

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

DSM COPOLYMER, INC.

AI # 2519, 1395

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

- * **Settlement Tracking No.**
- * **SA-MMH-07-0040**
- *
- * **Enforcement Tracking No.**
- * **MM-C-03-0020**
- * **MM-CN-04-0104**
- * **HE-CN-04-0465**
- *
- * **Docket No. 2005-2369-EQ**
- * **2005-3349-EQ**
- * **2005-4169-EQ**

SETTLEMENT

The following Settlement is hereby agreed to between DSM Copolymer, Inc. ("Respondent") and the Department of Environmental Quality ("DEQ" or "the Department"), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. ("the Act").

I

Respondent is a corporation who owned and/or operated a facility that produces numerous varieties of styrene butadiene rubber products located in Baton Rouge, East Baton Rouge Parish, and a synthetic rubber and fuel additives manufacturing plant located in Addis, West Baton Rouge Parish, Louisiana ("the Facility(s)").

II

On May 6, 2003, the Department issued a Compliance Order, Enforcement No. MM-C-03-0020, to Respondent, regarding the Addis plant, which was based upon the following findings of fact:

The Respondent operated a hazardous waste treatment, storage and disposal facility located at 9263 Louisiana Highway 1 South in Addis, West Baton Rouge Parish, Louisiana. The facility was operated under Interim Status with EPA identification number LAD059130831. The Respondent owned and/or operated two (2) underground storage tanks (UST) enclosed in a vault. The facility was assigned UST identification number 61-002346.

On July 23 and August 26, 2002, representatives of the Department performed inspections of the DSM Copolymer Addis facility and noted the following:

- A. The Respondent failed to keep a 55-gallon container holding hazardous solid paint waste closed during storage except when necessary to add or remove waste as required by LAC 33:V.2107.A, in violation of LAC 33:V.1109.E.4.
- B. The Respondent failed to demonstrate that their contract employees had received training for hazardous waste management procedures relevant to the positions in which they are employed as required by LAC 33:V.1515.A, in violation of LAC 33:V.1119.
- C. The Respondent failed to maintain hazardous waste training documentation for facility personnel at the facility as required by LAC 33:V.1515.D.4, in violation of LAC 33:V.1119.
- D. The Respondent failed to provide cathodic protection to the UST system piping that routinely contains regulated substances and is in contact with the ground, in violation of LAC 33:XI.303.B.3. Specifically, the metal portion of the product piping located under the dispensers was in contact with the ground.
- E. The Respondent failed to seal the release detection devices (RDDs) from the ground surface to a depth of one (1) foot and provide them with locking caps, allowing the

introduction of known interferences that render vapor monitoring devices inoperative, in violation of LAC 33:XI.701.A.5.a and b.

On February 10, 2005, the Department issued a Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. HE-CN-04-0465, to Respondent, which was based upon the following findings of fact:

The Respondent owned and/or operated a synthetic rubber and fuel additives manufacturing plant that was a permitted hazardous waste treatment, storage and disposal facility located at 9263 Louisiana Highway 1 South in Addis, West Baton Rouge Parish, Louisiana and bore the EPA identification number LAD 059 130 831. The facility operated one (1) hazardous waste boiler identified as Boiler #3 under the conditions of Hazardous Waste Operating Permit LAD 059 130 831-OP-1 which became effective on February 20, 2004.

On June 9, 2004, and June 17, 2004, representatives of the Department conducted a Compliance Evaluation Inspection (CEI) and a Continuous Emission Monitoring System (CEMS) inspection. The following violations were found during these inspections:

- A. The Respondent failed to maintain and operate the secondary containment system for hazardous waste tank TK-81-35118 in a manner that would prevent migration of wastes out of the system to the soil and failed to maintain the liner free of gaps and cracks, in violation of LAC 33:V.1907.B.1, LAC 33:V.1907.E.1.c, and permit Condition V.A.1.b of the Hazardous Waste Operating Permit. Specifically, staining

was noted at the time of inspection on the walls and the ground outside the containment area and the sealant inside the containment system was damaged in several places.

- B. The Respondent operated Boiler #3 with a lower than permitted minimum atomizing fluid pressure, in violation of LAC 33:V.3005.D.1 and permit Condition V.D.1.c.(1) of the Hazardous Waste Operating Permit. Specifically, the pressure limit was set at 50 psig instead of 70 psig required by the Hazardous Waste Operating Permit. The Respondent submitted a maintenance report showing that on June 12, 2004, the minimum atomizing pressure limit was reset to the required 70 psig, thus addressing this violation.
- C. The Respondent failed to maintain all information and data in the operating records for a minimum of three (3) years or until closure of the boiler, in violation of LAC 33:V.3005.H, LAC 33:V.3007.K, and permit Condition V.C.5.b.(3) of the Hazardous Waste Operating Permit. Specifically, the natural gas flow rate was recorded on a strip chart that the Respondent threw away after each use without recording the rates in the operating log. During the June 17, 2004, inspection, the Department Representative was able to verify that the natural gas rates were being recorded in the operating records since June 11, 2004, thus addressing this violation.
- D. The Respondent failed to perform a daily CEMS system check, in violation of LAC 33:V.3005.E.1 and permit Condition V.C.3.a.(5) of the Hazardous Waste Operating Permit. Documentation was submitted by the Respondent on July 26, 2004, that

shows the facility has added a daily CEMS check list to the Daily Waste Fuel Oil Feed System and Boiler inspection checklist, thus addressing this violation.

- E. The Respondent failed to resolve an unexplained weight discrepancy of greater than ten percent (10%) on outbound manifest number 04004, in violation of LAC 33:V.907.B.

On April 27, 2005, the Department issued a Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. MM-CN-04-0104, to Respondent which was based on the following findings of fact:

The Respondent owned and/or operated a facility that produces numerous varieties of rubber products located at 1836 Shada Lane in Baton Rouge, East Baton Rouge Parish, Louisiana. The facility has notified the Department as a Large Quantity Generator of Hazardous Waste and a Large Quantity Handler of Universal Waste and bears the EPA identification number LAD 008 182 990. Copolymer Rubber and Chemical Corporation was issued National Pollutant Discharge Elimination System permit (NPDES) LA0000914 on or about September 27, 1991, with an effective date of October 28, 1991, and an expiration date of October 27, 1996. On or about April 19, 1995, NPDES permit LA0000914 was modified reflecting the name change of Copolymer Rubber and Chemical Corporation to DSM Copolymer, Inc. On or about April 22, 1996, the Respondent submitted a permit renewal application in a timely manner and NPDES permit LA0000914 was administratively continued. Under the assumption of the NPDES program by the State of Louisiana, NPDES permit LA0000914 became Louisiana Pollutant Discharge Elimination System (LPDES) permit LA0000914 with the same expiration date. The Respondent was reissued LPDES permit LA0000914 on or about November 2, 2001, with an effective date of

December 1, 2001. LPDES permit LA0000914 expired on November 30, 2006. Under the terms and conditions of LPDES permit LA0000914, the Respondent was authorized to discharge treated process wastewater, utility wastewater, process and non-process area stormwater into the Monte Sano Bayou, waters of the state. On October 15, 1996, the Department received the Respondent's initial Title V permit application. Revised applications were submitted to the Department in December 2003 and February 2005.

An inspection conducted by the Department on May 22, 2003, revealed that the Respondent was not following approved test methods. Specifically, the inspector observed two boxes of pH 4.0 buffer solutions which expired April 23, 2003. At the time of the inspection, the expired solutions were being used for calibration purposes. The failure to follow approved test methods constitutes a violation of LPDES permit LA0000914 (Part II, Section G, and Part III, Sections A.2 and C.5.a), La. R.S. 30:2076 (A)(3), LAC 33:IX.501.A, LAC 33:IX.2701.A, LAC 33:IX.2701.J.4, and LAC 33:IX.4901. The Respondent submitted a written response on December 10, 2003, which indicated that the facility corrected this by removing the expired solutions the day of the inspection.

An inspection conducted by the Department on May 22, 2003, revealed the Respondent was recording and checking the refrigerator temperature at Outfall 001 on a weekly basis. The refrigerator temperature should be checked and recorded daily when compliance samples are stored in the composite refrigerator at Outfall 001. This is in violation of LPDES permit LA0000914 (Part III, Sections A.2 and C.5.c.), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, and LAC 33:IX.2701.A. The Respondent submitted a written response on December 10, 2003, which indicated that this was corrected.

An inspection conducted by the Department on May 22, 2003, and a subsequent file review conducted on or about February 28, 2005, revealed that the Respondent did cause and/or allow an estimated twenty thousand (20,000) gallons of untreated wastewater into Monte Sano Bayou, waters of the state. On May 31, 2002, the Respondent submitted a written response indicating that the unauthorized discharge occurred on May 30, 2002, as a result of a power failure. During the heavy rain event, the plant's lift stations and the treatment plant influent equalization basins began to fill to their maximum capacity. When the power returned, the lift station pumps began to pump back to the full influent basins therefore, bypassing the wastewater treatment plant. According to the facility's written response, an estimated twenty-thousand (20,000) gallons of untreated wastewater discharged for ten (10) minutes into Monte Sano Bayou, waters of the state. This unauthorized discharge to waters of the state is in violation of LPDES permit LA0000914 (Part III, Sections A.2 and B.3.a), La. R. S. 30:2075, La. R. S. 30: 2076 (A)(1)(a), La. R.S. 30:2076(A)(3), LAC 33:IX.501.A, LAC 33:IX.501.C, LAC 33:IX.501.D, and LAC 33:IX.2701.A.

An inspection conducted by the Department on or about May 22, 2003, and a subsequent file review conducted on or about February 28, 2005, revealed that the Respondent exceeded effluent limitations contained in LPDES permit LA0000914. These effluent limitations were reported by the Respondent on Discharge Monitoring Reports (DMRs) and are summarized below:

Monitoring Period	Outfall	Parameter	Permit Limitation	Reported Value
July 2002	010	Oil & Grease	15 mg/L	41.8 mg/L
December 2002	010	pH (maximum)	6.0 – 9.0 S.U.	9.1 S.U.
May 2003	010	pH (maximum)	6.0 – 9.0 S.U.	9.1 S.U.

Monitoring Period	Outfall	Parameter	Permit Limitation	Reported Value
December 2003	010	pH (maximum)	6.0 – 9.0 S.U	9.7 S.U.
3/01/03-5/31/03	001	48 hour Acute Lethality <u>Daphnia pulex</u>	Pass	Failed
3/01/03-5/31/03	001	48 hour Acute Lethality <u>Pimephales promelas</u>	Pass	Failed
6/1/03-8/31/03	001	48 hour Acute Lethality <u>Daphnia pulex</u>	Pass	Failed
6/1/03-8/31/03	001	48 hour Acute Lethality <u>Pimephales promelas</u>	Pass	Failed
8/27/03	001	24 hour Lethality <u>Pimephales promelas*</u>	Pass	Failed
12/1/03-2/29/04	001	48 hour Acute Lethality <u>Daphnia pulex</u>	Pass	Failed
12/1/03-2/29/04	001	48 hour Acute Lethality <u>Pimephales promelas</u>	Pass	Failed

*(Non-Routine 24 hour test- Pimephales promelas failed critical dilution)

Each effluent violation constitutes a violation of LPDES permit LA0000914 (Part I, Page 2 and 3; Part II, Section K, and Part III, Section A.2), La. R.S. 30:2076 (A) (1), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.501.D, and LAC 33:IX.2701.A. On September 10, 2003, the Respondent initiated a Toxicity Reduction Evaluation (TRE) for the biomonitoring failures in 2003 and 2004. The Toxic Reduction Evaluation Plan was submitted in accordance with LPDES permit LA0000914 and approved by the Department. The requirements of quarterly testing were continued and testing both compliance and non-routine to determine the cause of the effluent toxicity was conducted with a final report submitted by Respondent on October 5, 2005. The Department reviewed the Toxic Reduction Evaluation, its testing and results and found it to be complete as evidenced by its letter to Respondent dated December 5, 2005.

On or about October 31, 2007, a notice of no further action was issued documenting that the Department would not take further action on the non-routine 24-hour test for Pimephales

promelas species cited for the time period of August 27, 2003, in paragraph V of the findings of fact portion of Compliance Order and Notice of Potential Penalty (CONOPP), Enforcement tracking number MM-CN-04-0104 that reads, "A review of the Respondent's response to the Enforcement action and subsequent discussions revealed that the biomonitoring test was for a non-routine 24-hour test for Pimephales promelas species and not a compliance sample."

An inspection conducted by the Department on February 16, 2004, revealed the Respondent was not implementing an adequate Spill Prevention and Control (SPC) Plan. Specifically, at the time of the inspection, four (4) 55-gallon drums located in the covered QC solvent storage area, were propped onto the two (2) inch raised concrete perimeter used for secondary containment. Storing these drums in such a way increases the potential for spills and leaks to bypass the secondary containment wall. The Respondent's failure to implement an adequate SPC Plan is in violation of La. R. S. 30:2076 (A) (3), LAC 33:IX.501.A, and LAC 33:IX.905.D.1.

An inspection conducted by the Department on February 16, 2004, revealed an oil sheen in the collection pits from which Outfalls 010 and 020 discharge. At the time of the inspection, Outfalls 010 and 020 were not discharging. Carbon black staining was also present on the concrete pad surrounding the discharge pipe at Outfall 001. Additionally, the receiving waters surrounding the discharge entrance appeared dark in color.

A follow-up inspection conducted by the Department on February 18, 2004, revealed an oil sheen still present in the collection pit at Outfall 020. Absorbent booms were placed around the oil sheen to contain the oil. At the time of the inspection, the facility was still investigating the source of the oil sheen in the collection pit at Outfall 020. There was also spilled rubber

polymer on the ground near Outfall 020. A follow-up inspection conducted on February 18, 2004, also revealed that the oil sheen present in the collection pit at Outfall 010 during the February 16, 2004, inspection was no longer present.

A follow-up inspection conducted by the Department on February 18, 2004, revealed black solids along the banks of the receiving stream near Outfall 001. The wastewater clarifier at Outfall 001 contained a buildup of black solids on top of the concrete wall adjacent to the weirs. Visual observations of the sample collection lines at Outfall 001, revealed black staining along the tubing of the sample collection lines. During the follow-up inspection, grab samples were collected at Outfall 001 for color, volatiles, semi volatiles, and for biotoxicity and also hydrolab readings to investigate the conditions of the receiving stream at Outfall 001. Color samples and hydrolab readings were also taken at various locations points of Outfall 001 including: the effluent pipe, receiving stream and upstream from Outfall 001. Analytical data for the aforementioned parameters did not detect any pollutants in the receiving stream at Outfall 001. However, a visual inspection of an eight hundred (800) ml grab sample taken at Outfall 001 revealed floating and suspended solids present in greater than trace amounts. While obtaining samples along the banks of the receiving stream of Outfall 001, the inspector was able to take photographs of the black solid particles he scraped off of the banks with a wastewater sampler. Photographs taken of the wastewater sampler revealed that the black solid particles appeared similar to coffee grinds. The presence of distinctly visible solids along the banks of the receiving stream near Outfall 001 is in violation of LPDES permit LA0000914 (Part I, Page 3 and Part III, Section A.2), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.1113.B.3, and LAC 33:IX.2701.A.

On or about October 31, 2007, a notice of no further action was issued documenting that the Department would not take further action on Paragraph IX of the findings of fact portion of Compliance Order and Notice of Potential Penalty (CONOPP), Enforcement tracking number MM-CN-04-0104, that reads, "On or about February 18, 2004, grab samples were collected by the Department at Outfall 001 to investigate the conditions of the discharge at outfall 001 and its receiving stream." Analytical results of sampling by the Department of the discharge from Outfall 001 did not detect any pollutants above the permit limits being discharged into the receiving stream. Additionally, Discharge Monitoring Reports (DMR's) revised for Outfall 001 for the monitoring period February 2004 indicated that the Respondent reported a TSS value of 544 lbs/day and 1273 lbs/day, permit limits were 1520 lbs/day and 2280 lbs/day, respectively.

On October 11, through October 22, 2004, representatives of the Department performed a multi-media Compliance Evaluation Inspection at the facility. The following violations were found during the course of this inspection:

- A. The Respondent failed to label several boxes of waste fluorescent lamps with the words "Universal Waste-Lamp(s), Waste Lamp(s), or Used Lamp(s)", in violation of LAC 33:V.3845.A.5.
- B. The Respondent was unable to demonstrate the length of time that the universal waste lamps had been accumulating, in violation of LAC 33:V.3847.C. Documentation and photographs received by the Department on October 27, 2004, showed that the boxes of "Used Lamps" had been properly labeled and dated, thus addressing both violations A and B.

- C. The Respondent manifested off-site disposal for a hazardous waste with the waste code D001 as non-hazardous gear oil, in violation of LAC 33:V.1107.B.1.e. Specifically, on August 31, 2004, the Respondent manifested for disposal three (3) drums identified as "NON DOT REGULATED MATERIAL, (GEAR OIL), NON-DOT HAZARDOUS, NONE" with waste profile #BADTA-18117 on Texas manifest TX3291684.
- D. The Respondent failed to notify the Office of Environmental Services, Permits Division, within seven (7) days of a change to the information on their application. The Respondent failed to update the HW-1 form to include the D005 waste code, in violation of LAC 33:V.1105.B. Documentation and photographs received by the Department on October 27, 2004, showed that the HW-1 form had been updated to include the D005 waste code on October 20, 2004.
- E. The Respondent caused and/or allowed the deposition of regulated solid waste without a permit and/or other authority from the Department. Specifically, there was spent oil spilled onto the ground and limestone around the 010 Outfall. The Respondent's unauthorized disposal of regulated solid waste is in violation of La. R.S. 30:2155, LAC 33:VII.315.A, and LAC 33:VII.315.E. Documentation and photographs received by the Department on October 27, 2004, showed that the area near 010 Outfall was properly cleaned of the spilled oil and new limestone put in place, addressing this violation.
- F. The Respondent failed to follow approved test methods. Specifically, the Respondent was collecting samples at Outfalls 014, 015, and 020 in a stainless steel container and

then transferring the samples into a narrow mouth glass jar. According to the 20th edition of Standard Methods, Method No. 5520 A.3 requires the collection of a representative Oil and Grease sample in a wide mouth glass bottle. The inspection also revealed that facility personnel had built a sampling device at Outfall 010 which enabled Oil and Grease samples to be collected without transferring them. However, samples collected at Outfall 010 were being collected in narrow-mouth glass jars also. The failure to follow approved test methods constitutes a violation of LPDES permit LA0000914 (Part III, Sections A.2, C.2, and C.5.a), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2701.A, LAC 33:V.2701.J.1, LAC 33:IX.2701.J.4, and LAC 33:IX.4901. The Respondent submitted a written response on or about January 18, 2005, which indicated that this was corrected.

- G. The Plant Flare, Emission Point 1-81, is subject to the requirements of 40 CFR 63 Subpart U. The Respondent is required to conduct a visible emission test using the techniques specified in 40 CFR 63.11(b)(4), determine the net heating value of the gas being combusted using the techniques specified in 40 CFR 63.11(b)(6), and determine the exit velocity using the techniques specified in either 40 CFR 63.11(b)(7) or (b)(8), as appropriate. According to the information provided at the time of the inspection, the Respondent failed to use the methods specified. Each failure to use the methods specified is a violation of 40 CFR 63.504(c) which language has been adopted as a Louisiana regulation in LAC 33:III.5122 and Section 2057(A)(2) of the Act.

A Notice of No Further Action dated May 16, 2006, and issued on June 20, 2006, documented that the Department planned not to take further enforcement action on Paragraph X.G of Compliance Order and Notice of Potential Penalty, Enforcement Tracking No. MM-CN-04-0104, at that time. Paragraph X.G cited the Respondent for failure to follow methods specified in 40 CFR 63 Subpart U to conduct visible emissions testing, determine net heating value of gas combustion, and determine the exit velocity of the Baton Rouge Plant's Plant Flare (EQT 53 and Emission Point No. 1-81). The letter noted that upon further review of the citation, the Permits Division of the Department determined that 40 CFR 63 Subpart U did not apply to the facility's Plant Flare because the flare is an emergency control device.

On October 13 and 14, 2004, an inspection of the Respondent's facility was conducted to determine the degree of compliance with the Act and Air Quality Regulations. The inspection focused primarily on 1,3-butadiene emissions. The Respondent's facility was subject to the VOC fugitive emission monitoring program under 40 CFR 63, Subpart H. A Leak Detection and Repair evaluation was performed at the time of the inspection, consisting of a random sampling of fugitive emission components following Method 21. The Department's representatives discovered five leaking components throughout the inspection, Tag Nos. 26-1323, 26-3073, 28-0044, 28-2570, and 28-2410. Three of the components, Tag Nos. 28-0044, 28-2570, and 28-2410, were found in the Butadiene Tank Farm, all with readings of greater than 10,000 parts per million (ppm). First attempts at repair were made and re-monitoring was performed on all leaking components. Tag Nos. 26-1323 and 26-3073 were found to be below the leak definition. The remaining components were tagged and placed in the leaking components log. The Respondent submitted notification to the Department indicating that the remaining three leaks

were repaired on October 16, 2004. The Respondent further reported that the components were re-monitored and were found to be below the leak definition.

According to the inspection report, the Respondent has an ambient air monitoring system at the facility that is used to analyze and record air emissions for personnel protection. The system uses fourteen (14) sample streams throughout the facility to monitor for butadiene, styrene, and acrylonitrile. An alarm sounds when a reading reaches 5 ppm. The ambient monitoring records were requested for the month prior to this inspection. Records were not available for all of the days requested, but a review of the records received showed readings ranging from 1 ppm to 5 ppm on September 27-29, and October 6, 2004.

A review of the Respondent's MACT Semiannual Periodic Report dated August 30, 2004, for the period encompassing January through June 2004, showed that the Respondent experienced several pilot outages that were wind and/or weather related. On or about October 14, 2004, the Respondent provided additional information regarding pilot outages from July through October 2004, that were also wind and/or weather related. The Department received a copy of the Respondent's work order dated August 5, 2004, requesting that the flare pilot fuel gas regulator pressure be increased from 17 psig to 25 psig in order to increase the flow and keep the pilot from going out during high winds and rain.

On January 12, 2005, an inspection was conducted as a result of an incident (incident no. 76119) reported to the Single Point of Contact (SPOC) Hotline on or about January 12, 2005. The inspection revealed that a leak occurred in the Reactor Building, releasing 34 pounds of 1,3 butadiene and 16 pounds of styrene due to a mechanical seal failure on the south chain charge header booster pump. The Reactor Building's deluge system and nearby fire water monitor

system were activated to suppress the vapors. This deluge water was sent to the #6 lift station and overflowed into the pit of Outfall 010, bypassing the on-site treatment plant and allowing the untreated vapor suppression wastewater to discharge to Outfall 011, thence to Monte Sano Bayou, waters of the state. This unauthorized discharge to water of the state is in violation of LPDES permit LA0000914 (Part III, Sections A.2 and B.3.a), La. R.S. 30:2075, La. R.S. 30:2076 (A)(1)(a), La. R. S. 30:2076 (A)(3), LAC 33:IX.501.A, LAC 33:IX.501.C, LAC 33:IX.501.D, and LAC 33:IX.2701.A.

On January 12, 2005, the Respondent collected samples at Outfall 010 which revealed an Oil and Grease value of 26 mg/l. This exceeds the daily maximum permit limitation of 15 mg/L. This effluent violation constitutes violation of LPDES permit LA0000914 (Part I, Page 4 and Part III, Section A.2), La. R.S. 30:2076 (A)(1), La. R. S. 30:2076 (A)(3), LAC 33:IX.501.A, LAC 33:IX.501.D, and LAC 33:IX.2701.A.

A file review conducted by the Department on February 28, 2005, revealed that the Respondent failed to submit a written response within five (5) days of the aforementioned unauthorized discharge. The incident occurred the morning of January 12, 2005, and the written response was submitted to the Department on or about January 19, 2005. The Respondent's failure to submit a timely written response is in violation of LPDES permit LA0000914 (Part III, Sections A.2 and D.6.a), La. R. S. 30:2076 (A)(3), LAC 33:IX.501.A, LAC 33:IX.2701.A, and LAC 33:IX.2701.L.6.

On April 7, 2005, an inspection was performed to determine the degree of compliance with the Act and Air Quality Regulations. A written plan for housekeeping and maintenance that places emphasis on the prevention of or reduction in volatile organic compounds at the facility

was not available at the time of the inspection. This is a violation of LAC 33:III.2113.A.4 and Section 2057(A)(2) of the Act.

The Department has not issued any enforcement action to the Respondent for the violations discovered during the March 24 and 29, 2004, and December 14, 2005, inspections, as well as the August 18, 2006, and September 20, 2007, file review set forth below.

An inspection conducted by the Department on December 14, 2005, of the Respondent's Baton Rouge facility and a subsequent file review conducted on August 18, 2006, and April 22, 2008, revealed that the Respondent exceeded effluent limitations contained in LPDES permit LA0000914. These effluent limitations were reported by the Respondent on Discharge Monitoring Reports (DMRs) and are summarized below:

Monitoring Period	Outfall	Parameter	Permit Limitation	Reported Value
November 2004	001A	TSS Daily Max.	2280 lbs/day	5556 lbs/day*
August 2005	010	pH	6.0 – 9.0	10.4
September 2005	001	Total Solids Suspended Daily Maximum	2280 lbs/day	2505 lbs/day

*Violation occurred within the date range of effluent violations in the MM-CN-04-0104

Each effluent violation constitutes a violation of LPDES permit LA0000914 (Part I, Page 2 and 4; Part II, Section K, and Part III, Section A.2), La. R.S. 30:2076 (A) (1), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.501.D, and LAC 33:IX.2701.A.

A file review conducted by the Department on August 18, 2006, of the Respondent's Addis plant, revealed that the Respondent failed to monitor its effluent at Outfalls 001 and 002. Specifically, the Respondent failed to monitor its effluent at Outfall 002 for the pH parameter in July 2005, August 2005, and September 2005. Additionally, the Respondent failed to conduct whole effluent (acute) toxicity testing in 2005 at Outfall 001. The Respondent's failure to

monitor its effluent at Outfalls 001 and 002 is in violation of LPDES permit LA0000922 (Part I, Part II and Part III, Section A.2), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, and LAC33:IX.2701.A.

A file review conducted by the Department on August 18, 2006, of the Respondent's Addis plant, revealed the following permit excursions, as reported by the Respondent on Discharge Monitoring Reports:

Monitoring Period	Outfall	Parameter	Permit Limit	Sample Value
January 2005	001	pH (number of events > 60 minutes)	0 events	1 event *
April 2005	001	BOD ₅ Daily Maximum	446 lbs/day	698.3 lbs/day
May 2006	001	TSS Daily Maximum	728 lbs/day	1142.6 lbs/day

* The Respondent reported a minimum pH value of 2.8 S.U. and a maximum pH value of 8.9 S.U. for this month.

Each excursion of the permit constitutes a violation of LPDES permit LA0000922 (Part I, Part II and Part III, Section A.2), La. R.S. 30:2076 (A) (1), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.501.D, and LAC 33:IX.2701.A.

On September 20, 2007, a file review of the Respondent's Baton Rouge Plant was performed to determine the degree of compliance with the Act and the Air Quality Regulations.

The following violations were noted during the course of the file review:

- A. In a follow-up letter dated June 2, 2005, the Respondent notified the Department that the Baton Rouge Plant's Butadiene Recovery System released 1,3-butadiene from May 24-25, 2005, as the result of the failure to close a valve. The letter noted that the emissions were routed to the facility's flare, but 195 pounds of 1,3-butadiene were released to the atmosphere after destruction by the flare. This is a violation of LAC 33:III.905 which states, "When facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the

facilities, even though the ambient air quality standards in affected areas are not exceeded.” Control equipment as defined by LAC 33:III.111 is “any device or contrivance, operating procedure or abatement scheme used to prevent or reduce air pollution.” This is also a violation of La. R.S. 30:2057(A)(1) and 2057(A)(2).

- B. In a follow-up letter dated October 31, 2005, the Respondent notified the Department that the Baton Rouge Plant released approximately 65 pounds of 1,3-butadiene on October 26, 2005, as the result of the failure to close a valve. This is a violation of LAC 33:III.905 which states, “When facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities, even though the ambient air quality standards in affected areas are not exceeded.” Control equipment as defined by LAC 33:III.111 is “any device or contrivance, operating procedure or abatement scheme used to prevent or reduce air pollution.” This is also a violation of La. R.S. 30:2057(A)(1) and 2057(A)(2).

On March 24 and 29, 2004, an inspection of the Respondent’s Addis Plant was performed to determine the degree of compliance with the Act and the Air Quality Regulations.

The following violations were noted during the course of the inspection:

- A. The Respondent failed to add emissions of particulate matter with a diameter of ten micrometers or less (PM-10) emissions from the Addis Plant’s three Cooling Towers (EQTs 64, 65, and 66, and Emission Point Nos. 76, 77, and 78, respectively) to its operating permit. The failure to obtain approval from the permitting authority prior to the construction, modification, and/or operation of a facility, which ultimately may have resulted in an initiation or increase of air contaminants, is a violation of LAC 33:III.501.C.2 and La. R.S. 30:2057(A)(1) and 2057(A)(2).
- B. The Respondent failed to operate the facility’s scrubbers associated with the North Finishing Line No. 9 Dryer (EQT 31 and Emission Point No. 34-81), the South Finishing Line No. 8 Dryer (EQT 32 and Emission Point No. 35-81), the Third Finishing Line No. 7 Dryer (EQT 35 and Emission Point No. 38-82), and the Fourth Finishing Line No. 10 Dryer (EQT 63 and Emission Point No. 74-90) at a combined rate of 375 gallons per minute during 25 days of the 2003 calendar and during 55 days of the

2002 calendar year. Each is a violation of LAC 33:III.501.C.4 and La. R.S. 30:2057(A)(2). An Administrative Amendment was issued on or about July 30, 2004, to adjust the scrubber flow rates in Title V Permit No. 3120-00004-V0 to reflect facility operations.

III

In response to the Compliance Order, and the Consolidated Compliance Orders and Notices 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 FIFTY THOUSAND AND NO/100 DOLLARS (\$50,000.00) of which Ten Thousand Thirty-nine and 09/100 Dollars (\$10,039.09) represents DEQ'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 DEQ 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), the Compliance Order and the Consolidated Compliance Orders and Notices 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.

VII

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.

VIII

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 LSA- R. S. 30:2025(E) of the Act.

IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in both, West Baton Rouge Parish and East Baton Rouge Parish, Louisiana. The advertisement, in form, wording, and size 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 a proof-of-publication affidavit 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 (Exhibit A).

XI

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

XII

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his/her respective party, and to legally bind such party to its terms and conditions.

DSM COPOLYMER, INC.

BY: [Signature]

(Signature)

Roberto L. Boscio

(Print)

TITLE: President

THUS DONE AND SIGNED in duplicate original before me, this 19th day of June, 20 08, at Baton Rouge, La.

Lloyd J. Tabary II
Attorney at Law LSBA 18695
Notary Public - Louisiana ID 11808
8560 Anselmo Lane
Baton Rouge, Louisiana 70810



[Signature]

NOTARY PUBLIC (ID # 11808)

Lloyd J Tabary II

(Print)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Harold Leggett, Ph.D., Secretary

BY: [Signature]

Peggy M. Hatch, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 20th day of October, 20 08, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 40539)

Tel R. Proyer II

(Print)

Approved: [Signature]
Peggy M. Hatch, Assistant Secretary