

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

SASOL CHEMICALS (USA) LLC

AI # 3271

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

* **Settlement Tracking No.**
* **SA-AE-23-0026**
*
* **Enforcement Tracking No.**
* **AE-PP-20-00460**
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SETTLEMENT

The following Settlement is hereby agreed to between Sasol Chemicals (USA) 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 multi-product chemical manufacturing facility located in Westlake, Calcasieu Parish, Louisiana (“the Facility”).

II

On August 23, 2021, the Department issued to Respondent a Notice of Potential Penalty, Enforcement Tracking No. AE-PP-20-00460 (Exhibit 1).

III

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

IV

Nonetheless, Respondent, without making any admission of liability under state or federal

statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of TEN THOUSAND TWO HUNDRED FIFTY AND NO/100 DOLLARS (\$10,250.00), of which One Thousand Six Hundred and 89/100 Dollars (\$1,600.89) represents the Department's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to the Department as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

V

Respondent further agrees that the Department may consider the inspection report(s), permit record(s), the Notice of Potential Penalty and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VI

This agreement shall be considered a final order of the Secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

VII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set

forth in La. R. S. 30:2025(E) of the Act.

VIII

As required by law, the Department has submitted this Settlement Agreement to the Louisiana Attorney General for approval or rejection. The Attorney General's concurrence is appended to this Settlement Agreement.

IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Calcasieu Parish, Louisiana. The advertisement, in form and wording approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted an original proof-of-publication affidavit and an original public notice to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

X

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Accountant Administrator, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form 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.

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.

SASOL CHEMICALS (USA) 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*
Aurelia S. Giacometto, Secretary

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



NOTICE OF POTENTIAL PENALTY

Enforcement Tracking No.	AE-PP-20-00460	Certified Mail No.	7018 3090 0002 0373 6098
Agency Interest (AI) No.	3271	Contact Name	Alicia B. Ryan
Alternate ID No.	0520-00003	Contact Phone No.	225-219-3374
Respondent:	SASOL CHEMICALS (USA) LLC	Facility Name:	Lake Charles Chemical Complex
	c/o CT Corporation System	Physical Location:	2201 Old Spanish Trail
	Agent for Service of Process		
	3867 Plaza Tower Drive	City, State, Zip:	Westlake, LA, 70669
Baton Rouge, LA 70816	Parish:	Calcasieu	

This **NOTICE OF POTENTIAL PENALTY** is issued by the Louisiana Department of Environmental Quality (the Department), under the authority granted by the Louisiana Environmental Quality Act (the Act), La. R.S. 30:2001, et seq., and 30:2050.3(B).

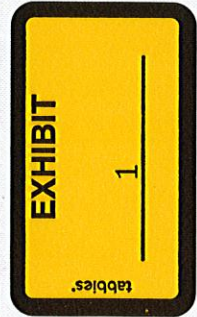
FINDINGS OF FACT

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

The Respondent owns and/or operates the Lake Charles Chemical Complex (the facility), a multi-product chemical manufacturing facility, located at 2201 Old Spanish Trail in Westlake, Calcasieu Parish, Louisiana. The facility operates or has operated under the authority of the following Title V Air Permits and Prevention of Significant Deterioration (PSD):

I.

UNIT	PERMIT	ISSUE DATE
Ethoxylation Unit	2325-V8	11/7/2019
Alumina Unit	2565-V10	11/7/2019
Ethylene Unit	2743-V10	6/23/2020
Research and Development Facility	2825-02	10/29/2019
Alcohol Unit	2865-V12	11/17/2020
Linear Alkyl Benzene Unit	2894-V5	4/29/2016
Activated Sludge Unit	2895-V4	10/12/2020
Normal Paraffin Unit	2896-V10	7/18/2019
Steam Unit	2901-V4	7/9/2019
Comonomer-1 Unit	3088-V3	10/20/2016
Ethylene Oxide/Monoethylene Glycol Unit	3115-V2	1/10/2019
Guerbet Alcohols Unit	3117-V3	7/28/2020
Ethylene 2 Plant	3118-V2	1/10/2019
Gas to Liquids Unit	3119-V0	5/23/2014
Air Separation Unit	3120-V0	5/23/2014
Hydrogen Production Unit	3121-V0	5/23/2014
Power Unit	3122-V0	5/23/2014
LAB2 Unit	3123-V0	5/23/2014
Stationary Engines	3124-V1	11/15/2018
Construction Fueling Facility	3135-V0	4/8/2015
Non-Process equipment	3160-V0	9/23/2016
Prevention of Significant Deterioration (PSD)	PSD-LA-291 (M-4)	4/29/2016
	PSD-LA-644	9/19/2000
	PSD-LA-778	5/23/2014
	PSD-LA-779 (M-12)	4/16/2021
	PSD-LA-814 (M-1)	10/20/2016



	Date of Violation	Description of Violation
II.	Inspection(s) & File Review July 24, 2019	The Department received an Unauthorized Discharge Notification Report (Incident No. T-192399) dated July 30, 2019, final incident report dated October 9, 2019, and follow-up response dated February 14, 2020. According to the reports, on July 23, 2019, ethylene operations were in the process of bringing the ethane feed system (area 050) up to full operating pressure (700 psig). When operating pressure reached 540 psig, the gasket on the ethane coalescer (D050-1005) failed resulting in an unignited release of 57,000 pounds of ethane to the atmosphere. The incident lasted for approximately 83 minutes and exceeded the Reportable Quantity (RQ) of ethane, which is 1,000 pounds. The Respondent reported a direct cause of the incident was a rubber seal failure due to improper installation. Turner Specialty Welding Services (SWS) was the contract company that installed the gasket. The Respondent reported the manufacturer of the rubber seal provided an installation procedure, but the Respondent did not provide this procedure to the contract company. In email correspondence dated March 5, 2020, the Respondent identified the testing with service fluid (ethane) rather than inert fluid (nitrogen) as a potential underlying cause because it was the first time the equipment experienced full operating pressure rates while utilizing service fluid. The failure to use and maintain control equipment, any device or contrivance, operating procedure, or abatement scheme used to prevent or reduce air pollution, in proper working order is a violation LAC 33:III.905.A and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
III.	Inspection(s) & File Review July 24, 2019	The Respondent failed to assure that equipment is installed properly and consistent with design specifications and the manufacturer's instruction. According to the Respondent's Internal Investigation Report for Incident No. T-192399 dated October 9, 2019, the Respondent stated that a direct cause of the incident was a rubber seal failure due to improper installation. SWS was the contract company that installed the gasket; however, the Respondent failed to provide the manufacturer rubber seal installation procedure to SWS. In correspondence dated February 14, 2020, the Respondent reported that SWS was in charge of providing their own Quality Assurance/ Quality Control (QA/QC) inspection person, but the Respondent was unable to confirm the completion of the QA/QC performed by SWS. The Respondent's failure to ensure that the manufacturer's rubber seal installation procedure was provided to SWS constitutes a failure to perform appropriate checks and inspections to assure equipment was installed consistent with manufacturer instructions. This is a violation of Specific Requirement Nos. 221 and 226 of Title V Permit No. 3118-V2, 40 CFR 68.73(f)(2), which language has been incorporated by reference in LAC 33:III.5901.A, LAC 33:III.501.C.4, LAC 33:III.535, and La. R.S. 30:2057(A)(2).
IV.	Inspection(s) & File Review October 31, 2020	The Department received an Unauthorized Discharge Notification Report (Incident No. T-199758) dated November 4, 2020. According to the report, on October 31, 2020, the facility experienced an atmospheric release of ethylene gas at the low density polyethylene unit (LDPE). Specifically, LDPE operations were shutting down the reactor to place it on standby, which involves sending ethylene from the high pressure recycle system back to the ethylene 2 unit. The recycle inlet valve (XV-06350272) was closed. Contrary to the current reactor shutdown procedure, the pressure controller (PC-06340805) was left in auto mode, and the high pressure let-down valve (XV-06340805) was closed. Because the high pressure recycles, secondary compressor, and reactor were blocked in by the aforementioned valves, the pressure in the discharge of the secondary compressor increased. Operations opened the secondary compressor spillback valve (MOV-06315015) to equalize pressure. The recycle system then exceeded the design rating of the rupture disk (PSE-06350045) on the wax knockout drum (D-5002). The rupture disk opened and released the ethylene inventory on the recycle system to the atmosphere via the rupture disk vent stack. The event lasted for approximately seven (7) minutes and resulted in the release of 33,388 pounds of ethylene, which is above the RQ of 1,000 pounds for ethylene. The Respondent determined the release was preventable because the reactor shutdown procedure was not followed properly. The failure to use and maintain control equipment, any device or contrivance, operating procedure, or abatement scheme used to prevent or reduce air pollution, in proper working order is a violation LAC 33:III.905.A and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
NOTICE OF POTENTIAL PENALTY		
I.	Pursuant to La. R.S. 30:2050.3(B), you are hereby notified that the issuance of a penalty assessment is being considered for the violation(s) described herein. Written comments may be filed regarding the violation(s) and the contemplated penalty. If you elect to submit comments, it is requested that they be submitted within ten (10) days of receipt of this notice.	

II.	Prior to the issuance of additional appropriate enforcement action(s), you may request a meeting with the Department to present any mitigating circumstances concerning the violation(s). If you would like to have such a meeting, please contact Dr. Alicia B. Ryan at (225) 219-3374 or alicia.ryan@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 in order to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue statement along with a statement of the monetary benefits of noncompliance for the cited violations to the above named contact person within ten (10) days of receipt of this NOTICE OF POTENTIAL PENALTY . Include with your statement of monetary benefits the method(s) you utilized to arrive at the sum. If you assert that no monetary benefits have been gained, you are to fully justify this statement. If the Respondent chooses not to submit the requested most current annual gross revenues statement within ten (10) days, it will be viewed by the Department as an admission that the Respondent has the ability to pay the statutory maximum penalty as outlined in La. R.S. 30:2025.
IV.	For each violation described herein, the Department reserves the right to seek civil penalties and the right to seek compliance with its rules and regulations in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties and compliance.
V.	To reduce document handling, please refer to the Enforcement Tracking Number and Agency Interest Number on the front of this document on all correspondence in response to this action.

CONTACTS AND SUBMITTAL OF INFORMATION

Enforcement Division:	Physical Address (if hand delivered):
Louisiana Department of Environmental Quality Office of Environmental Compliance Air Enforcement Division P.O. Box 4312 Baton Rouge, LA 70821 Attn: Dr. Alicia B. Ryan	Department of Environmental Quality 602 N Fifth Street Baton Rouge, LA 70802

HOW TO REQUEST CLOSURE OF THIS NOTICE OF POTENTIAL PENALTY

To expedite closure of the **NOTICE OF POTENTIAL PENALTY**, the Respondent may offer a settlement amount to resolve any claim for civil penalties for the violation(s) described herein.

- The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter7.
- The Respondent may offer a settlement amount but the Department is under no obligation to enter into settlement negotiations. It is decided upon on a discretionary basis.
- The settlement offer amount may be entered on the attached "NOTICE OF POTENTIAL PENALTY REQUEST TO SETTLE" form. The Respondent must include a justification of the offer.
- **DO NOT** submit payment of the offer amount with the form. The Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.

If you have questions or need more information, you may contact Dr. Alicia B. Ryan at (225) 219-3374 or alicia.ryan@la.gov.



Lourdes Iturralde
Assistant Secretary
Office of Environmental Compliance

Date: 8-23-2021

Attachment(s)
- Request to Settle

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



**NOTICE OF POTENTIAL PENALTY
 REQUEST TO SETTLE (OPTIONAL)**

Enforcement Tracking No.	AE-PP-20-00460	Contact Name	Alicia B. Ryan
Agency Interest (AI) No.	3271	Contact Phone No.	225-219-3374
Alternate ID No.	0520-00003		
Respondent:	SASOL CHEMICALS (USA) LLC	Facility Name:	Lake Charles Chemical Complex
	c/o CT Corporation System	Physical Location:	2201 Old Spanish Trail
	Agent for Service of Process		
	3867 Plaza Tower Drive	City, State, Zip:	Westlake, LA, 70669
	Baton Rouge, LA 70816	Parish:	Calcasieu

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 NOTICE OF POTENTIAL PENALTY (AE-PP-20-00460) , 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 (AE-PP-20-00460) , the Respondent is interested in entering into settlement negotiations with the Department and offers to pay \$ _____ which shall include LDEQ enforcement costs and any monetary benefit of non-compliance. <ul style="list-style-type: none"> • Monetary component = \$ _____ • Beneficial Environmental Project (BEP) component (optional)= \$ _____ • DO NOT SUBMIT PAYMENT OF THE OFFER WITH THIS FORM- the Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.
<input type="checkbox"/>	The Respondent has reviewed the violations noted in NOTICE OF POTENTIAL PENALTY (AE-PP-20-00460) and has attached a justification of its offer and a description of any BEPs if included in settlement offer.

CERTIFICATION STATEMENT

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

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

MAIL COMPLETED DOCUMENT TO THE ADDRESS BELOW:

Louisiana Department of Environmental Quality
Office of Environmental Compliance
Enforcement Division
P.O. Box 4312
Baton Rouge, LA 70821
Attn: Alicia B. Ryan

If you have questions or need more information, you may contact Dr. Alicia B. Ryan at (225) 219-3374 or alicia.ryan@la.gov.

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 33:1705 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.

	MAJOR	MODERATE	MINOR
MAJOR	\$32,500 to \$20,000	\$20,000 to \$15,000	\$15,000 to \$11,000
MODERATE	\$11,000 to \$8,000	\$8,000 to \$5,000	\$5,000 to \$3,000
MINOR	\$3,000 to \$1,500	\$1,500 to \$500	\$500 to \$100

Degree of Risk to Human Health or Property

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

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

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

Nature and Gravity of the Violation

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

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

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

The range is adjusted using the following violator specific factors:

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



SETTLEMENT AGREEMENTS

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

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

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

WHAT IS A BEP?

A BEP is a project that provides for environmental mitigation which the respondent is not otherwise legally required to perform, but which the defendant/respondent agrees to undertake as a component of the settlement agreement. Project categories for BEPs include public health, pollution prevention, pollution reduction, environmental restoration and protection, assessments and audits, environmental compliance promotion, and emergency planning, preparedness and response. Other projects may be considered if the Department determines that these projects have environmental merit and is otherwise fully consistent with the intent of the BEP regulations.

WHAT HAPPENS IF MY OFFER IS REJECTED?

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

WHERE CAN I FIND EXAMPLES AND MORE INFORMATION?

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

