STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	**Settlement Tracking No.**
	*	**SA-AE-14-0009**
HEXION SPECIALTY CHEMICALS, INC.	*	
	*	**Enforcement Tracking No.**
AI # 92534	*	**AE-PP-08-0170**
	*	
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT	*	
LA. R.S. 30:2001, ET SEQ.	*	

SETTLEMENT

The following Settlement is hereby agreed to between Momentive Specialty Chemicals Inc. f/k/a Hexion Specialty Chemicals, 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 that owns and/or operates a facility located in Geismar, Ascension Parish, Louisiana ("the Facility").

II

On October 15, 2009, the Department issued to Respondent a Notice of Potential Penalty (NOPP), Enforcement No. AE-PP-08-0170, which was based upon the following findings of fact:

"On or about December 16, 2005, an inspection of **HEXION FORMALDEHYDE PLANT-GEISMAR COMPLEX** owned and/or operated by **HEXION SPECIALTY CHEMICALS, INC. (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 9288 Louisiana Highway 75 in Geismar, Ascension Parish, Louisiana.

The Respondent submitted notification to the Department on or about June 21, 2005, of a corporate name change. According to the document, Borden Chemicals, Inc. changed its name to Hexion Specialty Chemicals, Inc. which became effective on May 31, 2005. The facility operates under Title V Permit No. 2019-V3 issued on February 13, 2007, for the Formaldehyde Units I, II, & III and Methanol Tank Farm and associated loading operations, and Title V Permit No. 2631-V3 issued May 19, 2005, for the Formaldehyde Units IV & V.

On or about May 28, 2008, an inspection of the Respondent's facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations.

While the Department's investigation is not yet complete, the following violations were noted during the course of the inspection:

A. On or about March 21, 2008, the facility reported a release of approximately 233 lbs. of formaldehyde from the Formaldehyde Unit I in the methaform process area. In a Release Report dated March 28, 2008, the Respondent notified the Department that the release resulted from a bleed valve that had been left open following a filter change in the methaform process area. According to the Respondent's report, the release was preventable. The failure to follow proper operating procedures is a violation of Title V Permit 2019-V2, LAC 33:III.501.C.4, LAC 33:III.905, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

B. According to the Respondent's 2007 first Semi-Annual Monitoring Report dated March 19, 2008, the Respondent failed to maintain the temperature for the Catalytic Oxidizer No. 2 (EQT056), for a twenty four (24) hour period on April 29-30, 2007. The report noted that the catalytic oxidizer catalyst was replaced and the production rates were limited to prevent breakdown of the new catalyst, and as such, at lower production rates, the monitored operational parameters were not consistent with that of the maximum production rates. Thus, the delta temperature was out of range. Each failed occurrence to maintain the temperature within the established range of operation is a violation of 40 CFR 63.113(a)(2), and which language has been adopted into the Louisiana Regulation LAC 33:III.5122. This is also a violation of Title V Permit No. 2631-V3, LAC 33:III.501.C.4, LAC 33:III.5109, and La. R.S. 30:2057(A)(2).

C. According to the Respondent's 2007 second Semi-Annual Monitoring Report dated September 28, 2007, the Respondent failed to maintain the temperature for the Catalytic Oxidizer No. 1 (EQT055), for a twenty four (24) hour period on September 23-24, 2007. The report noted that the catalytic oxidizer catalyst was replaced and the production rates were limited to prevent breakdown of the new catalyst, and as such, at lower production rates, the monitored operational parameters were not consistent with that of the maximum production rates. Thus, the delta temperature was out of range. Each failed occurrence to maintain the temperature within the established range of operation is a violation of 40 CFR 63.113(a)(2), and which language has been adopted into the Louisiana Regulation LAC 33:III.5122. This is also a violation of Title V Permit No. 2631-V3, LAC 33:III.501.C.4, LAC 33:III.5109, and La. R.S. 30:2057(A)(2).

On or about September 15, 2009, a file review of the information provided by the Respondent was performed to determine the degree of compliance with the Act and the Air Quality Regulations.

While the Department's investigation is not yet complete, the following violations were noted during the course of the review:

D. According to the Respondent's 2005 Title V Annual Compliance Certification Form dated March 30, 2006, the Respondent failed to maintain documentation of the monthly monitoring for fugitive emissions (FUGI 87-03) by Method 21 as required by 40 CFR 63.163(b)(3), for four (4) out of six (6) months at the Formaldehyde Unit I during the January through June monitoring period. Each failure to document monitoring is a violation of 40 CFR 63.181(b), which language has been adopted into Louisiana Regulation LAC 33:III.5122, and is a violation of Title V Permit No. 2019-V1, LAC 33:III.501.C.4, LAC 33:III.5109, and La. R.S. 30:2057(A)(2).

E. According to the Respondent's 2005 Annual Compliance Certification Form dated March 30, 2006, the Respondent failed to maintain documentation of the monthly monitoring for fugitive emissions (FUGI 87-03) by Method 21 as required by 40 CFR 63.163(b)(3), for two out of six months at the Formaldehyde Unit I during the July through December monitoring period. Each failure to document monitoring is a violation of 40 CFR 63.181(c), which language has been adopted into Louisiana Regulation LAC 33:III.5122, and is a violation of Title V Permit No. 2019-V1, LAC 33:III.501.C.4, LAC 33:III.5109, and La. R.S. 30:2057(A)(2).

F. According to the Respondent's 2005 Title V Annual Compliance Certification Form dated March 30, 2006, the Respondent notified the Department that due to a communications failure, backup data indicated that the inlet temperature for the Catalytic Oxidizer No. 2 (EQT056) was out of range for a total of one hundred twenty hours (120) on October 7, 2005, through October 12, 2005. Each failed occurrence to maintain the temperature within range is a violation of 40 CFR 63.117(a)(4)(i) and (ii), and which language has been adopted into the Louisiana Regulation LAC 33:III.5122. This is also a violation of Title V Permit No. 2631-V3, LAC 33:III.501.C.4, LAC 33:III.5109, and La. R.S. 30:2057(A)(2). The Respondent stated in the report that the temperature recorder was repaired following shutdown on October 17, 2005."

The following violations, although not cited in the foregoing enforcement action(s), are included within the scope of this settlement:

In a CAP Inspection conducted on December 4, 2009, it was revealed that the facility failed to implement inspections and tests on the formaldehyde demister associated with the Formaldehyde Unit 2 as required by 40 CFR 68.73(d)(1). Each failure to implement inspections and testing on process equipment is a violation of 40 CFR 68.73(d)(1), language adopted by LAC 33:III.5901.A.

In a CAP Inspection conducted on December 4, 2009, it was revealed that the facility failed to conduct functionality checks on one of the pressure transmitters, (PT 9301) that is associated with the dimister in the Formaldehyde Unit 2 as required by 40 CFR 68.73(d)(3). According to the inspection report, the instrument is on an annual schedule for inspections and tests. Each failure to conduct inspections and tests on transmitter PT 9301-1 in accordance with the frequencies established by the manufacturers recommendations and good engineering practices is a violation of violation of 40 CFR 68.73(d)(3), language adopted by LAC 33:III.5901.A.

In a letter of response to Notice of Potential Penalty AE-PP-08-0170 submitted by the Respondent which was received on or about December 3, 2009, it was revealed that the status of the methaform storage tanks and transfer operation is being revised from a Group 2 status to a Group 1 status. The letter stated that the revision is the result of data gathered during a recent investigation at the facility. It further stated that the revision requires Group 1 sources vent to a control device that maintains 95% hazardous organic removal efficiency according to the HON applicable regulations. The change is being incorporated into the current permit and HON compliance status documentation.

According to the Respondent's Semi-Annual Monitoring Report for the period encompassing July 1, 2009 through December 31, 2009, the Respondent reported that on July 17, 2009, the Urea Scrubber (EQT072) dipped below the minimum required flow rate of 4.0 gpm during the off loading of urea. This is a violation of Specific Requirement 140 of Title V Permit No. 2631-V3 and LAC 33:III.501.C.4.

According to the Respondent's Semi-Annual Monitoring Report for the period encompassing July 1, 2009 through December 31, 2009, the Respondent reported that insufficient monitoring data was collected for emission source no. (EQT017) the Formaldehyde II Plant Off Gas Vent, for a total of 37.5 hours starting August 24 and ending August 25, 2009. According to the report, less than 75% data was collected during this time due to network outage. This is a violation of Specific Requirement 118 of Title V Permit 2019-V3 and LAC 33:III.501.C.4.

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 TWENTY-EIGHT THOUSAND SIX HUNDRED FIFTY-THREE AND 64/100 DOLLARS ($28,653.64), of which Five Thousand Two Hundred Seventy-Three and 27/100 Dollars ($5,273.27) 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 NOPP 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

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

IX

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 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).

X

In consideration of the above, any claims for penalties are hereby compromised and

settled in accordance with the terms of this Settlement.

XI

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.

MOMENTIVE SPECIALTY CHEMICALS INC.

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
Peggy M. Hatch, Secretary

BY: _____
Cheryl Sonnier Nolan, Assistant Secretary
Office of Environmental Compliance

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

_____
NOTARY PUBLIC (ID # _____)

_____
(stamped or printed)

Approved: _____
Cheryl Sonnier Nolan, Assistant Secretary