of approximately 330 pounds of sulfuric acid into the Mississippi River while demolishing a loading line. This event was assigned the incident number 187283.
2. On January 9, 2019, the Respondent notified the Department of a discharge of approximately 60 tons of granulated fertilizer into the Mississippi River which took place on January 4, 2019 following a barge loading operation. The discharged fertilizer was composed of monoammonium phosphate, ammonium sulfate, and sulfur. This event was assigned the incident number 189034.
3. On or about April 24, 2019, an inspector of the Department made a site visit following a citizen complaint made on March 25, 2019 and observed sulfur which had drifted down from a conveyance structure into a roadside ditch along Hwy 18. This event was assigned the incident number 190275. (See photos 1 and 2 from inspection report)
4. On or about October 31, 2019, an inspector of the Department made a site visit following a citizen complaint made on October 8, 2019 and observed sulfur which had drifted down from a conveyance structure into a roadside ditch along Hwy 18. This event was assigned the incident number 193686. (See photos 1 and 2 from inspection report)
5. On May 27, 2021, the Respondent notified the Department of a release of seepage water from the Lime Treatment Pond System which discharged from the facility via Outfall 002 instead of undergoing treatment and then ultimately being discharged via Outfall 001 as required by LPDES Permit LA0029769. This event was assigned the incident number 202946.

Each unauthorized discharge is a violation of La. R.S. 30:2076(A)(1)(a) and LAC 33:IX.501.D. In addition, Incident 202946 occurring on or about May 27, 2021, described above (II.M.5), is also a failure to properly operate and maintain all facilities and systems of treatment and control in violation of La. R.S. 30:2076(A)(3) and LAC 33:IX.2701.E.

M. The Respondent failed to implement an adequate Storm Water Pollution Prevention Plan (SWP3). Specifically, the Respondent failed to clean-up spilled sulfur in the ditches along Hwy 18. Loading operations previously occurred between September 28, 2019 and October 4, 2019. The inspection conducted by the Department on or about October 31, 2019, revealed Sulfur in the roadside ditch. Correspondence received from the Respondent on December 18, 2020, revealed that no new loading operations occurred between October 4, 2019, and the site visit made on October 31, 2019. This is a violation of LPDES Permit LA0029769 Part II, Section P.5.b, La. R.S. 30:2076(A)(3), and



LAC 33:IX.2701.A. In an email sent to the Department on February 2, 2021, the Respondent revealed that new BMP practices have been enacted to prevent future stormwater contamination from the conveyance structures that pass over Hwy 18.

- N. The Respondent reported the following exceedances of permit effluent limitations on Discharge Monitoring Reports (DMRs) submitted for the monitoring periods (MPs) of January 2017 through September 2021.

	MP END DATE	OUTFALL	PARAMETER	LIMIT	DMR VALUE	UNITS
1.	11/30/2020	006-A	Nitrogen, ammonia total [as N] --- DAILY MX	10	13.4	mg/L
2.	04/30/2021	001-A	Phosphorus, total [as P] --- MO AVG	35	45.8	mg/L
3.	04/30/2021	301-A	Nitrogen, ammonia total [as N] --- MO AVG	1902	3872.6 *	lb/d
4.	04/30/2021	301-A	Nitrogen, ammonia total [as N] --- DAILY MX	3846	7331.4 *	lb/d
5.	05/31/2021	001-A	Phosphorus, total [as P] --- MO AVG	35	54.5	mg/L
6.	05/31/2021	007-A	Nitrogen, ammonia total [as N] --- DAILY MX	10	11.2	mg/L
7.	05/31/2021	301-A	Nitrogen, ammonia total [as N] --- MO AVG	1902	4595.3	lb/d
8.	05/31/2021	301-A	Nitrogen, ammonia total [as N] --- DAILY MX	3846	6915.7	lb/d
9.	09/30/2021	001-A	Phosphorus, total [as P] --- MO AVG	35	39.9	mg/L
10.	09/30/2021	301-A	Nitrogen, ammonia total [as N] --- MO AVG	1902	2387	lb/d
11.	09/30/2021	301-A	Nitrogen, ammonia total [as N] --- DAILY MX	3846	4014.6	lb/d
12.	09/30/2021	007-A	Nitrogen, ammonia total [as N] --- DAILY MX	10	21.4	mg/L
13.	09/30/2021	008-A	Nitrogen, ammonia total [as N] --- DAILY MX	10	11.7	mg/L

\* Caused by increased pump rate during upset conditions from April 14, 2021 to April 19, 2021.

Each exceedance is a violation of LPDES Permit LA0029769 (Part I, Page 9 of 12 and Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A.

- O. The Respondent failed to comply with LPDES Permit LA0029769. The Respondent failed to report results on Discharge Monitoring Reports (DMRs) for Outfall 002 for the following monitoring periods: May 2018, June 2018, July 2018, August 2018, April 2020, and September 2020. Specifically, the Respondent did not report the streamflow of the Mississippi River for the above monitoring periods. Each failure to report is in violation of LPDES Permit LA0029769 (Part I, Page 8 of 12 and Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.L.4.a.
- P. The Respondent failed to submit documents to the Department as required by LPDES Permit LA0029769. Specifically, the Respondent failed to submit monthly summaries of total phosphorous discharge from Outfall 002 with monthly DMRs submitted for



monitoring periods from April 2020 through August 2020, October 2020 through February 2021, and April 2021 through August 2021 as required by LPDES Permit LA0029769 (Part II, Section V). In addition, the Respondent failed to submit the annual total calculated phosphorous discharge from Outfall 002 with supporting data as required by LPDES Permit LA0029769 (Part II, Section U) for the years of 2017, 2018, 2019, and 2020. Each failure to submit documents is in violation of LPDES Permit LA0029769 (Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.A.

- Q. The Respondent failed to submit Discharge Monitoring Reports (DMRs) in a timely manner for the monitoring period of March 2017 for Outfall 002. Specifically, the DMR for March 2017 was due to be submitted by April 15, 2017, but was submitted on August 16, 2017, 123 days past the due date. The failure to submit DMRs in a timely manner is in violation of LPDES Permit LA0029769 (Part II, Section Q and Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.L.4)

III.

The Respondent owns and/or operates the Uncle Sam Plant (the facility, Agency Interest No. 2532), a phosphoric acid, sulfuric acid, and Hydrofluorosilicic Acid producing plant, located at 7250 Louisiana Highway 44, in Uncle Sam, St. James Parish, Louisiana. The facility operates or has operated under the authority of the following Title V Air Permits:

PERMIT	PERMIT NUMBER	ISSUE DATE	PERMIT EXPIRATION DATE
Title V Permit	2560-00004-V5	October 10, 2018	October 10, 2023
	2560-00004-V4	October 5, 2017	March 20, 2018
	2560-00004-V3	August 18, 2015	March 20, 2018
	2560-00004-V2AA	January 13, 2015	March 20, 2018
	2560-00004-V2	March 20, 2013	March 20, 2018

The facility also operates under Consent Decree, Civil Action Number 2:09-cv-6662 entered into the United States District Court for the Eastern District of Louisiana on or about December 23, 2009.

IV.

On August 21, 2019, the Department conducted an inspection of the facility to determine compliance with the Act and Air Quality Regulations. While the investigation by the Department is not yet complete, the violations below were noted during the course of the inspection and subsequent file review performed on October 6, 2021.

- A. The inspection revealed the Respondent failed to operate the South A&F Fume Scrubber (EQT0016) at a flow rate of greater than or equal to 600 gallons per minute (gallons/min). Specifically, the flow rate was less than 600 gallons/min from March 22, 2019, through



March 23, 2019. The failure to operate the South A&F Fume Scrubber at a flow rate of greater than or equal to 600 gallons/minute is a violation of Specific Requirements 37 of Title V Permit No. 2560-00004-V5, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2). Additionally, the inspection report noted that the Respondent would include this violation in the 2019 1<sup>st</sup> Semiannual Monitoring Report. The Respondent reported in the 2019 Title V 1<sup>st</sup> Semiannual Monitoring Report dated September 23, 2019, that the North A&F Fume Scrubber (EQT0006) was operating above the flow rate of 600 gallons/min but did not report the aforementioned violations for the South A&F Fume Scrubber (EQT0016). The failure to identify and accurately report deviations in the aforementioned report is a violation of Specific Requirement 262 of Title V Permit No. 2560-00004-V5, LAC 33:III.501.C.4, LAC 33:III.535 General Condition K, and La. R.S. 30:2057(A)(2).

B. The inspection revealed the Respondent failed to operate the G Tank Scrubber (EQT0057) with a pressure of greater than or equal to 50 psig. Specifically, the pressure was below 50 psig on May 9, 2018, May 10, 2018, and May 18, 2018. This is a violation of Specific Requirement 46 of Title V Permit No. 2560-00004-V4, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2). Additionally, the Respondent failed to identify and report these instances of deviations from operating parameters in the 2018 Title V 1<sup>st</sup> Semiannual Monitoring Report dated September 28, 2018. This is a violation of Specific Requirement 245 of Title V Permit No. 2560-00004-V4, LAC 33:III.501.C.4, LAC 33:III.535 General Conditions K, and La. R.S. 30:2057(A)(2).

C. The Respondent reported the failure to operate the North A&F Fume Scrubber (EQT0006) and the South A&F Fume Scrubber (EQT0016) at a flow rate of greater than or equal to 600 gallons per minute (gallons/min). Specifically, the flow rate was less than 600 gallons/min on the following dates:

	REPORT (date)	INCIDENT DATE (duration)	REPORTED CAUSE	CORRECTIVE ACTIONS	REGULATORY or PERMIT REQUIREMENTS
1.	2019 Title V 2 <sup>nd</sup> Semiannual Monitoring Report (4/6/2020)	12/9/2019 at 12:00 AM		The Respondent reminded operations of the permit requirements to operate EQT0016 above 600 gallons/minute during normal operations.	
		12/9/2019 at 3:00 AM			
2.	2020 Title V 1 <sup>st</sup> Semiannual Monitoring Report (9/30/2020)	1/1/2020-1/2/2020 (12 hours)	Flow rate of the EQT0016 operated below 600 gallons/min.	The Respondent improved alarms in April 2020 to prevent operation below 600 gallons/minute limit. Interlocks to shut down the unit for low flow condition were installed in June 2020.	Specific Requirement 37
3.		1/2/2020 (6 hours)			
4.		1/2/2020-1/3/2020 (6 hours)			
5.		1/3/2020-1/4/2020 (3 hours)			
6.		1/12/2020 (9 hours)			
7.		1/25/2020 (3 hours)			
8.		1/29/2020-1/30/2020 (3 hours)			
9.		2/15/2020 (3 hours)			
10.		1/7/2020 (3 hours)			
11.		1/9/2020 (6 hours)			
12.	1/14/2020 (6 hours)				
13.	1/19/2020 (3 hours)				
14.	1/20/2020 (6 hours)				
15.	1/23/2020 (3 hours)				
16.	2/2/2020 (9 hours)				



	REPORT (date)	INCIDENT DATE (duration)	REPORTED CAUSE	CORRECTIVE ACTIONS	REGULATORY or PERMIT REQUIREMENTS
17.	2020 Title V 1st Semiannual Monitoring Report (9/30/2020)	2/9/2020 (6 hours)	Flow rate of the EQT0006 operated below 600 gallons/min.	Strainer was cleaned and flow rate returned to normal level.	Specific Requirement 27
18.		2/16/2020 (3 hours)			
19.		3/1/2020 (3 hours)			
20.		1/11/2020-1/12/2020 (15 hours)			
21.		1/12/2020 (18 hours)			
22.		1/15/2020-1/16/2020 (15 hours)			
23.		1/17/2020 (6 hours)			
24.		1/24/2020-1/25/2020 (6 hours)			
25.		1/25/2020 (3 hours)			
26.		1/26/2020 (3 hours)			
27.		1/27/2020 (9 hours)			
28.		1/27/2020-1/28/2020 (18 hours)			
29.		1/29/2020 (6 hours)			
30.		1/30/2020 (15 hours)			
31.		2/19/2020 (15 hours)			
32.		2/20/2020-2/21/2020 (18 hours)			
33.		2/21/2020 (3 hours)			

Each failure to maintain a flow rate of greater than or equal to 600 gallons/min is a violation of Specific Requirements 27 and 37 of Title V Permit No. 2560-00004-V5, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

D. In the 2020 Title V 1<sup>st</sup> Semiannual Monitoring Report dated September 30, 2020, the Respondent reported that the average opacity was 20 percent or more for more than one six (6) minute period in any sixty (60) minutes. Specifically, on June 23, 2020, for approximately fifteen (15) minutes, the Respondent experienced opacity greater than or equal to 20 percent. The Respondent experienced a blown tube at the E Train Start-Up Burner (EQT0077), which caused the exceedance. This is a violation of Specific Requirement No. 131 of Title V Permit No. 2560-00004-V5, LAC 33:III.1311.C, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1), and La. R.S. 30:2057(A)(2).

E. The Respondent reported the following exceedances of throughput limits in the 2020 Title V 2<sup>nd</sup> Semiannual Report dated March 31, 2021:

	EMISSION POINT	INCIDENT DATE (duration)	PERMITTED THROUGHPUT	THROUGHPUT AMOUNT	DESCRIPTION
1.	S-Lean Tank – Lean Amine Storage Tank (EQT0111)	7/1/2020-12/31/2020 (4,380 hours)	66.2 million gallons/yr	99.4 million gallons	The Tank exceeded the maximum throughput of 66.2 million gallons per year by 33.3 million gallons. On or about April 28, 2021, the Respondent submitted a Notification for Case-by-Case Insignificant Activity, which increased the annual throughput for EQT0111 from 66,210,696 gallons/yr to 124,000,000 gallons/yr.



	EMISSION POINT	INCIDENT DATE (duration)	PERMITTED THROUGHPUT	THROUGHPUT AMOUNT	DESCRIPTION
2.	P- Defoamer Tank 1- Defoamer Storage Tank (EQT0117)	7/1/2020-12/31/2020 (4,380 hours)	360,000 gallons/yr	537,914 gallons	The Tank exceeded the maximum throughput of 360,000 gallons per year by 177,914 gallons. On or about April 28, 2021, the Respondent submitted a Notification for Case-by-Case Insignificant Activity, which increased the annual throughput for EQT0117 from 360,000 gallons/yr to 950,000 gallons/yr.
3.	P- Defoamer Tank 2- Defoamer Storage Tank (EQT0118)		20,000 gallons/yr	71,911 gallons	The tank exceeded the maximum throughput of 20,000 gallons per year by 51,911 gallons. and On or about April 28, 2021, the Respondent submitted a Notification for Case-by-Case Insignificant Activity, which increased the annual throughput for EQT0118 from 20,000 gallons/yr to 100,000 gallons/yr.

As of October 18, 2021, the Department has not approved the Case-By-Case Insignificant Activity. Each annual throughput exceedance is a violation of Title V Permit No. 2560-00004-V5, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1) and La. R.S. 30:2057(A)(2). Each instance of the unauthorized emission due to the throughput exceedance, as noted in the above table, is a violation of LAC 33:III.501.C.2, La. R.S. 30:2057(A)(1) 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 and Water Quality Regulations, and any applicable air and water permits.

##### II.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, a written report of any and all excess emissions from the Granulation B Train Tail Gas Scrubber (EQT0098) and Granulation A Train Tail Gas Scrubber (EQT0097), as mentioned in **FINDINGS OF FACT** paragraph II.A of this **COMPLIANCE ORDER**, up until the issuance of Title V Permit No. 2560-00021-V7. Additionally, submit revisions to the Title V 1<sup>st</sup> Semiannual Monitoring Reports, Title V 2<sup>nd</sup> Semiannual Monitoring Reports, and Title V Annual Compliance Certifications for reporting years 2016-2018, if applicable, to include the emissions.

##### III.

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 II.O of the **FINDINGS OF FACT** portion of this **COMPLIANCE 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."

IV.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, the monthly summaries as outlined in LPDES Permit LA0029769 (Part II, Section V) and the total calculated phosphorous discharge as outlined in LPDES Permit LA0029769 (Part II, Section U) mentioned in paragraph II.P of the **FINDINGS OF FACT** portion of this **COMPLIANCE ORDER**. The report shall also include the 2021 throughput, to date, for each tank and any excess emissions, if applicable.

V.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, a written report that includes any emissions exceedances caused by the throughput exceedances for the tanks mentioned in paragraph IV.E of the **FINDINGS OF FACT** portion of this **COMPLIANCE ORDER**.

VI.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, a written report that includes the actual flow rate of all emissions sources that operated out of range as mentioned in **FINDINGS OF FACT** paragraph II.K of this **COMPLIANCE ORDER**, and includes any emissions exceedances, if applicable.

VII.

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: Madison Kirkland**  
**Re: Enforcement Tracking No. MM-CN-21-00329**  
**Agency Interest Nos. 2425 and 2532**



**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. MM-CN-21-00329**  
**Agency Interest Nos. 2425 and 2532**

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 twenty-seven thousand five hundred dollars (\$27,500) for each day of violation for the violation(s) described herein may be assessed. For violations which occurred on August 15, 2004, or after, civil penalties of not more than thirty-two thousand five hundred dollars (\$32,500) may be assessed for each day of violation. The Respondent's failure or refusal to comply with this **COMPLIANCE ORDER** and the provisions herein will subject the Respondent to possible enforcement procedures under La. R.S. 30:2025, which could result in the assessment of a civil penalty in an amount of not more than fifty thousand dollars (\$50,000) for each day of continued violation or noncompliance.

VII.

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

**NOTICE OF POTENTIAL PENALTY**

I.

Pursuant to La. R.S. 30:2050.3(B), you are hereby notified that the issuance of a penalty assessment is being considered for the violation(s) described herein. Written comments may be filed regarding the violation(s) and the contemplated penalty. If you elect to submit comments, it is requested that they be submitted within ten (10) days of receipt of this notice.

II.

Prior to the issuance of additional appropriate enforcement action(s), you may request a meeting with the Department to present any mitigating circumstances concerning the violation(s). If you would like to have such a meeting, please contact Madison Kirkland at (225) 219-3165 or at [Madison.Kirkland@la.gov](mailto:Madison.Kirkland@la.gov) within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

III.

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



the above named contact person within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**. Include with your statement of monetary benefits the method(s) you utilized to arrive at the sum. If you assert that no monetary benefits have been gained, you are to fully justify that statement. If the Respondent chooses not to submit the requested most current annual gross revenues statement within ten (10) days, it will be viewed by the Department as an admission that the Respondent has the ability to pay the statutory maximum penalty as outlined in La. R.S. 30:2025.

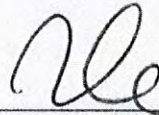
IV.

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

V.

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

Baton Rouge, Louisiana, this 4<sup>th</sup> day of November, 2021.



Lourdes Iturralde  
Assistant Secretary  
Office of Environmental Compliance



Copies of a request for a hearing and/or related correspondence should be sent to:

Louisiana Department of Environmental Quality  
Office of Environmental Compliance  
Enforcement Division  
P.O. Box 4312  
Baton Rouge, LA 70821-4312  
Attention: Madison Kirkland





LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY  
 OFFICE OF ENVIRONMENTAL COMPLIANCE  
 ENFORCEMENT DIVISION CONSOLIDATED COMPLIANCE ORDER &  
 POST OFFICE BOX 4312 NOTICE OF POTENTIAL PENALTY  
 BATON ROUGE, LOUISIANA 70821-4312 REQUEST TO CLOSE

Enforcement Tracking No.	MM-CN-21-00329	Contact Email	Madison.Kirkland@la.gov
Agency Interest (AI) No.	2425 and 2532	Contact Name	Madison Kirkland
Alternate ID No.	2560-00021, 2560-00004, LA0029769	Contact Phone No.	225-219-3165
Respondent:	MOSAIC FERTILIZER, LLC	Facility Name:	FAUSTINA PLANT
	c/o C T Corporation System	Physical Location:	9959 Louisiana Highway 18
	Agent for Service of Process		
	3867 Plaza Tower Drive	City, State, Zip:	St. James , LA,
	Baton Rouge, LA 70816	Parish:	St. James
		Facility Name:	UNCLE SAM PLANT
		Physical Location:	7250 Louisiana Highway 44
		City, State, Zip:	Uncle Sam, LA, 70792
	Parish:	St. James	

**STATEMENT OF COMPLIANCE**

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

**SETTLEMENT OFFER (OPTIONAL)**

*(check the applicable option)*

<input type="checkbox"/>	The Respondent is not interested in entering into settlement negotiations with the Department with the understanding that the Department has the right to assess civil penalties based on LAC 33:1.Subpart1.Chapter7.
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (MM-CN-21-00329), 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-21-00329), 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"> <li>• Monetary component = \$ _____</li> <li>• Beneficial Environmental Project (BEP) component (optional)= \$ _____</li> <li>• <b>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.</b></li> </ul>
<input type="checkbox"/>	The Respondent has reviewed the violations noted in NOTICE OF POTENTIAL PENALTY (MM-CN-21-00329) and has attached a justification of its offer and a description of any BEPs if included in settlement offer.



CERTIFICATION STATEMENT		
<p><i>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.</i></p>		
Respondent's Signature	Respondent's Printed Name	Respondent's Title
Respondent's Physical Address	Respondent's Phone #	Date
<b>MAIL COMPLETED DOCUMENT TO THE ADDRESS BELOW:</b>		
<p>Louisiana Department of Environmental Quality                      Office of Environmental Compliance                      Enforcement Division                      P.O. Box 4312                      Baton Rouge, LA 70821                      Attn: Madison Kirkland</p>		



# 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.

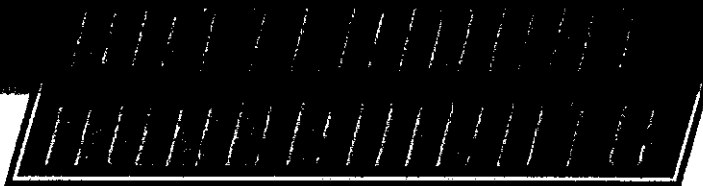
**Minor:** Violations that result in some deviation from the intent of the requirement; however, substantial implementation is demonstrated.

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.







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  
specific examples can be provided upon request
- Penalty Determination Method ..... LAC 33:1 Chapter 7
- Beneficial Environmental Projects ..... LAC 33:1 Chapter 25  
FAQs
- Judicial Interest..... provided by the Louisiana State Bar Association

