

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	Settlement Tracking No.
	*	SA-MM-07-0012
EXXONMOBIL CHEMICAL COMPANY	*	
	*	Enforcement Tracking No.
AI # 285	*	MM-CN-04-0072
	*	AE-PP-05-0044
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT	*	Docket No. 2005-4039-EQ
LA. R.S. 30:2001, <u>ET SEQ.</u>	*	

SETTLEMENT

The following Settlement is hereby agreed to between ExxonMobil Chemical Company (“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 owns and/or operates a plastics plant facility at 11675 Scotland Avenue in Baton Rouge, East Baton Rouge Parish, Louisiana (“the Facility”).

II

On May 25, 2005, the Department issued to Respondent a Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. MM-CN-04-0072, which was based upon the following findings of fact:

The Respondent owns and/or operates the Baton Rouge Plastics Plant (BRPP) located at 11675 Scotland Avenue in Baton Rouge, East Baton Rouge Parish, Louisiana. The facility operates under Air Permit No. 0840-00018-V2 issued on October 31, 2001. The Respondent was issued National Pollutant Discharge Elimination System (LPDES) permit LA0005355 effective December 1,

1981, with an expiration date of November 30, 1986. The Respondent submitted a permit renewal application in a timely manner, and NPDES permit LA0005355 was administratively continued. In accordance with the assumption of the NPDES program by the state of Louisiana, NPDES permit LA0005355 became a Louisiana Pollutant Discharge Elimination System (LPDES) permit with the same expiration date. The Respondent was authorized to discharge under the interim limits and conditions in Administrative Order WE-AO-00-0204 issued by the Department on June 30, 2000, until such time as LPDES permit LA0005355 was reissued. LPDES permit LA0005355 was reissued to the Respondent with an effective date of March 1, 2003. LPDES permit LA0005355 expires on February 28, 2008. Under the terms and conditions of LPDES permit LA0005355, the Respondent is authorized to discharge process wastewater, process area storm water, boiler blowdown, cooling tower blowdown, fire systems test water, and non-process area storm water runoff through Outfalls 001 and 004 to the Baton Rouge Harbor Canal via Fortune Bayou; through Outfall 002 to the Comite River via Cypress Bayou; and through Outfall 003 to Monte Sano Bayou, all waters of the state.

The Respondent was issued Compliance Order WE-C-02-0545 on August 26, 2002. The relevant violations of the Compliance Order were the failure to report sample results and effluent violations. The relevant requirements of the Compliance Order were to take any and all steps necessary to meet and maintain compliance with Administrative Order WE-AO-00-0204, and to submit a complete, written report including a detailed description of the circumstances of the cited violations and the actions taken to achieve compliance with the Compliance Order. Compliance Order WE-C-02-0545 is a final action of the Department and not subject to further review.

On November 12-15, 2002, an inspection of the Respondent's facility was performed to determine the degree of compliance with the Act and Air Quality Regulations.

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

- A. The Respondent operates the BRPP in accordance with the Louisiana Fugitive Emissions Program Consolidation. For the A-Line, B-Line, E-Line, PGPU, and F-Line Plant Sites, the Respondent is required to comply with LAC 33:III.2122 as the overall most stringent program. LAC 33:III.2122.C.3 requires that the owner or operator of a facility make every reasonable effort to repair a leaking component within 15-days of the leak being detected. If the component cannot be isolated or bypassed so as to significantly reduce or eliminate leakage, or if the repair of a component would require a unit shutdown, and if the shutdown would create more emissions than the repair would eliminate, the repair may be delayed to the next scheduled shutdown. The delay of repair shall not be any later than the next scheduled process unit shutdown. According to the Respondent, three (3) components were repaired after the 15-day period during the period from August 2000 to January 2001.

Component	Date Repaired	Comment
8242-CON	8/22/2000	See letter dated 8/22/00
Valve #23269	10/20/2000	See letter dated 10/31/00
31069	1/24/2001	See letter dated 1/24/01

Each failure to repair each leaking component within 15-days of the leak being detected is a violation of LAC 33:III.2122.C.3, Part 70 Specific Condition No. 2 of Title V Permit 0840-00018-V2, and Section 2057(A)(2) of the Act.

- B. The Respondent operates the BRPP in accordance with the Louisiana Fugitive Emissions Program Consolidation. For the A-Line, B-Line, E-Line, PGPU, and F-Line Plant Sites, the Respondent is required to comply with LAC 33:III.2122 as the overall most stringent program. LAC 33:III.2122.C.2 requires that no valve, except safety pressure relief valves, shall be located at the end of a pipe or line containing VOCs unless the end of such line is sealed with a second valve, a blind flange, a plug, or a cap. The Department conducted a LDAR review on November 14, 2002, and found an open-ended line (#3742) in the sub area Pb-07D. The Respondent's failure to seal the end of a pipe or line containing VOCs with a second valve, a blind flange, a plug, or a cap is a violation of LAC 33: III.2122. C.2, Part 70 Specific Condition No. 2 of Title V Permit 0840-00018-V2, and Section 2057(A)(2) of the Act. The Respondent later capped the open ended line the same day it was discovered.

On May 19, 2003, an inspection was conducted at the Respondent's facility to determine the degree of compliance with the Act and Water Quality Regulations.

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

- A. The Respondent failed to submit a properly completed Discharge Monitoring Report (DMR). Specifically, the BOD results for Outfall 101 on the February 2003 DMR did not match the spreadsheet used to calculate the monthly averages. Also, the September 2002 DMR did not have the frequency of analysis indicated on it. The Respondent's failure to submit a properly completed DMR is in violation of Administrative Order WE-AO-00-0204 (Appendix A), Compliance Order WE-C-02-0545, La. R.S. 30:2076 (A)(3), and LAC 33:IX.501.A.
- B. The Respondent failed to properly complete the chain of custody form used to track samples. Specifically, the chain of custody form for February 8, 2003, was missing the signature, date, and time the sample was received at the contract lab. The Respondent's failure to properly complete the chain of custody form is in violation of Administrative Order WE-AO-00-0204 (Appendix A), Compliance Order WE-C-02-0545, La. R.S. 30:2076 (A)(3), and LAC 33:IX.501.A.
- C. The Respondent failed to properly report all samples taken during a month on a DMR. Specifically, the Respondent only reported 2 of 3 samples taken for Outfall 201 on the December 2002 DMR due to the records for samples taken on December 3, 2002, being lost. Also, a TSS result from June 4, 2002, was not reported on the June 2002 DMR for Outfall 101 due to lab error. The Respondent's failure to properly report all samples on a DMR is violation of Administrative Order WE-AO-00-0204 (Appendix A), Compliance Order WE-C-02-0545, La. R.S. 30:2076 (A)(3), and LAC 33:IX.501.A.
- D. The Respondent failed to sample in accordance with its permit. Specifically, the Respondent failed to collect a composite sample for Outfall 101 in November 2002 due to a malfunction with the composite sampler. The Respondent's failure to sample in accordance with its permit is in violation of Administrative Order WE-AO-00-0204 (Appendix A), Compliance Order WE-C-02-0545, La. R.S. 30:2076 (A)(3), and LAC 33:IX.501.A.

On March 15-24, 2004, a multi-media inspection was conducted at the Respondent's facility to determine the degree of compliance with the Act, Air Quality Regulations, Hazardous Waste Regulations, Water Quality Regulations, Radiation Regulations, UST Regulations, and Solid Waste Regulations.

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

- A. According to Part 70 Specific Condition No. 4 of Title V Permit No. 0840-00018-V2, emissions from Reactor Lines B, C, E, and F shall be calculated monthly based on a material balance of residual hydrocarbons in the product using the different grades of polymers lab sampling data collected and analyzed monthly. The Respondent reported that the monthly lab sampling collection and analysis was not being done. Each failure to calculate the emissions from Reactor Lines B, C, E, and F is a violation of Part 70 Specific Condition No. 4 of Title V Permit No. 0840-00018-V2, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.
- B. According to Part 70 Specific Condition No. 5 of Title V Permit No. 0840-00018-V2, emissions shall be calculated monthly for Reactor Line E based on a material balance of residual hydrocarbons in the product using the different grades of polymers lab sampling data collected and analyzed monthly. The Respondent reported the monthly lab sampling collection and analysis was not being done. Each failure to calculate the emissions from Reactor Lines E is a violation of Part 70 Specific Condition No. 5 of Title V Permit No. 0840-00018-V2, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.
- C. The Respondent failed to properly complete the sample collection forms. Specifically, the Respondent failed to provide the sample collection dates and times on the form for October 21, 2003, and the sample collection time for October 28, 2003. Also, the sample collection form for October 10, 2003, indicated that the samples were finally relinquished to the lab at 0950 hours on October 10, 2003, and were first relinquished to the lab at 1500 hours on the same date. The Respondent's failure to maintain accurate records is in violation of LPDES permit LA0005355 (Part III, Sections A.2 and C.5) La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2701.A, LAC 33:IX.2701.E, LAC 33:IX.2701.J.4, and LAC 33:IX.6515.A.1.
- D. The Respondent failed to maintain proper calibration records. Specifically, the Respondent failed to indicate the time of calibration

on the daily pH calibration log sheets. The Respondent's failure to maintain proper calibration records is in violation of LPDES permit LA0005355 (Part III, Sections A.2 and C.5) La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2701.A, LAC 33:IX.2701.E, LAC 33:IX.2701.J.4, and LAC 33:IX.6515.A.1. The calibration records were corrected during the inspection.

- E. The Respondent failed to follow approved test methods. Specifically, the Respondent failed to calibrate its thermometer in the sample refrigerator against an NIST certified thermometer. The Respondent's failure to follow approved test methods is in violation of LPDES permit LA0005355 ((Part III, Sections A.2, and C.5) La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2701.A, LAC 33:IX.2701.E, and LAC 33:IX.2701.J.4. The calibration process was corrected on or about March 23, 2004.

On March 15-24, 2004, during the aforementioned multi-media inspection, the Department reviewed Unauthorized Discharge Notification Reports submitted in 2003 involving the release of ethylene and vinyl acetate from the Reactor Line E, especially at the 4th point of initiator injection.

The following table illustrates eight (8) atmospheric releases in 2003 at the Reactor Line E:

REACTOR LINE E UPSETS			
Date of Release	Event Description	Ethylene Released (lbs)	Vinyl Acetate Released (lbs)
1/7/2003	Decomp, Reactor dump due to 4th pt. high temp, suspect pluggage	7,800	-
1/14/2003	Overpressure during decomp on the 4th	7,000	-
4/9/2003	Decomp, Rx dump due to 4th pt. high temp	9,000	-
4/18/2003	Small fire on reactor rupture disc stack due to decomposition and blown rupture disc	11,000	-
6/6/2003	PBO valve blew on the No. 7 cylinder of C-111E	8,930	470

REACTOR LINE E UPSETS			
Date of Release	Event Description	Ethylene Released (lbs)	Vinyl Acetate Released (lbs)
8/15/2003	Dump on hi temp when swapping 1st pt. Pumps	6,700	-
9/17/2003	Decomp; pluggage in 4th pt.	7,771	229
9/22/2003	Gas leak in compressor house	9,506	294

At the time of the inspection, the Respondent provided the Department with a single page report describing its Reactor Line E Vent Reduction Activities. According to this report, these eight (8) releases were due to unstable reactor conditions. In the latter half of 2003, the Respondent formed two teams to analyze historical releases and to recommend steps to improve performance. A preliminary version of their recommendations was ready by March 3, 2004; however, a final report was pending at the time of the inspection.

On May 10, 2004, a file review of the Respondent's facility was performed to determine the degree of compliance with the Act and Air Quality Regulations.

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

- A. The Department has received the Respondent's letter dated August 25, 2003, and a follow up letter dated June 8, 2004, regarding an unauthorized release that occurred at the Respondent's facility on August 22, 2003. During this incident, approximately 361 pounds of ethylene and 114 pounds of methyl acrylate were released to the atmosphere. According to the Respondent, the incident occurred when a technician was calibrating a spare High Pressure Let-Down Valve (HPLDV) in the Operations Services (OS) Shop. The No. 2 card in the BAFCO controller used for calibration was defective and there was not a spare card in stock. After a staff discussion, a decision was made to use the No. 2 card from the C-Line HPLDV BAFCO controller since this equipment was idle at the time. The technician proceeded

into the Termination Room to pull the card but inadvertently pulled the No. 2 card from the D-Line HPLDV BAFCO controller, which caused a high-pressure interlock activation resulting in the reactor venting to the atmosphere. According to the Respondent, this release was preventable. 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 Sections 2057(A)(1) and 2057 (A)(2) of the Act. Actions taken by the Respondent to prevent a recurrence of this type of incident included counseling for the technician involved, better labeling of cabinets containing process management electronic equipment, implementing procedures requiring the technician to obtain verification from the console operator that the proper equipment is being accessed, and reviewing the event in OS "toolbox" meetings.

- B. According to the Respondent's 2003 1st Semiannual Report dated September 5, 2003, and covering the period from January 1 to June 30, 2003, a permit deviation was reported to the Department on May 1, 2003. According to the letter dated May 1, 2003, BRPP operates a flare subject to NSPS 40 CFR 60. Provision 40 CFR 60.18(c)(3)(ii) requires that flares shall only be used when the heating value of the gas being combusted is 300 BTU/scf or greater if the flare is steam-assisted or air-assisted. According to the letter dated May 1, 2003, on or about February 17, March 7, April 19, and April 24, 2003, the instantaneous heating value of the vent gas dropped below 300 BTU/scf. Each instance that the net heating value of the gas being combusted drops below 300 BTU/scf is a violation of 40 CFR 60.18(c)(3)(ii) which language has been adopted as a Louisiana regulation in LAC 33:III.3003, Part 70 Specific Condition No. 1 of Title V Permit No. 0840-00018-V2, and Section 2057(A)(2) of the Act. According to the Respondent, the hourly average heating value was above 300 BTU/scf.

On November 9, 2004, a file review of the Respondent's facility was performed to determine the degree of compliance with the Act and Water Quality Regulations.

The following alleged violation was noted during the course of the file review:

A file review conducted by the Department revealed that the Respondent failed the quarterly toxicity testing as reported by the Respondent on a DMR. Specifically, the Respondent failed both the quarterly low-flow non-lethality chronic static renewal 7-day test for growth, and the quarterly low-flow lethality chronic static renewal 7-day test for survival for the *Pimephales promelas* (fathead minnow) for January to March 2004. Retests in April 2004 and May 2004 for both parameters passed. The failure to pass the quarterly toxicity testing is in violation of LPDES permit LA0005355 (Part I, page 4, Part II, Section P, 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 December 27, 2005, the Department issued to the Respondent a Notice of Potential Penalty, Enforcement No. AE-PP-05-0044, which was based on the following findings of fact:

On or about September 30, 2005, a file review of the Baton Rouge Plastics Plant, owned and/or operated by the ExxonMobil Chemical Company (Respondent), was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Air Quality Regulations. The facility is located at 11675 Scotland Avenue in Baton Rouge, East Baton Rouge Parish, Louisiana.

The following alleged violation was noted during the course of the inspection:

The Department received the Respondent's letter dated February 16, 2004, regarding a release of 6,500 lbs of n-hexane that occurred on February 12, 2004. The release reportedly occurred following the completion of maintenance activities on the G-Liner when a bleeder valve used during the work was inadvertently left open and unplugged. After initial unit pressurization, the standard practice of walking through the unit looking for leaks was unsuccessful in locating the open valve because it was plugged with polymer. After unit startup, additional pressure and heat in the system dislodged the polymer plug causing a release to the atmosphere. This is a violation of the Louisiana Air Quality Regulations, in particular 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 Sections 2057(A)(1) and 2057(A)(2) of the Act.

III

In response to the Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. MM-CN-04-0072, 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 THREE THOUSAND NINE HUNDRED AND NO/100 DOLLARS (\$3,900.00) of which One Thousand Seven Hundred Sixty-Two and 27/100 Dollars (\$1,762.27) 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 Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. MM-CN-04-0072, Notice of Potential Penalty, Enforcement No. AE-PP-05-0044, 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 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).

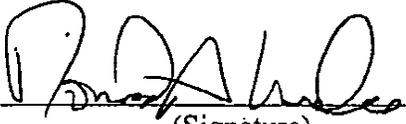
XI

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 or her respective party, and to legally bind such party to its terms and conditions.

EXXONMOBIL CHEMICAL COMPANY

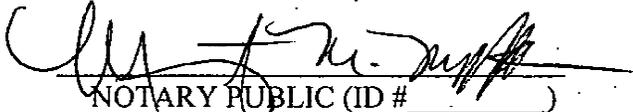
BY: 
(Signature)

David A Luicke
(Print)

TITLE: Plant Manager

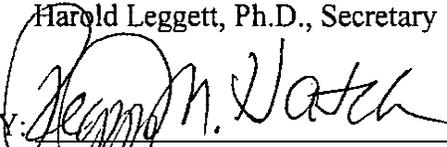
THUS DONE AND SIGNED in duplicate original before me this 15 day of October, 2008, at Baton Rouge, LA.

Marguerite M. Moffatt
033508
Notary for Life

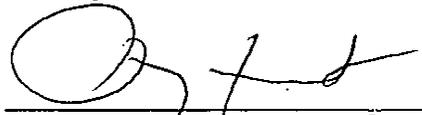

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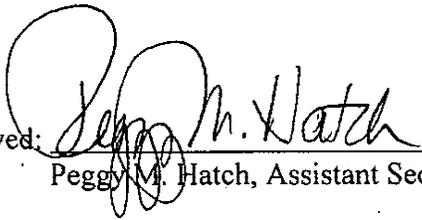
LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Harold Leggett, Ph.D., Secretary

BY: 
Peggy M. Hatch, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 9th day of Feb., 2009, at Baton Rouge, Louisiana.


NOTARY PUBLIC (ID # 19181)

Perry Theriot
(Print)

Approved: 
Peggy M. Hatch, Assistant Secretary